



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
Dated : 19.06.2015

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

H.C.P.(MD)No.277 of 2015

Muthu .. Petitioner

Vs.

1.State of Tamilnadu,
The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, 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.11/BCDFGISSV/2015 dated 16.02.2015 and quash the same and direct the respondents to produce the person or body of the detenu namely Iyyappan S/o.Vellapandi Thevar, aged 28 years, detained at Central Prison, Palayamkottai before this Court and set him at liberty.

For Petitioner : Mr.K.Sudalayandi
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.11/BCDFGISSV/2015 dated 16.02.2015 by the detaining authority who has been arrayed as second respondent herein against the detenu by name Iyyappan, S/o.Vellapandi Thevar and quash the same and thereby set him at liberty.

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

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.

(i) Crime No.325 of 2013, Pettai Police Station, registered under Sections 302 and 201 of the Indian Penal Code r/w 34 of the Indian Penal Code.

(ii) Crime No.91 of 2014, Cheranmahadevi Police Station, registered under Sections 341, 294(b), 387 and 506(ii) of the Indian Penal Code.

(iii) Crime No.456 of 2014, Tenkadi Police Station, registered under Section 174 of the Indian Penal Code altered into Section 302 and altered to Sections 147, 148 and 302 of the Indian Penal Code.

3. Further it is stated in the affidavit that on 13.12.2014 one Krishnakumar S/o.Sundar as defacto complainant has given a complaint against the detenu in Pettai Police Station and the same has been registered in Crime No.754 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.

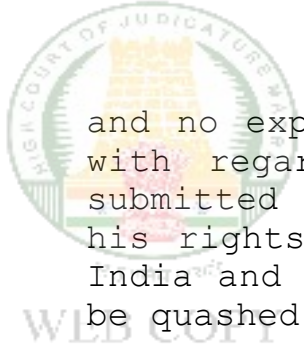
4. The detaining authority after considering the averments made in the affidavit and other connected documents has derived subjective satisfaction to the effect that the detenu is a 'habitual offender' and ultimately branded him as 'goonda' by way of passing the impugned detention order and in order 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 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 all 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 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 16.02.2015 passed in No.11/BCDFGISSV/2015 by the detaining authority/second respondent herein is quashed and the detenu by name Iyyappan is ordered to be set at liberty forthwith, unless he is required to be incarcerated in any other case.

sd

ASST REGISTRAR (WRITS)

TRUE COPY

SUB ASST REGISTRAR

mj

To

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, 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
(DUPLICATE Copy COMMUNICATED TO THE ACCUSED)
- 4.THE JOINT SECRETARY
PUBLIC (LAW AND ORDER) DEPT,
FORT ST.GEORGE CHENNAI 09.
- 5.The Addl.Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

1CC TO MR. K. SUDALAYANDI ADV.SRR: 31994

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H.C.P.(MD)No.277 of 2015

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