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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 27.07.2015

CORAM:

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

HABEAS CORPUS PETITION(MD)No.397 of 2015

Sudha

.. Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. By the Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai - 9.

2.The District Collector and
District Magistrate,
Office of the District Collector and
District Magistrate,
Nagapattinam District,
Nagapattinam.

3.The Superintendent,
Central Prison,
Tiruchirappalli.

.. Respondents

Prayer:- Habeas Corpus Petition is filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus praying to call for the entire records in connection with the detention order passed in C.O.C.No.19/2015 dated 18.03.2015 on the file of the second respondent herein and set aside the same as illegal and direct the respondents to produce the body or person of the petitioner's husband namely Veerappan @ Mathi, Son of Marimuthu, aged about 38 years, who is detained in Central Prison, Tiruchirappalli before this Court and set him at liberty.

For Petitioner : Mr.K.A.S.Prabhu

For Respondents : Mr.C.Ramesh
Additional 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 detention order passed in C.O.C.No.19/2015 dated 18.03.2015 by the detaining authority, who has been arrayed as second respondent herein, against the detenu by name Veerappan @ Mathi, Son of



Marimuthu and quash the same and thereby set him at liberty forthwith.

2. The Inspector of Police, Poraiyar 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.202 of 2014 Poombuhar Police Station registered under Section 4(1)(aa) read with Section 4(1-A) of TNP Act, 1937 (Transport).

(ii) Crime No.99 of 2015 Poraiyar Police Station registered under Section 4(1)(aaa) TNP Act, 1937 (Transport).

3. Further it is stated in the affidavit that on 04.03.2015 the Inspector of Police, Poraiyar Police Station along with other police men conducted prohibition raid and ultimately found that the detenu is found in possession of illicit arrack and consequently, a case has been registered against him in Crime No.163 of 2015 under Sections 4(1)(aaa), 4(1)(i) read with Section 4(1-A) of TNP Act, 1937 and ultimately requested the detaining authority to invoke Act 14 of 1982 against the detenu.

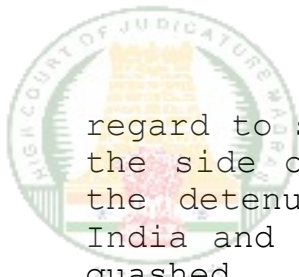
4. The detaining authority, after considering the averments made in the affidavit and other connected documents, has derived subjective satisfaction to the effect that the detenu is a habitual offender and ultimately branded him as 'Boot Legger' by way of passing the impugned detention order and in order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

5. On the side of the respondents, counter has been filed wherein it has been clearly stated 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 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, nine clear working days are available and in between Column Nos.12 and 13, five 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 submitted on the side of the detenu and that itself would affect the 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.

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9. In fine, this Habeas Corpus Petition is allowed and the detention order passed in C.O.C.No.19/2015 dated 18.03.2015 by the second respondent/detaining authority is quashed and consequently the respondents are directed to set the detenu viz., Veerappan @ Mathi, Son of Marimuthu at liberty forthwith, unless he is required to be incarcerated in connection with any other case.

Sd/-

Assistant Registrar(CO)

/True copy/

Sub Assistant Registrar

ps

To

1.The Secretary to Government, State of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St. George, Chennai - 9.

2.The District Collector and
District Magistrate,
Office of the District Collector and
District Magistrate,
Nagapattinam District,Nagapattinam.

3.The Joint Secretary to Government
Public (Law & Order), Fort St., George, Chennai-9.

4.The Superintendent,
Central Prison,
Tiruchirappalli.(In duplicate for communication to detenu)

5.The Inspector of Police,
Poraiyar Police Station, Poraiyar, Nagapattinam District.

6.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1cc to Mr.K.S.A.PRABHU, ADVOCATE IN SR NO.41544

ORDER MADE IN
H.C.P (MD) No.397 of 2015
27.07.2015

rg.28.07.2015

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