



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.04.2015

CORAM:

THE HONOURABLE MR.JUSTICE A.SELVAM
and
THE HONOURABLE MS.JUSTICE V.M.VELUMANI

HABEAS CORPUS PETITION(MD)No.40 of 2015

Thangapandi Thevar,
S/o.Cehllaiah Thevar,
Maruthur,
Palayamkottai Taluk,
Tirunelveli District.

.. Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. By its Secretary to the Government,
Home, Prohibition and Excise Department,
Fort St. George,
Secretariat,
Chennai - 600 009.

2.The District Collector and
District Magistrate,
Tirunelveli District,
Tirunelveli.

3.The Inspector of Police,
Tirunelveli Taluk Police Station,
Tirunelveli District.

.. 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 entire records, relating to the impugned detention order passed in M.H.S.Confdl.No.95/2014, dated 18.12.2014 on the file of the second respondent herein and quash the same and direct the respondents to produce the detenu namely Ramesh, aged 24 years, Son of Thangapandi Thevar, now confined in Central Prison, Palayamkottai, before this Court and set him at liberty.

For Petitioner : Mr.S.Sundara Pandian

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 M.H.S.Confdl.No.95/2014, dated 18.12.2014 by the detaining authority, who has been arrayed as second respondent herein against the detenu by name Ramesh, Son of Thangapandi Thevar and quash the same and thereby set him at liberty forthwith.

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 one Selvam as complainant has given a complaint against the detenu in Tirunelveli Taluk Police Station and the same has been registered in Crime No.290 of 2014 under Sections 341, 294(b) and 302 of the Indian Penal Code and also under Section 3(2)(v) of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act altered into Sections 147, 148, 341, 294(b), 302 and 120(b) of the Indian Penal Code and also under Section 3(2)(v) of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) 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 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 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 the detaining authority, who has been arrayed as second respondent herein, has relied upon the bail order passed in 6977/2009, dated 29.09.2009 and the case mentioned therein is not similar to that of the present case and therefore, the detaining authority has not applied his mind properly before passing the detention order and on that ground, the detention order in question is liable to be quashed.

6. The learned Additional Public Prosecutor has contended that the detaining authority has rightly relied upon the case mentioned in the order passed in CrI.O.P(MD)No.6977 of 2009 in the present



case as similar case and therefore the detention order in question is not liable to be quashed.

7. It is seen from the detention order that the detaining authority has relied upon the order passed in Crl.O.P(MD)No.6977 of 2009 and in fact, this Court has perused the same, wherein, two reasons are assigned for granting bail to the petitioner. One is that the name of the petitioner does not find place in the complaint. The second reason is that within 90 days, the Investigating Officer has not filed final report. But the said situations do not arise in the present case. Further, it is seen from the detention order that the detenu has not filed any bail application for getting bail. Therefore, the similar case relied upon by the detaining authority is not similar to that of the present case and that itself would be sufficient for coming to a conclusion that he has not applied his mind properly 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 passed in M.H.S.Confdl.No.95/2014, dated 18.12.2014 by the second respondent/detaining authority is quashed and consequently the respondents are directed to set the detenu viz., Ramesh, Son of Thangapandi Thevar at liberty forthwith, unless he is required to be incarcerated in connection with any other case.

Sd/-

Assistant Registrar(A.E.,)

/True Copy/

Sub-Assistant Registrar

To

- 1.The Secretary to the Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St. George, Secretariat, Chennai - 600 009.
 - 2.The District Collector and District Magistrate,
Tirunelveli District, Tirunelveli.
 - 3.The Inspector of Police, Tirunelveli Taluk Police Station,
Tirunelveli District.
 - 4.The Superintendent, Central Prison, Palayamkottai.
 - 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.
- +1cc to Mr.S.Sundarapandian, Advocate, in SR. No.19899.