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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 03.07.2015

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

H.C.P.(MD)No.297 of 2015

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.. Petitioner

Vs.

1.The Principal Secretary to Government,
State of Tamilnadu,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.

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

3.The Superintendent of Prison,
Trichirapalli Central Prison,
Trichirapalli.

.. 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 connected with the detention order of the respondent No.2 in C.O.C. No.16/2015 dated 20.02.2015 and quash the same and direct the respondents to produce the detenu namely Vijay S/o.Mosses aged about 29 years detained in Trichirapalli Central Prison before this Court and set him at liberty.

For Petitioner : Mr.R.Alagumani

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 C.O.C. No.16/2015 dated 20.02.2015 by the detaining authority who has been arrayed as second respondent herein against the detenu by name Vijay S/o.Mosses and quash the same and thereby set him at liberty forthwith.



2. The Inspector of Police, Mayiladuthurai 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 case.

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Crime No.606 of 2013, Mayiladuthurai Police Station, registered under Sections 120(b), 341, 302, 109 r/w 34 and 212 of the Indian Penal Code r/w 302 of the Indian Penal Code.

3. Further it is stated in the affidavit that on 13.02.2015 one P.K.Sakthivel as defacto complainant has given a complaint against the detenu in Mayiladuthurai Police Station and the same has been registered in Crime No.105 of 2015 under Sections 109, 294(b), 452, 506(ii), 386, 323 of the Indian Penal Code and also under Section 3(1) of TNPPDL Act and ultimately requested the detaining authority to invoke Act 14 of 1982 against the detenu.

4. The detaining authority after perusing 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 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 two representations are submitted and the same have 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 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.

8. On the side of the respondents, a proforma has been submitted, wherein it has been clearly stated that with regard to first representation in between column Nos.7 to 9, 6 clear working days are available and in between column Nos.12 and 13, 3 clear working days are available and with regard to second representation in between column Nos.7 to 9, 24 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 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.

9. In fine, this Habeas Corpus Petition is allowed and the detention order dated 20.02.2015 passed in C.O.C. No.16/2015 by the



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

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/True Copy/

Sd/-

Assistant Registrar

Sub Assistant Registrar

To

- 1.The Principal Secretary to Government,
State of Tamilnadu,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.
- 2.The District Collector & District Magistrate,
Nagapattinam District, Nagapattinam.
- 3.The Superintendent of Prison,
Trichirapalli Central Prison,
Trichirapalli.
- 4 The Joint Secretary, Government of Tamil Nadu,
Public (Law & order) Department, Fort St. George, Chennai.
- 5.The Addl.Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to M/S. R.Alagumani,Advocate in SR.No.36170.

TS/06.07.2015/2P -7C

H.C.P. (MD) No.297 of 2015

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