



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 10.06.2015

Coram

THE HONOURABLE MR.JUSTICE A.SELVAM
and
THE HONOURABLE MR.JUSTICE V.S.RAVI

H.C.P. (MD) No.23 of 2015

Arikandan @ Kannan @ Jimkannan

.. Petitioner

Vs.

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

2.The District Collector & District Magistrate,
O/o. District Collector & District Magistrate,
Tirunelveli District, Tirunelveli.

3.The Superintendent of Prison,
Palayamkottai Central Prison,
Tirunelveli District.

.. Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus to call for the entire records connected with the detention order of the respondent No.2 in M.H.S. Confdl.No.92/2014 dated 13.12.2014 and quash the same and direct the respondents to produce the detenu namely Arikandan @ Kannan @ Jimkannan S/o.Thangadurai, aged about 34 years detained in Palayamkottai Central Prison before this Court and set him at liberty.

For Petitioner : Mr.R.Alagumani

For Respondents : Mr.C.Ramesh
Addl.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 the detention order passed in M.H.S. Confdl.No.92/2014 dated 13.12.2014 by the detaining authority who has been arrayed as second respondent herein against the detenu by name Arikandan @ Kannan @ Jimkannan S/o.Thangadurai and quash the same and thereby set him at liberty forthwith.



2. The Inspector of Police, Palavoor 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.288 of 2014, Rajagamangalam Police Station, registered under Sections 120(b), 147, 148, 342, 302 and 201 of the Indian Penal Code.

(ii) Crime No.300 of 2014, Palavoor Police Station, registered under Sections 302 of the of the Indian Penal Code altered to Sections 147, 148, 294(b), 341, 302 and 506(ii) of the Indian Penal Code.

3. Further it is stated in the affidavit that on 10.11.2014 one Shagaya Johnson as defacto complainant has given a complaint against the detenu in Palavoor Police Station and the same has been registered in Crime No.301 of 2014 under Sections 341, 294(b), 307 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 considering 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 detenu himself has filed the present Habeas Corpus Petition.

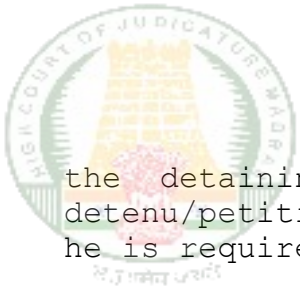
5. On the side of the respondents counter has been filed, wherein it has been contended to the effect that all the averments made in the petition are false and ultimately prayed to dismiss the same.

6. The learned counsel appearing for the petitioner has contended that on the side of the detenu three representations are submitted 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 contended 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, 6 clear working days are available and in between column Nos.12 to 13, 18 clear working days are available and with regard to second representation in between column Nos.12 to 13, 10 clear working days are available and with regard to third representation in between column Nos.7 to 9, 8 clear working days are available and in between column Nos.12 to 13, 11 clear working days are available 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 detenu and that itself would affect his rights guaranteed under Article 22(5) of the Constitution of India and therefore, the detention order in question is liable to be quashed.

<https://hcservices.ecourts.gov.in/hcservices/> In line, this Habeas Corpus Petition is allowed and the detention order dated 13.12.2014 passed in M.H.S. Confdl.No.92/2014 by



the detaining authority/second respondent herein is quashed and the detenu/petitioner herein is ordered to be set at liberty forthwith, unless he is required to be incarcerated in any other case.

WEB COPY

Sd/-
Assistant Registrar

/True copy/

Sub Assistant Registrar

To

- 1.The Principal Secretary to Government,
Home, Prohibition and Excise Department (IX),
Secretariat, Chennai - 600 009.
- 2.The District Collector & District Magistrate,
O/o. District Collector & District Magistrate,
Tirunelveli District, Tirunelveli.
- 3.The Superintendent of Prison,
Palayamkottai Central Prison,
Tirunelveli District. (In duplicate to communicate the detenue)
- 4.The Joint Secretary to the Government,
Public (Law & Oder), Fort St.George, Chennai - 9
- 5.The Addl.Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1cc to Mr.R.ALAGUMANI, Advocate, in SR. No. 29692

TS/12.06.2015/3P-8C

H.C.P. (MD) No.23 of 2015

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