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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.276 of 2015

Vellaiyammal

.. 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 District Collector & District Magistrate,
Tuticorin, Tuticorin 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 of detention order passed in H.S.(M) Confdl.No.10/2015 dated 11.02.2015 on the file of the 2nd respondent herein and set aside the same as illegal and direct the respondents to produce the person or body of the petitioner's son namely Balamurugan @ Balu @ Kathi Balu S/o. Mundathevar, aged about 30 years before this Court and set him at liberty, now detained Central Prison, Palayamkottai.

For Petitioner : Mr.R.John Sathyan

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.10/2015 dated 11.02.2015 by the detaining authority who has been arrayed as second respondent herein against the detenu by name Balamurugan @ Balu @ Kathi Balu S/o. Mundathevar and quash the same and thereby set him at liberty forthwith.

2. The Inspector of Police, Murappanadu 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://hcservices.ecourts.gov.in/hcservices/>

(i) Crime No.44 of 2014, Murappanadu Police Station,
registered under Sections 379 of the Indian Penal Code r/w



21(1) of Tamilnadu Mines and Minerals Regulation and Development Act, 1957.

(ii) Crime No.280 of 2014, Murappanadu Police Station, registered under Sections 294(b), 353, 506(ii) and 379 of the Indian Penal Code r/w 21(1) of Tamilnadu Mines and Minerals Regulation and Development Act, 1957.

(iii) Crime No.19 of 2015, Murappanadu Police Station, registered under Sections 379 of the Indian Penal Code r/w 21(1) of Tamilnadu Mines and Minerals Regulation and Development Act, 1957.

3. Further it is stated in the affidavit that on 22.01.2015, the Inspector of Police, Murappanadu has conducted a raid with a view to detect cases of stealing and smuggling. At that time the accused has been found in possession of sand by using a vehicle bearing Registration No.TN-72-Y-2512 and consequently a case has been registered in Crime No.22 of 2015 under Section 379 of the Indian Penal Code r/w 21(1) of Tamilnadu Mines and Minerals Regulation and Development Act, 1957 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 'sand offender' 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.

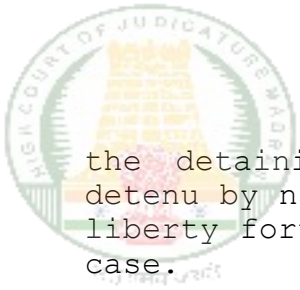
6. The learned counsel appearing for the petitioner has contended that on the side of the detenu a representation has been submitted and the same has not been disposed of without delay and therefore, the detention order in question is liable to be quashed.

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 respect of column Nos.7 to 9, 20 clear working days are available and in between column Nos.12 and 13, 5 clear working days are available and no explanation has been given on the side of the respondents with regard to such huge 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.

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

9. In fine, this Habeas Corpus Petition is allowed and the detention order dated 11.02.2015 passed in H.S.(M) Confdl.No.10/2015 by



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

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Sd/-

Assistant Registrar(Writs)

/TRUE COPY/

Sub Assistant Registrar

To

- 1.The Secretary to Government,
State of Tamilnadu,
Home, Prohibition and Excise (XVI) Department,
Fort.St.George, Chennai - 600 009.
- 2.The District Collector & District Magistrate,
Tuticorin, Tuticorin District.
- 3.The Superintendent,
Central Prison,
Palayamkottai.(in duplicate for communication to the detenu)
- 4.The Joint Secretary to Government,
Public (Law& Order)Dept.,
Fort.Saint George,Chennai - 9.
- 5.The Addl.Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.R.John Sathyan,Advocate SR.No.39724

H.C.P. (MD)No.276 of 2015
21.07.2015

mj

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