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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 22.04.2015
CORAM:

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

HABEAS CORPUS PETITION (MD) No.3 of 2015

Ramakrishnan .. Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. By the Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai - 9.

2.The District Collector and
District Magistrate,
O/o.District Collector and
District Magistrate,
Thoothukudi District,
Thoothukudi. .. Respondents

Prayer:- Habeas Corpus Petition is filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus praying to call for records relating to the impugned order of detention made in H.S(M) Confdl.No.40/2014, dated 05.12.2014 on the file of the District Collector and District Magistrate, Thoothukudi District, the second respondent herein, branding the detenu by name Ramakrishnan, aged about 46 years, Son of Sudalaimadan as 'Boot Legger', who is now confined at Central Prison, Palayamkottai and quash the impugned order of detention by setting aside the same and set him at liberty by producing him before this Court and pass such further or other orders.

For Petitioner : Mr.A.Thiruvadi Kumar

For Respondents : Mr.C.Ramesh
Additional 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 detention order passed in H.S(M) Confdl.No.40/2014, dated 05.12.2014 by the detaining authority, who has been arrayed as second respondent herein against the detenu by name Ramakrishnan, Son of Sudalaimadan and quash the same and thereby set him at liberty forthwith.



2. The Inspector of Police, Thoothukudi Prohibition Enforcement Wing 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.239 of 2014 Kurumbur Police Station registered under Sections 4(1)(a,a), 4(1)(A) and 14(A) of TNP Act.

(ii) Crime No.975 of 2014 Thoothukudi Prohibition Enforcement Wing registered under Sections 4(1)(a) and 4(1)(A) of TNP Act.

3. Further it is stated in the affidavit that on 11.11.2014 at about 13.00 hours, the Inspector of Police, Prohibition Enforcement Wing and his party have found the detenu in possession of illicit arrack and consequently, a case has been registered in Crime No.1029 of 2014 under Sections 4(1)(A) and 4(1)(a) of Tamil Nadu Prohibition Enforcement Wing Act 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 'Boot Legger' 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 detenu himself as petitioner.

5. In the counter filed on the side of the respondents, it has been stated 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 represented that the representation submitted on the side of the detenu has been duly considered and 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, fifteen clear working days are available and in between Column Nos.12 and 13, fifteen 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 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 passed in H.S(M) Condl.No.40/2014, dated 05.12.2014 by the second respondent/detaining authority is quashed and consequently the respondents are directed to set the detenu viz., Ramakrishnan, Son of



Sudalaimadan at liberty forthwith, unless he is required to be incarcerated in connection with any other case.

Sd/-

Assistant Registrar(RTI)

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Sub Assistant Registrar

To

1. THE SECRETARY TO GOVERNMENT HOME, PROHIBITION & EXCISE DEPARTMENT, SECRETARIAT, CHENNAI.
2. THE DISTRICT COLLECTOR AND DISTRICT MAGISTRATE, O/O. DISTRICT COLLECTOR AND DISTRICT MAGISTRATE, THOOTHUKUDI DISTRICT, THOOTHUKUDI.
3. THE SUPERINTENDENT OF CENTRAL PRISON, PALAYAMKOTTAI
4. THE JOINT SECRETARY TO GOVT. OF TAMIL NADU PUBLIC(LAW & ORDER) DEPARTMENTS FORT ST.GEORGE, CHENNAI-9
5. THE ADDITIONAL PUBLIC PROSECUTOR, MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1cc to MR.A.THIRUVADIKUMAR, ADVOCATE SR.NO.21062

ORDER MADE IN
H.C.P (MD) No.3 of 2015
22.04.2015

PS

PA/24/04/2015/P3/7C