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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 14.07.2015

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THE HONOURABLE MR. JUSTICE A.SELVAM

and

THE HONOURABLE MR. JUSTICE V.S.RAVI

H.C.P. (MD) No.325 of 2015

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.. Petitioner

Vs.

1.The Additional Secretary,
Government of India,
Ministry of Consumer Affairs, Food and
Public Distribution (Department of consumer affairs)
Room No.270, Krishibhavan,
New Delhi - 110 001.

2.The Secretary,
Government of Tamilnadu,
Cooperation, Food and Consumer Protection Department,
Secretariat, Fort St.George,
Chennai - 600 009.

3.The District Collector & District Magistrate,
Madurai District, Madurai.

4.The Inspector of Police,
CSCID, 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 records pertaining to the order of detention passed by the third respondent in his proceedings C.M.P.No.1/2015(CS) dated 22/02/2015 and quash the same as illegal and produce the detenu namely Dhanasekar @ Sekar S/o.Karuppaiah, aged about 52 years now confined in Central Prison, Madurai before this Court and set him at liberty.

For Petitioner : Mr.T.Leninkumar

For RR - 2 to 4 : Mr.C.Ramesh
Addl.Public Prosecutor

For R - 1 : Mr.R.Vijayarajan
Senior Panel counsel, Central Govt.,

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.M.P.No.1/2015(CS) dated 22/02/2015 by the third respondent in his proceedings C.M.P.No.1/2015(CS) and quash the same as illegal and produce the detenu namely Dhanasekar @ Sekar S/o.Karuppaiah, aged about 52 years now confined in Central Prison, Madurai before this Court and set him at liberty and thereby set him at liberty forthwith.



2. The Inspector of Police, Civil Supplies CID Unit, Madurai 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.422 of 2014, Madurai Civil Supplies CID Unit, registered under Sections 6(4) of TNSC (RDCS) Order 1982 r/w 7(1) (a)(ii) of Essential Commodities Act, 1955.
- (ii) Crime No.490 of 2014, Madurai Civil Supplies CID Unit, registered under Sections 6(4) of TNSC (RDCS) Order 1982 r/w 7(1) (a)(ii) of Essential Commodities Act, 1955.

3. Further it is stated in the affidavit that on 13.02.2015, the police party has gone to Gandhi Nagar, Pudhusukkampatti, Melur Taluk so as to detect smuggling or hoarding of PDS rice and ultimately found 900 kilograms of PDS rice in 18 bags and consequently a case has been registered in Crime No.78 of 2015 under Sections 6(4) of TNSC (RDCS) Order 1982 r/w 7(1) (a)(ii) of Essential Commodities Act, 1955 and ultimately requested the detaining authority to invoke Act 14 of 1982 against the detenu.

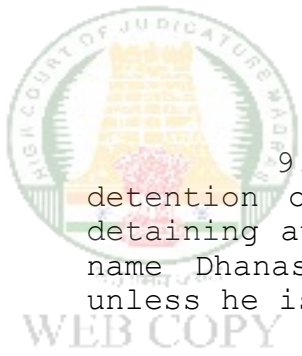
4. The detaining authority after perusing the averments made in the affidavit and other connected documents has derived subjective satisfaction to the effect that the detenu is a 'habitual offender' and ultimately branded him as 'black marketeer' by way of passing the impugned detention order and in order to quash the same, the wife of the detenu has filed the present Petition as petitioner.

5. On the side of the respondents counter has been filed, wherein it has been contended *inter alia* to the effect that all the averments made in the petition are false and the representation submitted on the side of the detenu has been disposed of without delay and therefore, the detention order in question is not liable to be quashed.

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, 9 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 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 22.02.2015 passed in C.M.P.No.1/2015(CS) by the detaining authority/third respondent herein is quashed and the detenu by name Dhanasekar @ Sekar is ordered to be set at liberty forthwith, unless he is required to be incarcerated in any other case.

Sd/-

Assistant Registrar(Crl.Side)

/True copy/

Sub Assistant Registrar

To

- 1.The Additional Secretary,
Government of India,
Ministry of Consumer Affairs, Food and
Public Distribution (Department of consumer affairs)
Room No.270, Krishibhavan,
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- 2.The Secretary,
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Cooperation, Food and Consumer Protection Department,
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- 3.The District Collector & District Magistrate,
Madurai District, Madurai.
- 4 The Joint Secretary to Govt.of Tamilnadu,
Public (Law & Order)Dept.,
Fort.St.George,Chennai - 9.
- 5.The Inspector of Police,
CSCID, Madurai.
6. The Superintendent,
Central Prison,Madurai. (with copies to communicate to the detenu)
- 7.The Addl.Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.T.Lenin Kumar,Advocate SR.No.38278

H.C.P. (MD)No.325 of 2015
14.07.2015

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