



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 21.07.2015

Coram

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

H.C.P. (MD) No.232 of 2015

Kovalathaal @ Esakkiammal

.. Petitioner

Vs.

1.State of Tamilnadu,
rep.by the Principal Secretary to Government,
Home, Prohibition and Excise (XVI) Department,
Fort.St.George, Chennai - 600 009.

2.The District Collector and District Magistrate,
Thoothukudi District,
Thoothukudi.

.. 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 H.S.(M).Confdl No.09/2015 dated 01.02.2015 and quash the same and direct the respondent to produce the detenu Thiru.Ulagamuthu S/o.Iyyatthurai Thevar, Male aged 28 years who is detained at Central Prison, Palayamkottai before this Court and set him at liberty.

For Petitioner : Mr.A.Muthu Esakki

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 H.S.(M).Confdl No.09/2015 dated 01.02.2015 by the detaining authority who has been arrayed as second respondent herein against the detenu by name Ulagamuthu S/o.Iyyatthurai Thevar, and quash the same and thereby set him at liberty forthwith.

2. The Inspector of Police, Srivaikundam 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.12 of 2013, Seidunganallur Police Station, registered under Sections 147, 148, 341, 307, 302, 109 and 506(ii) of the Indian Penal Code altered to Sections 147, 148, 341, 302, 506(ii), 120(b) r/w 149 of the Indian Penal Code.

(ii) Crime No.13 of 2013, Seidunganallur Police Station, registered under Sections 294(B), 324, 307 and 506(ii) of the Indian Penal Code.

(iii) Crime No.07 of 2015, Seidunganallur Police Station, registered under Sections 147, 148, 294(b), 307 and 506(ii) of the Indian Penal Code.

3. Further it is stated in the affidavit that on 07.01.2015 one Krishnakumar S/o.Sundar as defacto complainant has given a complaint in Srivaikundam Police Station against the detenu and others and the same has been registered in Crime No.10 of 2015 under Sections 147, 148, 384, 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 present Habeas Corpus Petition has been filed by the wife of the detenu as petitioner.

5. On the side of the respondents a detailed 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 a representation has been submitted and the same has 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 representation submitted on the side of the detenu has been 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 in between column Nos.7 to 9, 37 clear working days are available and in between column Nos.12 and 13, 3 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 representation and that itself would affect the rights of the 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 dated 01.02.2015 passed in H.S.(M).Confdl No.09/2015 by the detaining authority/second respondent herein is quashed and the detenu by name Ulagamuthu is ordered to be set at liberty forthwith, unless he is required to be incarcerated in any other case.

Sd/-

Assistant Registrar(Crl.Side)

\\True copy\\

Sub Assistant Registrar

To

- 1.The Principal Secretary to Government,
Home, Prohibition and Excise (XVI) Department,
Fort.St.George, Chennai - 600 009.
- 2.The District Collector and District Magistrate,
Thoothukudi District,
Thoothukudi.
- 3.The Superintendent,
Central Prison, Palayamkottai.
(In Duplicate for communication to the accused)
4. The Joint Secretary to Government,
Public (Law and Order), Fort St.George, Chennai -9.
- 5.The Addl.Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.A.Muthu Esakki, Advocate Sr.No.39781

akm/24.07.15 /2p-8c/

H.C.P. (MD) No.232 of 2015
21.07.2015