



WEB COPY

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.417 of 2015

Latha

.. 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.20/2015, dated 21.03.2015 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 Kuthiraivandi Kumar @ Kumar, Son of Kannan, aged about 56 years, who is detained in Central Prison, Tiruchirappalli before this Court and set him at liberty.

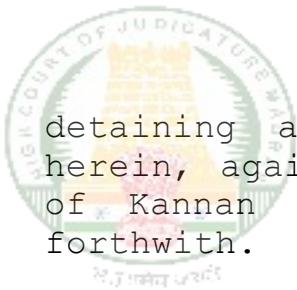
For Petitioner : Mr.K.A.S.Prabhu

For Respondents : Mr.C.Ramesh
Additional Public Prosecutor

ORDER

(Order of the Court was made by A.SELVAM, J)

<https://hcservices.hcma.gov.in/CaseDetails.aspx?CaseNo=MD4172015>
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.20/2015, dated 21.03.2015 by the



detaining authority, who has been arrayed as second respondent herein, against the detenu by name Kuthiraivandi Kumar @ Kumar, Son of Kannan and quash the same and thereby set him at liberty forthwith.

WEB COPY

2. The Inspector of Police, Mayiladuthurai 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.76 of 2015 Mayiladuthurai Police Station registered under Section 4(1)(aaa) of TNP Act, 1937.

3. Further it is stated in the affidavit that on 09.03.2015 the Inspector of Police, Mayiladuthurai Police Station and other police men have 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.157 of 2015 under Sections 4(1)(i) and 4(1)(aaa) read with 4(1-A) of TNP Act, 1937 and ultimately requested the detaining authority to invoke Act 14 of 1982 against the detenu.

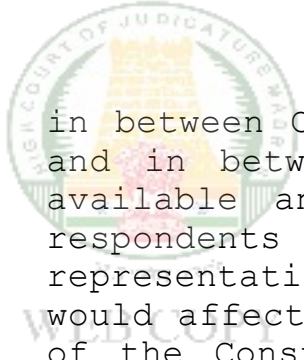
4. The detaining authority, after considering the averments made in the affidavit and other connected documents, has derived subjective satisfaction to the effect that the detenu is a habitual offender and ultimately branded him as 'Boot Legger' by way of passing the impugned detention order and in order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

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 two representations are submitted and the same are not disposed of without delay and therefore the detention order in question is liable to be quashed.

7. The learned Additional Public Prosecutor has represented 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.

8. On the side of the respondents, a proforma has been submitted wherein it has been clearly stated that with regard to first representation between Column Nos.7 to 9, nine clear working days are available and in between Column Nos.12 and 13, eight clear working days are available and with regard to second representation



in between Column Nos.7 to 9, nine clear working days are available and in between Column Nos.12 and 13, two 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 representations 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.

9. In fine, this Habeas Corpus Petition is allowed and the detention order passed in C.O.C.No.20/2015, dated 21.03.2015 by the second respondent/detaining authority is quashed and consequently the respondents are directed to set the detenu viz., Kuthiraivandi Kumar @ Kumar, Son of Kannan at liberty forthwith, unless he is required to be incarcerated in connection with any other case.

SD

ASST REGISTRAR - RTI

TRUE COPY

SUB ASST REGISTRAR

ps
To

- 1.The Secretary to Government,
Rep. By the State of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St. George, Chennai - 9.
2. The Joint Secretary to Govt. of Tamil Nadu.
PUBLIC LAW AND ORDER DEPT, FORT ST.GEROGGE CHENNAI
- 3.The District Collector and District Magistrate,
Office of the District Collector and District Magistrate,
Nagapattinam District,Nagapattinam.
- 4.The Superintendent,
Central Prison,
Tiruchirappalli.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

1CC TO MR. KAS. PRABHU,A DV SR:41545

DM 28 7 15 3P 7C

ORDER MADE IN
H.C.P (MD) No.417 of 2015
27.07.2015