



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 18.06.2015

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THE HONOURABLE MR.JUSTICE A.SELVAM
and
THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

H.C.P.(MD)No.304 of 2015

Saraswathi

.. Petitioner

Vs.

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

2.The Commissioner of Police,
Madurai City, Madurai.

3.The Inspector of Police,
D2 Sellur Police Station (L&O)
Madurai City, Madurai.

.. 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 pertaining to the order of detention passed by the 2nd respondent vide his proceedings in No.64/BCDFGISSSV/2014 dated 18/11/2014 and quash the same and consequently set the Detenu (S. KALAISELVI @ SELVI) W/o. Sathish@Sabarish Female aged 25 years) who is presently confined at Special Prison for Women, Trichirapalli at liberty.

For Petitioner : Mr.M.Pitchaimuthu

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.64/BCDFGISSSV/2014 dated 18/11/2014 by the detaining authority who has been arrayed as second respondent herein against the detenu by name Kalaiselvi Sathish @ Sabarish and quash the same and thereby set her at liberty forthwith.



2. The Inspector of Police, D2, Sellur 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.1131 of 2013, D2, Sellur Police Station, registered under Sections 4(2)(c), 5(1)(a) and 5(1)(d) of Immoral Traffic Prevention Act.

(ii) Crime No.865 of 2014, C3, S.S.Colony Police Station, registered under Sections 4(2)(c), 5(1)(a), 5(1)(c) and 5(1)(d) of Immoral Traffic Prevention Act and 506(i) of the Indian Penal Code.

(iii) Crime No.915 of 2014, D2, Sellur Police Station, registered under Sections 8(b), 4(ii) C and 5(d) of Immoral Traffic Prevention Act.

3. Further it is stated in the affidavit that on 06.11.2014 one P.Vijayakumar, Head Constable, attached to Sellur Police Station as defacto complainant has given a complaint against the detenu and the same has been registered in Crime No.1101 of 2014 under Sections 370(iii) of the Indian Penal code r/w 109 of the Indian Penal code and also under Sections 3(2)(a), 4(1), 5(1), 6(1) and 7(1)(b) of Immoral Traffic Prevention 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 'Immoral Traffic Offender' 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 four 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 all 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 and 9, 2 clear working days are available and in between column Nos.12 and 13, 5 clear working days are available; with regard to second representation in between column Nos. 7 to 9, 5 clear working days are available and in between column Nos.12 and 13, 5 clear working days are available; with regard to third representation in between column Nos.12 and 13, 5 clear working days are available and with regard to fourth representation in between column Nos.7 and 9, 4 clear working days are available and in between column Nos.12 and 13, 5 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 representations and that itself would affect 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 18.11.2014 passed in No.64/BCDFGISSSV/2014 by the detaining authority/second respondent herein is quashed and the detenu by name Kalaiselvi @ Selvi 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

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To

- 1.The Secretary to Government,
Home, Prohibition & Excise Department, Secretariat, Chennai - 9.
- 2.The Commissioner of Police, Madurai City, Madurai.
- 3.The Superintendent Special Prison for women, Trichy.
- 4.The Joint secretary to Government
Public (Law & Order) Fort St., George, Chennai-9
- 5.The Inspector of Police,
D2 Sellur Police Station (L&O), Madurai City, Madurai.
- 6.The Addl.Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

H.C.P. (MD) No.304 of 2015
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