



WEB COPY

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.07.2015

CORAM:

THE HONOURABLE MR.JUSTICE A.SELVAM

and

THE HONOURABLE MR.JUSTICE V.S.RAVI

HABEAS CORPUS PETITION (MD) No.224 of 2015

Muthiah

.. Petitioner

Vs.

1.The Principal Secretary to the Government,
Home, Prohibition and Excise (IX) Department,
State of Tamil Nadu,
Secretariat, Chennai - 600 009.

2.The District Collector and
District Magistrate,
Office of the District Collector and
District Magistrate,
Theni District.

3.The Superintendent of Prison,
Madurai Central Prison,
Madurai District.

.. Respondents

Prayer:- Habeas Corpus Petition is filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus praying to call for entire records, connected with the detention order of the respondent No.2 in Detention Order No.11/2015, dated 10.02.2015 and quash the same and direct the respondents to produce the detenu namely Muthiah, Son of Veerapathiran, aged about 23 years detained in Madurai Central Prison before this Court and set him at liberty forthwith and pass such further or other orders.

For Petitioner : Mr.R.Alagumani

For Respondents : Mr.T.Mohan
Additional Public Prosecutor

ORDER

(Order of the Court was made by A.SELVAM, J)

This Habeas Corpus Petition has been filed under Article 226 of the Constitution of India praying to call for records relating to detention order passed in Detention Order No.11/2015, dated 10.02.2015 by the detaining authority, who has been arrayed as second respondent herein against the detenu by name Muthiah, Son of Veerapathiran and quash the same and thereby set him at liberty forthwith.



2. The Inspector of Police, Periyakulam Police Station as sponsoring authority has submitted an affidavit to the detaining authority, wherein it is stated that the detenu has involved in the following adverse cases:

(i) Crime No.354 of 2012 Periyakulam Police Station registered under Sections 457 and 511 of the Indian Penal Code.

(ii) Crime No.510 of 2012 Thenkarai Police Station registered under Sections 457 and 380 of the Indian Penal Code.

(iii) Crime No.80 of 2013 Thenkarai Police Station registered under Sections 457 and 380 of the Indian Penal Code.

(iv) Crime No.225 of 2013 Thenkarai Police Station registered under Section 379 of the Indian Penal Code.

(v) Crime No.290 of 2013 Thenkarai Police Station registered under Sections 457 and 380 of the Indian Penal Code.

3. Further it is stated in the affidavit that on 21.12.2014, a case has been registered in Periyakulam Police Station in Crime No.672 of 2014 under Sections 397 and 506(ii) of the Indian Penal Code and ultimately requested the detaining authority to invoke Act 14 of 1982 against the detenu.

4. The detaining authority, after perusing the averments made in the affidavit and other connected documents, has derived subjective satisfaction to the effect that the detenu is a habitual offender and ultimately branded him as 'Goonda' by way of passing the impugned detention order and in order to quash the same, the present Habeas Corpus Petition has been filed by the detenu himself as petitioner.

5. Despite of repeated adjournments, the respondents have not chosen to file counter. Under the said circumstances, this Habeas Corpus Petition is disposed of on the basis of available materials on record.

6. The learned counsel appearing for the petitioner/detenu has contended that two representations are submitted to the concerned authorities and the same have not been disposed of without delay and therefore, the detention order in question is liable to be quashed.

7. The learned Additional Public Prosecutor has represented that the representations submitted on the side of the detenu are duly disposed of without delay and therefore, the detention order in question does not call for any interference.

8. On the side of the respondents, a proforma has been submitted, wherein it has been clearly stated that with regard to first representation in between column Nos.7 to 9, 12 clear working days



are available and in between column Nos.12 and 13, 4 clear working days are available; with regard to second representation in between column Nos.7 to 9, 13 clear working days are available and in between column Nos.12 and 13, 6 clear working days are available and no explanation has been given on the side of the respondents with regard to such delay in disposing of the representations submitted on the side of the petitioner/detenu and that itself would affect the rights of the petitioner/detenu guaranteed under Article 22(5) of the Constitution of India and therefore, the detention order in question is liable to be quashed.

9. In fine, this Habeas Corpus Petition is allowed and the detention order passed in Detention Order No.11/2015, dated 10.02.2015 by the second respondent/detaining authority is quashed and consequently the respondents are directed to set the detenu viz., Muthiah, Son of Veerapathiran at liberty forthwith, unless he is required to be incarcerated in connection with any other case.

Sd/-

Assistant Registrar (Per.Admn.)

\\True copy\\

Sub Assistant Registrar

To

- 1.The Principal Secretary to the Government,
Home, Prohibition and Excise (IX) Department,
State of Tamil Nadu, Secretariat, Chennai - 600 009.
- 2.The District Collector and District Magistrate,
Office of the District Collector and
District Magistrate, Theni District.
- 3.The Superintendent of Prison,
Madurai Central Prison, Madurai District.
4. The Joint Secretary to Government, Public (Law and Order), Fort
St.George, Chennai -9.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1cc to M/s.R.Alagumani, Advocate Sr.NO.39249

akm/16.07.15 /3p-7c/

**ORDER MADE IN
H.C.P (MD) No.224 of 2015
15.07.2015**