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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

H.C.P. (MD) No.54 of 2015

Rajalakshmi

.. Petitioner

Vs.

1.The State of Tamilnadu,
Rep.by Secretary to Government,
Home, Prohibition & Excise Department,
Secretariat, Chennai - 9.

2.The Commissioner of Police,
Tiruchirapalli City,
Tiruchirapalli.

3.The Inspector of Police,
Woraiyur Police Station,
Tiruchirapalli City.

.. Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus to call for entire records pertaining to the impugned detention order passed by the 2nd respondent in C.No.40/Detention/ C.P.O/T.C/2014 dated 23.12.2014 and to quash the same and direct the respondents to produce the detenu namely Sudhakar S/o.Paulraj aged about 33 years, now detained in Central Prison, Tiruchirapalli before this Court and set him at liberty.

For Petitioner : Mr.M.Karunanithi

For Respondents : Mr.C.Ramesh
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 C.No.40/Detention/ C.P.O/T.C/2014 dated 23.12.2014 by the detaining authority who has been arrayed as second respondent herein against the detenu by name Sudhakar S/o.Paulraj and quash the same and thereby set him at liberty forthwith.



following adverse case:

Crime No.135 of 2014, Pudukottai Town Police Station registered under Sections 147, 148, 120(b), 302, 294(b), 324 and 506(ii) of the Indian Penal code.

Further it is stated in the affidavit that on 05.05.2014 one Sakila W/o.Mathiyalagan as complainant has given a complaint against the detenu and another in Woraiyur Police Station and the same has been registered in Crime No.193 of 2014 under Section 302 of the Indian Penal Code and ultimately requested the detaining authority to invoke Act 14 of 1982 against the detenu.

3. 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 wife 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 the detention order has been passed on 23.12.2014 and the same has been confirmed by the State Government on 22.03.2015, wherein it has been erroneously mentioned that the detention order passed against one Vicky @ Vickneswaran has been confirmed, instead of mentioning the name of the detenu and therefore, the detention order in question is liable to be quashed.

6. The learned Additional Public Prosecutor has represented that the said Vicky @ Vickneswaran is one of the co-accused in ground case and therefore, the first respondent has erroneously mentioned his name in the conformation order and that itself would not affect rights of the detenu and therefore, the detention order in question need not be quashed.

7. As rightly pointed out on the side of the petitioner, in the conformation order, the said mistake has crept in. It is an admitted fact that the detention order has been passed on 23.12.2014 and the same has to be confirmed by the State Government. But in the confirmation order name of the detenu has been erroneously mentioned and that itself would affect his rights 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 dated 23.12.2014 passed in C.No.40/Detention/C.P.O/T.C/2014 by the detaining authority/second respondent herein is quashed and the detenu by name Sudhakar is ordered



to be set at liberty forthwith, unless he is required to be incarcerated in any other case.

Sd/-
Assistant Registrar(Writs)

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/TRUE COPY/

Sub Assistant Registrar

To

- 1.The Secretary to Government,
Home, Prohibition & Excise Department,
Secretariat, Chennai - 9.
- 2.The Commissioner of Police,
Tiruchirapalli City,
Tiruchirapalli.
- 3.The Inspector of Police,
Woraiyur Police Station,
Tiruchirapalli City.
- 4.The Joint Secretary to Govt.,
Public (Law & Order)Department,
Fort St.George, Chennai - 9.
- 5.The Superintendent of Prison,
Central Prison, Trichy
(in duplicate for communicate to the detenu)
- 6.The Addl.Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.M.Karunanithi,Advocate, SR.No.21278

H.C.P. (MD) No.54 of 2015
22.04.2015

mj
PA/24.04.2015/3P/9C