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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 21.07.2015

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

H.C.P.(MD)No.404 of 2015

Rethinam Pillai

.. Petitioner

Vs.

- 1.The Principal Secretary to Government,
Public (Law and Order - F) Department,
Secretariat, Chennai - 600 009.
- 2.The District Collector & District Magistrate,
Pudukottai District, Pudukottai.
- 3.The Superintendent,
Central Prison, Tiruchirapalli - 20.
- 4.The Inspector of Police,
Illuppur Police Station,
Pudukottai 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 the records passed by the 2nd respondent vide his order P.D.O.No.17/2014 dated 18.11.2014 and quash the same as illegal and to direct the respondents to produce the detenu Sankar @ Seeni S/o. Rethinam Pillai, aged 35 years now detained at Central Prison, Trichirapalli before this Court and set him at liberty.

For Petitioner : Mr.W.Peter Ramesh Kumar

For Respondents : Mr.T.Mohan

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 P.D.O.No.17/2014 dated 18.11.2014 by the detaining authority who has been arrayed as second respondent herein against the detenu by name Sankar @ Seeni S/o. Rethinam Pillai and quash the same and thereby set him at liberty forthwith.



2. The Inspector of Police, Illuppur 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 case.

Crime No.79 of 2014, Illuppur Police Station, registered under Section boy missing @ 302, 397 and 201 of the Indian Penal Code.

3. Further it is stated in the affidavit that on 11.11.2014 one Subramani as defacto complainant has given a complaint against the detenu in Illuppur Police Station and the same has been registered in Crime No.81 of 2014 under Section 392 of the Indian Penal Code 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 '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.

5. On the side of the respondents a 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.

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 respect of column Nos.7 to 9, 19 clear working days are available and in between column Nos.12 and 13, 14 clear working days are available and no explanation has been given on the side of the respondents with regard to such huge delay in disposing of the representation 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.

9. In fine, this Habeas Corpus Petition is allowed and the detention order dated 18.11.2014 passed in P.D.No.17/2014 by the detaining authority/second respondent herein is quashed and the



detenu by name Sankar @ Seeni is ordered to be set at liberty forthwith, unless he is required to be incarcerated in any other case.

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Sd/-

Assistant Registrar(Writs)

\\True copy\\

Sub Assistant Registrar

To

- 1.The Principal Secretary to Government,
Public (Law and Order - F) Department,
Secretariat, Chennai - 600 009.
- 2.The District Collector & District Magistrate,
Pudukottai District, Pudukottai.
- 3.The Superintendent,
Central Prison, Tiruchirapalli - 20.
(In Duplicate for communication to the accused)
- 4.The Inspector of Police,
Illuppur Police Station,
Pudukottai District.
5. The Joint Secretary to Government,
Public (Law and Order), Fort St.George, Chennai -9.
- 6.The Addl.Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

akm/23.07.15 /2p-8c/

H.C.P. (MD) No.404 of 2015
21.07.2015