



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.423 of 2015

Vasuki

.. Petitioner/
mother of the detenue

Vs.

1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.

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

.. 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 records pertaining to the impugned detention order passed by the second respondent made in his proceedings in P.D.O.No.04/2015, dated 25.03.2015 in detaining the detenu under Section 2(f) of the Tamil Nadu Act 14 of 1982 as a Goonda and quash the same and direct the respondents to produce the detenu namely Chandru @ Thalaivetti Chandramohan, Son of Jothimani, aged about 33 years, who is detained in Central Prison, Tiruchirappalli before this Court and set him at liberty and pass such further or other orders.

For Petitioner : Mr.K.M.Karunakaran

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 P.D.O.No.04/2015, dated 25.03.2015 by the detaining authority, who has been arrayed as second respondent herein, against the detenu by name Chandru @ Thalaivetti Chandramohan, Son of Jothimani and quash the same and thereby set him at liberty forthwith.

2. The Inspector of Police, Viralimalai 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.56 of 2015 Viralimalai Police Station registered under Section 398 of the Indian Penal Code.



3. Further it is stated in the affidavit that on 07.03.2015 one Subramani as defacto complainant has given a complaint against the detenu in Viralimalai Police Station and the same has been registered in Crime No.57 of 2015 under Sections 392 read with 397 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 in the habit of committing crimes one after another and ultimately branded him as 'Goonda' by way of passing the impugned detention order and in order to quash the same, the mother 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 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 between Column Nos.7 to 9, thirteen clear working days are available and in between Column Nos.12 and 13, six 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.

9. In fine, this Habeas Corpus Petition is allowed and the detention order passed in P.D.O.No.04/2015, dated 25.03.2015 by the second respondent/detaining authority is quashed and consequently the respondents are directed to set the detenu viz., Chandru @ Thalaivetti Chandramohan, Son of Jothimani at liberty forthwith, unless he is required to be incarcerated in connection with any other case.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar



1. The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai - 600 009.

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

3 The Joint Secretary, Government of Tamil Nadu,
Public (Law & order) Department, Fort St. George, Chennai- 9.

4. The Superintendent, Central prison, Trichy
(in duplicate to communicate the detenu)

5. The Inspector of Police, Viralimalai Police Station, Viralimalai.

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

+1cc to M/S. K.M.Karunakaran, Advocate in SR.No 42115

TS/28.07.2015/3P - 9C

ORDER MADE IN
H.C.P (MD) No.423 of 2015

27.07.2015