



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 29.04.2015

WEB COPY

Coram

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

H.C.P.(MD)No.252 of 2015

Chandradevi

.. Petitioner

Vs.

- 1.The State of Tamilnadu,
rep by.Secretary to Government,
Home, Prohibition & Excise Department,
Secretariat, Chennai - 9.
- 2.The District Collector & District Magistrate,
Theni District, Theni. .. 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 detention order passed by the 2nd respondent in Detention Order No.1/2015 dated 08.01.2015 and quash the same and direct the respondents to produce the detenu namely Sethupathi @ Nataraj @ Natarajan, S/o.Ponniah Thevar, aged 40 years now detained in Central Prison, Madurai before this Court and set him at liberty.

For Petitioner : Mr.S.Arunkumar

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 Detention Order No.1/2015 dated 08.01.2015 by the detaining authority who has been arrayed as second respondent herein against the detenu by name Sethupathi @ Nataraj @ Natarajan, S/o.Ponniah Thevar and quash the same and thereby set him at liberty forthwith.



2. The Inspector of Police, Bodi Taluk Police Station, as sponsoring authority has submitted an affidavit to the detaining authority, wherein it is stated that on 28.11.2014 one Dhanalakshmi has given a complaint in Bodi Taluk Police Station and the same has been registered in Crime No.513 of 2014 under Section 174 of Code of Criminal Procedure, 1973 along with Section 380 of the Indian Penal Code. On the basis of the said complaint, on 29.11.2014, the detenu has been arrested and he voluntarily given confession statement, wherein he admitted that he committed murders of some old ladies and consequently cases have been registered in Crime Nos.515/2014, 516/2014, 517/2014 and 518 of 2014 and ultimately requested the detaining authority to invoke Act 14 of 1982 against the detenu.

3. 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 'video pirate' 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.

4. 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.

5. 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.

6. 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 need not be quashed.

7. 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, 13 clear working days are available and in between column Nos.12 to 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 representation submitted on the side of the detenu and that itself would affect his rights guaranteed under Article 22(5) of the Constitution of India. Therefore, the detention order in question is liable to be quashed.



8. In fine, this Habeas Corpus Petition is allowed and the detention order dated 08.01.2015 passed in Detention Order No.1/2015 by the detaining authority/second respondent herein is quashed and the detenu by name Sethupathi @ Nataraj @ Natarajan, S/o.Ponniah Thevar 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 Secretary to Government,The state of Tamilnadu,
Home, Prohibition & Excise Department,
Secretariat, Chennai - 9.
- 2.The District Collector & District Magistrate,
Theni District, Theni.
- 3.The Joint Secretary to the Government,
Public(law and Order), Fort St.George, Chennai-9
4. The Superintendent, Central Prison, Madurai
- 5.The Addl.Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1cc to Mr.S.Arun Kumar,Advocate Sr.No.23340
mj

AA/05.05.2015/3p- 7c/

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