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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 29.04.2015

Coram

THE HONOURABLE MR.JUSTICE A.SELVAM

and

THE HONOURABLE MR.JUSTICE V.S.RAVI

H.C.P.(MD)No.29 of 2015

Pappa

.. Petitioner

Vs.

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

2.The District Collector @ District Magistrate,
Tirunelveli District,
Tirunelveli.

.. Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus to call for records in connection with order of detention passed by the 2nd respondent in M.H.S.Confdl.No.103/2014 dated 19.12.2014 and quash the same as illegal and direct the respondents to produce the detenu namely Kannan S/o.Esakkimuthu aged 34 years now detained in Central Prison, Palayamkottai before this Court and set him at liberty.

For Petitioner : Mr.K.K.Ramakrishnan

For Respondents : Mr.C.Ramesh

Addl.Public Prosecutor

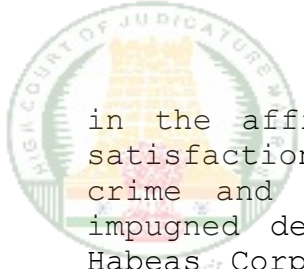
ORDER

(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 M.H.S.Confdl.No.103/2014 dated 19.12.2014 by the detaining authority who has been arrayed as second respondent herein against the detenu by name Kannan S/o.Esakkimuthu Thevar and quash the same and thereby set him at liberty forthwith.

2. The Inspector of Police, Tirunelveli Taluk Police Station as sponsoring authority has submitted an affidavit to the detaining authority, wherein it is stated that on 28.10.2014 one Natarajan as defacto complainant has given a complaint against the detenu and others in Tirunelveli Taluk Police Station and the same has been registered in Crime No.291 of 2014 under Sections 147, 148, 341, 294(b) and 302 of the Indian Penal Code and 3(2)(v) of SC/ST Act, altered to Sections 147, 148, 341, 294(b), 302 and 120(b) of the Indian Penal Code and 3(2)(v) of SC/ST Act, 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 in the habit of committing crime 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.

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 two 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.

6. The learned Additional Public Prosecutor has contended that the representations submitted on the side of the detenu are duly disposed of without delay and therefore, the detention order in question does not call for any interference.

7. On the side of the respondents, a proforma has been submitted, wherein it has been clearly stated to the effect that with regard to first representation in between column Nos.7 to 9, 5 clear working days are available and in between column Nos.12 and 13, 15 clear working days are available and with regard to second representation in between column Nos.7 to 9, 22 clear working days are available and in between column Nos.12 and 13, 11 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.

8. In fine, this Habeas Corpus Petition is allowed and the detention order dated 19.12.2014 passed in M.H.S.Confdl.No.103/2014 by the detaining authority/second respondent herein is quashed and the detenu by name Kannan is ordered to be set at liberty forthwith, unless he is required to be incarcerated in any other case.

Sd/-

Assistant Registrar(AE)

\\True copy\\

Sub Assistant Registrar

To

1. THE PRINCIPAL SECRETARY TO GOVERNMENT, HOME PROHIBITION AND EXCISE DEPARTMENT, FORT ST GEORGE, CHENNAI
 2. THE JOINT SECRETARY TO THE GOVT. LAW & ORDER FORT ST.GEORGE, CHENNAI-9
 3. THE DISTRICT COLLECTOR AND DISTRICT MAGISTRATE, TIRUNELVELI DIST
 4. THE SUPERINTENDENT CENTRAL PRISON, PALAYAMKOTTAI
 5. THE INSPECTOR OF POLICE, TIRUNELVELI TALUK POLICE STATION, TIRUNELVELI
 6. THE ADDL.PUBLIC PROSECUTOR, MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +1cc to MR.K.K.RAMAKRISHNAN, ADVOCATE SR.NO.23440

H.C.P. (MD) No.29 of 2015
29.04.2015