



WEB COPY

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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.43 of 2015

Shanmuga Thevar alias Chinnadurai,
S/o.Muthaiah,
Manakadu,
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.102/2014, dated 19.12.2014 on the file of the second respondent herein and quash the same and direct the respondents to produce the detinue, namely, Siva alias Gomupandi alias Gomandi, aged 24 years, Son of Shanmuga Thevar alias Chinnadurai, now confined in Central Prison, Palayamkottai, before this Court and set him at liberty and pass such further or other orders.

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.102/2014, dated 19.12.2014 by the detaining authority, who has been arrayed as second respondent herein against the detenu by name Siva alias Gomupandi alias Gomandi, Son of Shunmuga Thevar alias Chinnadurai 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 Natarajan as complainant has given a complaint to the Inspector of Police, Tirunelveli Taluk Police Station and the same has been registered in Crime No.291 of 2014 under Sections 147, 148, 341, 294(b) and 302 of the Indian Penal Code and also under Section 3(2)(v) of Scheduled Caste and Scheduled Tribes (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 Tribes (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 nature of offences alleged to have been committed by the detenu, has branded the detenu 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 a detailed 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 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.

6. The learned Additional Public Prosecutor has contended that the representation submitted on the side of the detenu has been duly considered and disposed of without delay and therefore the detention order in question does not call for any interference.

7. 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, five clear working days are available and in between Column Nos.12 and 13, fourteen 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.



8. In fine, this Habeas Corpus Petition is allowed and the detention order passed in M.H.S.Confdl.No.102/2014, dated 19.12.2014 by the second respondent/detaining authority is quashed and consequently the respondents are directed to set the detenu viz., Siva alias Gomupandi alias Gomandi, Son of Shunmuga Thevar alias Chinnadurai at liberty forthwith, unless he is required to be incarcerated in connection with any other case.

Sd/-
Assistant Registrar(AS)

/TRUE COPY/

Sub Assistant Registrar

To

1.The 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.

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

5.The Superintendent,
Central Prison, Palayamkottai.

+1cc to Mr.S.Sundarapandian, Advocate, SR.No.19901

ORDER MADE IN
H.C.P (MD) No.43 of 2015
20.04.2015

ps
PA/22.04.2015/3P/7C