



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 04.06.2015

Coram

THE HONOURABLE MR.JUSTICE A.SELVAM
and
THE HONOURABLE MR.JUSTICE V.S.RAVI

H.C.P. (MD) No.62 of 2015

Petchiyammal

.. Petitioner

Vs

1.The State of Tamil Nadu,
rep.by its Secretary to Government,
Home, Prohibition & Excise Department,
Secretariat, Chennai - 9.

2.The District Collector & District Magistrate,
Nagapattinam District,
Nagapattinam.

.. Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India praying to call for the records relating to the detention order passed by the 2nd respondent in C.O.C.No.62/2014 dated 27.11.2014 and set aside the same and produce the detenu Balu S/o.Rajan aged about 40 years, now detained in Central prison, Trichirapalli before this Court and set him at liberty.

For Petitioner : Mr.M.Siddharthan

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.O.C.No.62/2014 dated 27.11.2014 by the detaining authority who has been arrayed as second respondent herein against the detenu by name Balu S/o.Rajan and quash the same and thereby set him at liberty forthwith.

2. The Inspector of Police, Nagapattinam 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:



(i) Crime No.379 of 2011, Nagapattinam Town Police Station, registered under Section 294(b) of the Indian Penal Code.

(ii) Crime No.242 of 2013, Nagapattinam Town Police Station, registered under Sections 294(b), 352 and 506(ii) of the Indian Penal Code.

(iii) Crime No.414 of 2013, Nagapattinam Town Police Station, registered under Sections 147, 148, 342 and 302 r/w 34 of the Indian Penal Code.

(iv) Crime No.41 of 2014, Nagapattinam Town Police Station, registered under Section 25(1) (1-A) of Arms Act, 1959.

3. Further it is stated in the affidavit that on 07.11.2014 one Vijayakumari, W/o.Ravi has given a complaint in Nagapattinam Town Police Station against the detenu and the same has been registered in Crime No.403 of 2014 under Sections 294(b), 452, 387, 397 and 506(ii) of the Indian Penal Code and also under Section 4 of Tamil Nadu Prohibition Women Harassment Act, 2002 and ultimately requested the detaining authority to invoke Act 14 of 1982 against the detenu.

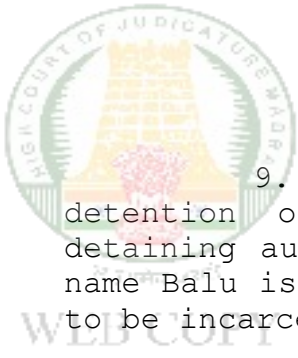
4. The detaining authority after considering the averments made in the affidavit and other connected documents has derived subjective satisfaction to the effect that the detenu is a 'habitual offender' and ultimately branded him as 'goonda' by way of passing the impugned detention order and in order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

5. 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.

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 is not liable to be quashed.

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, 11 clear working days are available and in between column Nos.12 and 13, 11 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 made on the side of the detenu 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.



9. In fine, this Habeas Corpus Petition is allowed and the detention order dated 27.11.2014 passed in C.O.C.No.62/2014 by the detaining authority/second respondent herein is quashed and the detenu by name Balu is ordered to be set at liberty forthwith, unless he is required to be incarcerated in any other case.

Sd/-
Assistant Registrar

/True copy/

Sub Assistant Registrar

To

- 1.The Secretary to Government,
Home, Prohibition & Excise Department,
Secretariat, Chennai - 9.
- 2.The District Collector & District Magistrate,
Nagapattinam District,
Nagapattinam.
- 3 The Superintendent central prison, Trichy.
- 4.The Joint Secretary to the Government,
Public (Law & Oder), Fort St.George, Chennai - 9
- 5.The Addl.Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+lcc to Mr.M.Siddharthan, Advocate, in SR. No. 27673

TS/08.06.2015/3P-7C

H.C.P. (MD) No.62 of 2015

04.06.2015