



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 21.07.2015

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

H.C.P.(MD)No.233 of 2015

Muthu

.. Petitioner

Vs.

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

2.The Commissioner of Police,
O/o. Commissioner of Police,
A.r.Line Road,
Korripallam, Palayamkottai,
Tirunelveli Town.

.. 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 records relating to the detention order passed by the 2nd Respondent in No.10/BCDFGISSSV/2015 dated 09.02.2015 and quash the same and direct the Respondents to produce the body of the detenu namely Sundar @ Shanmugasundaram, S/o.Vellapandi Thevar aged 26 years before this Court and set him at liberty now detained at Central Prison, Palayamkottai.

For Petitioner : Mr.K.Sudalaiyandi

For Respondents : Mr.C.Ramesh
Addl.Public Prosecutor

ORDER

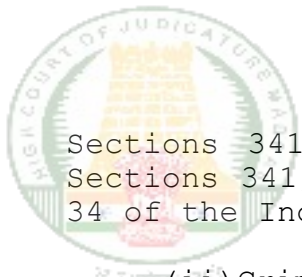
(Order of the Court was made by **A.SELVAM, J.**)

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 No.10/BCDFGISSSV/2015 dated 09.02.2015 by the detaining authority who has been arrayed as second respondent herein against the detenu by name Sundar @ Shanmugasundaram, S/o.Vellapandi Thevar and quash the same and thereby set him at liberty forthwith.

2. The Inspector of Police, Pettai 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.

<https://noseservices.courts.gov.in/noseservices/>

(i)Crime No.633 of 2014, Pettai Police Station, registered under



Sections 341, 294(b), 302, 506(ii) of the Indian Penal Code altered to Sections 341, 294(b), 302, 506(ii) of the Indian Penal Code r/w 120(b) and 34 of the Indian Penal Code.

(ii) Crime No.662 of 2014, Pettai Police Station, registered under Sections 294(b), 387, 307 and 506(ii) of the Indian Penal Code.

(iii) Crime No.630 of 2014, Thatchanallur Police Station, registered under Sections 341, 387 and 506(ii) of the Indian Penal Code.

3. Further it is stated in the affidavit that on 25.12.2014, one Balasubramaniam as defacto complainant has given a complaint against the detenu in Pettai Police Station and the same has been registered in Crime No.782 of 2014 under Sections 294(b), 387, 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 mother 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 two 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 respect of column Nos.7 to 9, 4 clear working days are available and in between column Nos.12 and 13, 4 clear working days are available and with regard to second representation in respect of column Nos.12 and 13, 4 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 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 09.02.2015 passed in No.10/BCDFGISSSV/2015 by the detaining authority/second respondent herein is quashed and the detenu by name Sundar @ Shanmugasundaram is ordered to be set at liberty forthwith, unless he is required to be incarcerated in any other case.



To.

- 1 The Secretary to Government,
Home, Prohibition and Excise (XVI) Department,
Fort.St.George, Chennai - 600 009.
- 2.The Commissioner of Police,
O/o. Commissioner of Police,
A.r.Line Road,
Korripallam, Palayamkottai,
Tirunelveli Town.
3. The Superintendent, Central prison Palayamkottai
(with copies to communicate to the detenu)
4. The Joint Secretary, Government of Tamil Nadu,
Public (Law & order) Department, Fort St. George, Chennai.
- 5 The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1cc to M/S. K.Sudalaiyandi, Advocate in SR.No 39725

TS/24.07.2015/3P - 8C

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