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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 29.04.2015

Coram

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

H.C.P.(MD)No.38 of 2015

Patta Thevar .. Petitioner

Vs.

- 1.State of Tamilnadu
The Secretary to Government,
Home, Prohibition & Excise Department,
Secretariat, Chennai - 9.
- 2.The District Collector and District Magistrate,
Tirunelveli District,
Tirunelveli.
- 3.The Inspector of Police,
Tirunelveli Taluk Police Station,
Tirunelveli 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 second respondent in M.H.S.Confdl.No.97/2014 dated 18.12.2014 and quash the same and direct the respondents to produce the detenu namely Lakshmanan aged 24 years S/o.Pattathevar, now detained in Central Prison, Palayamkottai before this Court and set him at liberty.

For Petitioner : Mr.S.Sundara Pandian

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



M.H.S.Confdl.No.97/2014 dated 18.12.2014 by the detaining authority who has been arrayed as second respondent herein against the detenu by name Lakshmanan S/o.Patta Thevar and quash the same and thereby set him at liberty forthwith.

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2. The Inspector of Police, Tirunelveli Taluk Police Station as sponsoring authority has submitted an affidavit to the detaining authority, wherein it is stated that on 28.10.2014, the defacto complainant by name Selvam has lodged a complaint in Tirunelveli Town Police Station against the detenu and the same has been registered in Crime No.290 of 2014 under Sections 147, 148, 341, 294(b), 302 and 120(b) of the Indian Penal Code and also under Section 3(2)(V) of SC/ST Act 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 in the habit of committing crime and ultimately declared him as 'goonda' 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 father of the detenu 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 a representation has been submitted and the same is 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 representation submitted on the side of the detenu has been duly disposed of without delay and therefore, the detention order in question need not be quashed.

7. 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, 5 clear working days are available and in between column Nos.12 to 13, 14 clear working days are available and no explanation has been given on the side of the respondents <https://hcservices.ecm.gov.in/cservices/> such delay in disposing of the representation 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 18.12.2014 passed in M.H.S.Confdl.No.97/2014 by the detaining authority/second respondent herein is quashed and the detenu by name Lakshmanan 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 & Excise Department,
Secretariat, Chennai - 9.
- 2.The Joint Secretary to Government,
Public(L & O), Secretariat, Chennai-9
- 3.The District Collector and District Magistrate,
Tirunelveli District, Tirunelveli.
- 4.The Inspector of Police,
Tirunelveli Taluk Police Station,
Tirunelveli District.
- 5.The Addl.Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.
- 6.The Superintendent, Central Prison, Palayamkottai

+1cc to Mr.S.Sundarpandian,Advocate Sr.No.23324

mj

AA/04.05.2015/3p- 8c/

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