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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 29.04.2015

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THE HONOURABLE MR.JUSTICE A.SELVAM
and

THE HONOURABLE MR.JUSTICE V.S.RAVI

H.C.P.(MD)No.35 of 2015

Nagarajan

.. Petitioner

Vs.

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

2.The District Collector & District Magistrate,
O/o.District Collector & District Magistrate,
Virudhunagar District,
Virudhunagar.

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 detention order passed by the 2nd respondent in CrI.M.P.No.30/2014 (Video Pirate) dated 23.12.2014 and quash the same and direct the respondents to produce the detenu namely Nagarajan S/o.Irulappa Konar, aged 56 years now detained in Central Prison, Madurai before this Court and set him at liberty.

For Petitioner : Mr.B.Dhanasekaran

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 CrI.M.P.No.30/2014 (Video Pirate) dated 23.12.2014 by the detaining authority who has been arrayed as second respondent herein against the detenu by name Nagarajan S/o.Irulappa Konar and quash the same and thereby set him at liberty forthwith.

2. The Inspector of Police, Video Piracy Cell Unit, Virudhunagar 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.123 of 2014, Madurai Video Piracy Cell Unit, registered under Sections 51 r/w 63 and 52(A) r/w 68(A) of Copyright Act, 1957 and 7(i)(a) of Cinema Autography Act, 1952 and under Section 120(b) of IPC @ 51 r/w 63 and 52(A) r/w 68(A) of Copyright Act, 1957 and under Section 7(i)(a) of Cinema Authography Act, 1952 and under Sections 406 and 420 IPC.

(ii) Crime No.126 of 2014, Madurai Video Piracy Cell Unit, registered under Sections 51 r/w 63 and 52(A) r/w 68(A) of Copyright Act, 1957 and 7(1)(a) of Cinema Autography Act, 1952 and under Section 120(b) of IPC.

(iii) Crime No.185 of 2014, Virudhunagar Video Piracy Cell Unit, registered under Sections 51 r/w 63 of Copyright Act, 1957 and 7(i)(a) of Cinema Autography Act, 1952.

Further it is stated in the affidavit that on 12.12.2014 one Gnanasekaran as complainant has given a complaint against the detenu and the same has been registered in Crime No.209 of 2014 under Sections 51(a)(b)(i)(ii), 63(A), 65 and 52(A) r/w 68(A) copyright Act, 1957 and under Sections 292 (A), 406, 420 and 469 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 'video pirate' 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.

4. 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.

5. The learned counsel appearing for the petitioner has contended that on the side of the detenu three representations have been submitted and the same are not disposed of without delay and therefore, the detention order in question is liable to be quashed.

6. 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.

7. On the side of the respondents, a proforma has been submitted, wherein it has been clearly stated to the effect that with regard to first representation in between column Nos.7 to 9, 7 clear working days are available and in between column Nos.12 to 13, 9 clear working days are available; with regard to second representation in between column Nos.7 to 9, 7 clear working days are available and in between column Nos.12 to 13, 9 clear working days are available and with regard to third representation in between column Nos.7 to 9, 7 clear working days are available and in between column Nos.12 to 13, 9 clear working days are available and no explanation has been given on the side of the respondents with regard to such inordinate 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.

8. In fine, this Habeas Corpus Petition is allowed and the detention order dated 23.12.2014 passed in CrI.M.P.No.30/2014 (Video Pirate) by the detaining authority/second respondent herein is quashed and the petitioner/detenu 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 Principal Secretary to Government,
Home, Prohibition & Excise Department, Secretariat, Chennai - 9.
- 2.The District Collector & District Magistrate,
O/o.District Collector & District Magistrate,
Virudhunagar District, Virudhunagar.
- 3.The Joint Secretary to Government Public(Law & Order)
Fort St.George, Chennai-9
- 4.The Superintendent of Prison,
Madurai Central Prison,
Madurai District.
- 5.The Addl.Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc TO MR.B.DHANASEKARAN, ADVOCATE SR.NO.23752

H.C.P. (MD) No.35 of 2015
29.04.2015

MJ

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