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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 14.07.2015

Coram

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

H.C.P. (MD) No.279 of 2015

Nedunchezhiyan

.. Petitioner/Father of the Detenue

Vs.

1.The Secretary to Government,  
State of Tamilnadu,  
Home, Prohibition and excise Department,  
Secretariat, Fort St.George,  
Chennai - 600 009.

2.The District Collector & District Magistrate,  
Thanjavur District, Thanjavur.

.. 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 pertaining to the impugned detention order passed by the 2nd respondent made in his proceedings in P.D. No.11/2015 dated 25.02.2015 in detaining the detenu U/s 2(f) of Tamil Nadu Act 14 of 1982 as a Goonda and quash the same and direct the respondents to produce the detenu namely Karthick S/o. Nedunchezhiyan, male aged about 24 years who is detained in Central Prison, Trichirapalli before this Court and set him at liberty.

For Petitioner : Mr.V.Achuthan  
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 P.D.No.11/2015 dated 25.02.2015 by the detaining authority who has been arrayed as second respondent herein against the detenu by name Karthick S/o. Nedunchezhiyan and quash the same and thereby set him at liberty forthwith.

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

2. The Inspector of Police, Thanjavur Town West 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.

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(i) Crime No.689 of 2013, Thanjavur Town West Police Station, registered under Sections 147, 148, 294(b), 324, 506(ii), 307 and 379 of the Indian Penal Code r/w Sections 3(1) of TNPPDL Act, 1992 altered into Sections 147, 148, 294(b), 324, 326, 506(ii) and 307 of the Indian Penal Code r/w 34 of Indian Penal Code and Section 3(1) of TNPPDL Act, 1992.

(ii) Crime No.18 of 2014, Naducauvery Police Station, registered under Sections 294(b), 324 and 307 of the Indian Penal Code.

3. Further it is stated in the affidavit that on 25.12.2014 one Shanthi W/o.Arumugam as defacto complainant has given a complaint against the detenu and others in Thanjavur Town West Police Station and the same has been registered in Crime No.528 of 2014 under Section 302 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 father of the detenu as petitioner.

5. Despite of repeated adjournments, on the side of the respondents counter has not been filed and therefore, this Habeas Corpus Petition is disposed of on merits on the basis of the available materials on record.

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 between column Nos.7 to 9, 5 clear working days are available and in between column Nos.12 and 13, 7 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 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 25.02.2015 passed in P.D. No.11/2015 by the detaining authority/second respondent herein is quashed and the detenu by name Karthick is ordered to be set at liberty forthwith, unless he is required to be incarcerated in any other case.

Sd/-

Assistant Registrar (Per.Admn.)

/True Copy/

Sub Assistant Registrar

To

1.The Secretary to Government,  
State of Tamilnadu,  
Home, Prohibition and excise Department,  
Secretariat, Fort St.George, Chennai - 600 009.

2.The District Collector & District Magistrate,  
Thanjavur District, Thanjavur.

3. The Superintendent,  
Central Prison, Tiruchirapalli.

**(In Duplicate for communication to detenu)**

4. The Joint Secretary to Government,  
Public (Law and Order), Fort St.George, Chennai -9.

5.The Addl.Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.

akm/16.07.15 /3p-7c/

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