



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 16.04.2015

Coram

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

H.C.P.(MD)No.33 of 2015

Raja @ Kasirajan

.. Petitioner

Vs.

- 1.The Secretary to Government,
Home, Prohibition & Excise Department,
Secretariat, State of Tamil Nadu
Chennai - 9.
- 2.The District Collector & District Magistrate,
O/o. District Collector & District Magistrate
Madurai District.
- 3.The Superintendent of Prison,
Madurai Central Prison,
Madurai District.

.. Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus to call for entire records pertaining to the impugned detention order passed by the 2nd respondent in C.M.P.No.24/2014 dated 26.12.2014 and quash the same and direct the respondents to produce the detenu namely Raja @ Kasirajan, S/o.Marudupandi, aged about 23 years, now detained in Central Prison, Madurai 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.M.P.No.24/2014 dated 26.12.2014 by the detaining authority who has been arrayed as second respondent herein against the detenu by name Raja @ Kasirajan S/o.Marudupandi and quash the same and thereby set him at liberty forthwith.

2. The Inspector of Police, Avaniyapuram 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:



(i) Crime No.5/14, Avaniyapuram Police Station, registered under Section 394 of the Indian Penal Code.

(ii) Crime No.231/14, Avaniyapuram Police Station, registered under Sections 457 & 380 of the Indian Penal Code.

(iii) Crime No.1009/14, Avaniyapuram Police Station, registered under Sections 147, 148, 324 and 302 of the Indian Penal Code.

Further it is stated in the affidavit that on 21.11.2014 one Senthilkumar as complainant has given a complaint in Avaniapuram Police Station against the detenu and the same has been registered in Crime No.1010 of 2014 under Sections 387 and 506(ii) of the Indian Penal Code and ultimately requested the detaining authority to invoke Act 14 of 1982 against the detenu.

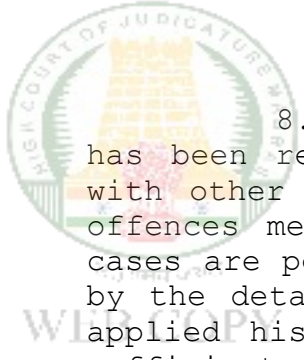
3. The detaining authority after considering the averments made in the affidavit and other connected documents has derived subjective satisfaction to the effect that the detenu is a 'habitual offender' and ultimately branded him as 'goonda' by way of passing the impugned detention order and in order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

4. Despite of repeated adjournments, on the side of the respondents, counter has not been filed. Under the said circumstances, the present Habeas Corpus Petition is disposed of on merits on the basis of the materials available on record.

5. The learned counsel appearing for the petitioner has contended that in paragraph-5 of the detention order, the detaining authority has relied upon the bail order passed Crime No.573 of 2014 and in fact, the case registered in Crime No.573 of 2014 is not similar to that of the cases registered in Crime Nos.1009 and 1010 of 2014 against the detenu and therefore, similar case particulars relied upon by the detaining authority is not at all similar and the detaining authority has not applied his mind properly in passing the detention order and therefore, the same is liable to be quashed.

6. The learned Additional Public Prosecutor has contended that in paragraph-5 of the detention order, the detaining authority has rightly observed that in similar case registered in Crime No.573 of 2014 under Sections 387 and 506(ii) of the Indian Penal Code, the concerned accused has got bail and subsequently passed the detention order and therefore, the same is not liable to be quashed.

7. On the basis of the divergent submissions made on either side, this Court has perused the entire detention order, wherein Crime No.1009 of 2014 has been registered against the detenu and others under Section 302 of the Indian Penal Code along with some other sections and admittedly in Crime Nos.1009 and 1010 of 2014, no bail applications have been filed on the side of the petitioner/detenu. But as rightly pointed out on the side of the petitioner/detenu, the detaining authority has relied upon the bail order passed in Crime No.573 of 2014 registered under Sections 387 and 506(ii) of the Indian Penal Code.



8. It has already been pointed out that Crime No.1009 of 2014 has been registered under Section 302 of the Indian Penal Code along with other sections of law and the same is not similar to that of the offences mentioned in Crime No.573 of 2014 and further various adverse cases are pending against the detenu. Therefore, similar case relied upon by the detaining authority is totally erroneous and in fact, he has not applied his mind in passing the detention order and that itself is a sufficient ground to quash the same.

9. In fine, this Habeas Corpus Petition is allowed and the detention order dated 26.12.2014 passed in C.M.P.No.24/2014 by the detaining authority/second respondent herein is quashed and the detenu by name Raja @ Kasirajan 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

To

1. THE SECRETARY TO GOVERNMENT HOME, PROHIBITION AND EXCISE DEPARTMENT,
STATE OF TAMIL NADU, SECRETARIAT, FORT ST GEORGE, CHENNAI.

2. THE DISTRICT COLLECTOR AND DISTRICT MAGISTRATE, OFFICE OF THE DISTRICT
COLLECTOR AND DISTRICT MAGISTRATE, MADURAI DISTRICT.

3. THE SUPERINTENDENT OF PRISON MADURAI CENTRAL PRISON, MADURAI DISTRICT.
(IN DUPLICATE)

4. THE JOINT SECRETARY TO GOVT. PUBLIC(LAW & ORDER) FORT ST. GEORGE,
CHENNAI-9

5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1cc TO M/S.R.ALAGUMANI,ADVOCATE SR.NO. 19681

H.C.P. (MD) No.33 of 2015
16.04.2015

MJ

NA/23/04/2015/P3/7C