



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 09.04.2015

CORAM

THE HONOURABLE MR. JUSTICE A.SELVAM

and

THE HONOURABLE MR. JUSTICE V.S.RAVI

H.C.P. (MD) No.25 of 2015

Sumathi

.. Petitioner

Vs.

1.The Principal Secretary to Government,
Home, Prohibition & Excise (IX) Department,
Secretariat, Chennai - 9.

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

3.The Superintendent of Prison,
Trichirapalli Central Prison,
Trichirapalli 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 entire records pertaining to the impugned detention order passed by the 2nd respondent in C.O.C.No.27/2014 dated 20.12.2014 and quash the same and direct the respondents to produce the detenu namely Maharajan S/o.Sivanantham, aged about 25 years, detained in Central Prison, Tiruchirapalli before this Court and set him at liberty.

For Petitioner : Mr.R.Ramanatha Sethupathi

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 C.O.C.No.27/2014 dated 20.12.2014 by the detaining authority who has been arrayed as second respondent herein against the detenu by name Maharajan S/o.Sivanantham and quash the same and thereby set him at liberty forthwith.

2. The Inspector of Police, Tiruvavarur Town Police Station
<https://hcservices.spsn.gov.in/hcservices/> 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.356/2012, Koothanallur Police Station, registered under Sections 341, 307 @ 341, 302 of the Indian Penal Code.

(ii) Crime No.524/2013, Tiruvarur Town Police Station registered under Section 294 of the Indian Penal Code.

(iii) Crime No.622/2014, Tiruvarur Taluk Police Station registered under Sections 294(b), 427 and 506(i) of the Indian Penal Code.

3. Further it is stated in the affidavit that on 09.12.2014, one Arokiyaraj has given a complaint in Tiruvarur Town Police Station and the same has been registered in Crime No.649 of 2014 under Section 397 of the Indian Penal Code and ultimately requested the detaining authority to invoke Act 14 of 1982 against the detenu.

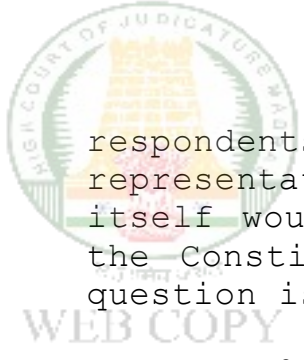
4. The detaining authority after considering the averments made in the affidavit and other connected documents has derived subjective satisfaction to the effect that the detenu is a 'habitual offender' and ultimately branded him as 'goonda' by way of passing the impugned detention order and in order to quash the same, the present 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 three representations have been submitted and the same are not 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 all the representations submitted on the side of the detenu are duly disposed of without delay and therefore, the detention order in question is not liable to be quashed.

8. On the side of the respondents, a proforma has been submitted, wherein, with regard to first representation it has been clearly stated that in between column Nos.7 to 9, 8 clear working days are available and in between column Nos.12 and 13, 15 clear working days are available; with regard to second representation in between column Nos.12 and 13, 15 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 and 13, 12 clear working days are available and no explanation has been given on the side of the



respondents with regard to huge 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.

9. In fine, this Habeas Corpus Petition is allowed and the detention order dated 20.12.2014 passed in C.O.C.No.27/2014 by the detaining authority/second respondent herein is quashed and the detenu by name Maharajan is ordered to be set at liberty forthwith, unless he is required to be incarcerated in any other case.

Sd/-
Assistant Registrar(RTI)

/True Copy/

Sub-Assistant Registrar

To

- 1.The Principal Secretary to Government,
Home, Prohibition & Excise (IX)Department,
Secretariat, Chennai - 9.
- 2.The Joint Secretary to Government of Tamilnadu,
Public (Law & order) Department, Fort St.George, Chennai-9.
- 3.The District Collector & District Magistrate,
O/o.District Collector & District Magistrate,
Thiruvarur District, Thiruvarur.
- 4.The Director General of Police, Chennai-4.
- 5.The Superintendent of Prison,
Trichirapalli Central Prison,
Trichirapalli District.
- 6.The Inspector of Police, Thiruvarur Town Police Station,
Thiruvarur District.
- 7.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1cc to Mr.I.Sabeer Mohamed, Advocate, in SR. No.18462.

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09.04.2015

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<https://hcservices.ecourts.gov.in/hcservices/>