



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.04.2015

CORAM:

THE HONOURABLE MR.JUSTICE A.SELVAM

and

THE HONOURABLE MR.JUSTICE V.S.RAVI

HABEAS CORPUS PETITION (MD) No.5 of 2015

P.Arun

.. Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. By the Principal Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai - 9.

2.The Commissioner of Police,
O/o.Commissioner of Police,
Tirunelveli City,
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 records relating to the impugned order of detention made in No.29/BCDFGISSSV/2014, dated 04.12.2014 on the file of the Commissioner of Police, Tirunelveli City, the second respondent herein, branding the detenu by name P.Arun, aged about 27 years, Son of Perumal as 'Goonda', who is presently confined at Central Prison, Palayamkottai and quash the impugned order of detention by setting aside the same and set him at liberty by producing him before this Court and pass such further or other orders.

For Petitioner : Mr.A.Thiruvadi Kumar

For Respondents : Mr.C.Ramesh

Additional Public Prosecutor

ORDER

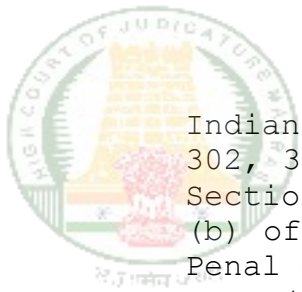
(Order of the Court was made by A.SELVAM, J)

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 No.29/BCDFGISSSV/2014, dated 04.12.2014 by the detaining authority, who has been arrayed as second respondent herein against the detenu by name Arun, Son of Perumal and quash the same and thereby set him at liberty forthwith.

2. The Inspector of Police, Tirunelveli Town 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 cases:

<https://hcservices.ecourts.gov.in/hcservices/>

(i) Crime No.245 of 2014 Manur Police Station registered under Sections 341, 294(b), 307, 324, 506(ii) and 109 of the



Indian Penal Code altered into Sections 147, 148, 341, 294(b), 302, 324, 506(ii) and 109 of the Indian Penal Code altered into Sections 147, 148, 341, 294(b), 302, 324, 506(ii), 109 and 120 (b) of the Indian Penal Code read with Section 34 of the Indian Penal Code.

(ii) Crime No.303 of 2014 Tirunelveli Taluk Police Station registered under Section 302 of the Indian Penal Code altered into Sections 147, 148, 341, 294(b), 302 and 120(b) of the Indian Penal Code.

3. Further it is stated in the affidavit that on 26.11.2014 one Kumar as complainant has given a complaint to the Inspector of Police, Tirunelveli Taluk Police Station against the detenu and the same has been registered in Crime No.873 of 2014 under Sections 294(b), 387 and 506(ii) 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 detenu himself as petitioner.

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/detenu has sparingly contended that the impugned detention order has been passed on 04.12.2014 and subsequently, the detaining authority has passed an amended order on 16.12.2014. Even prior to such order, the detention order in question has been approved on 15.12.2014 and that itself would be sufficient for quashing the impugned detention order.

7. It is seen from the records that the detention order has been passed on 04.12.2014. In the counter filed on the side of the respondents, it has been clearly stated that on 15.12.2014 the detention order has been approved by the concerned authority. After approval, on 16.12.2014 amended order has been passed by the detaining authority and therefore, it is needless to say that without power/jurisdiction, the detaining authority has passed the amended order and that itself would affect the rights of the detenu 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 No.29/BCDFGISSSV/2014, dated 04.12.2014 by the second respondent/detaining authority is quashed and consequently the respondents are directed to set the detenu viz., Arul, Son of Perumal at liberty forthwith, unless he is required to be incarcerated in connection with any other case.

Sd/-

Assistant Registrar(RTI)

/True copy/

Sub Assistant Registrar



ps
To
1.The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai - 9.

2.The Commissioner of Police,
O/o.Commissioner of Police,
Tirunelveli City,
Tirunelveli District.

3.The Superintendent of Central Prison,
Palayamkottai.

4.The Joint Secretary to Government,
Public (law & Order) Department,
Government Of Tamil Nadu,
Fort St George, Chennai-9

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

+1cc to MR.A.THIRUVADIKUMAR, ADVOCATE IN SR NO.21063

ORDER MADE IN
H.C.P (MD) No.5 of 2015
22.04.2015

rg.24.04.2015 3p/7c.