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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.10.2015

CORAM:

THE HONOURABLE MR.JUSTICE S.NAGAMUTHU
AND
THE HONOURABLE MR.JUSTICE V.S.RAVI

H.C.P(MD)No.626 of 2015

Ramachandran @ Splendor Ramachandran ... Petitioner

Vs.

1. State of Tamil Nadu Rep. By
The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai-600 009.
2. The District Collector & District Magistrate,
O/o. The District Collector and District Magistrate,
Karur District,
Karur.
3. The Superintendent of Central Prison,
Central Prison,
Tiruchirappalli. ... Respondents

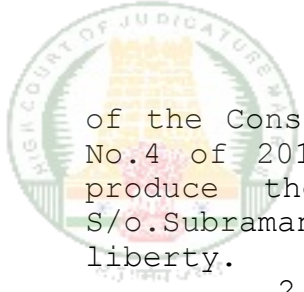
PRAYER: The Habeas Corpus Petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of Habeas Corpus, calling for the entire records in Detention Order passed in Cr.M.P.No.04 of 2015 dated 17.04.2015 on the file of the second respondent herein and set aside the same as illegal and direct the respondents to produce the petitioner namely Ramachandran @ Splendor Ramachandran, S/o.Subramani, male, aged 31 years, who is detained in Central Prison, Tiruchirappalli before this Court and set him at liberty and thus render justice.

For Petitioner : Mr.K.A.S.Prabhu, Advocate
For Respondents : Mr.T.Mohan
Additional Public Prosecutor
Order reserved on : 12.10.2015
Order pronounced on : 13.10.2015

ORDER

(Order of the Court was made by V.S.RAVI,J.)

The petitioner in H.C.P.(MD)No.626 of 2015 is the detenu and he has been detained as per the order of the second respondent under Section 2(ggg) of the Tamil Nadu Act 14 of 1982, branding him as "Sexual Offender" and he has filed the Habeas Corpus Petition under Article 226



of the Constitution of India to set aside the Detention Order in Cr.M.P. No.4 of 2015 dated 17.04.2015, passed by the second respondent and to produce the detenu, namely, Ramachandran @ Splendor Ramachandran, S/o.Subramani, male, aged 31 years, before this Court and set him at liberty.

2. Brief averments made in the petition and also the submissions made on behalf of the petitioner by the learned counsel appearing for the petitioner are as follows:-

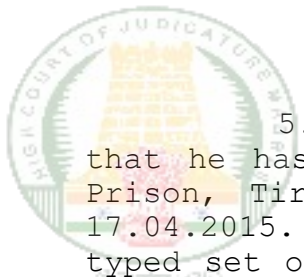
The petitioner is the detenu, namely, Ramachandran @ Splendor Ramachandran. The second respondent herein has passed an order under Act 14 of 1982 designating the said Ramachandran @ Splendor Ramachandran as "Sexual Offender" and detained at Central Prison, Tiruchirappalli in his proceedings in Cr.M.P. No.4 of 2015 dated 17.04.2015. The Detaining Authority has failed to follow the dictum laid down by the Honourable Court in the case of D.K.Basu V. State of West Bengal. Further, no bail application has been filed in respect of the ground case. Hence, it is a clear case of non-application of mind on the part of the Detaining Authority. The Detaining Authority has failed to supply the affidavit of sponsoring authority and other relevant documents relating to the ground case as well as adverse case. The Government Order in G.O.D.No.19, has not been served along with the grounds of detention as well as Detention Order. The detenu has sent representation to the respondent Nos. 1 and 2 through the respondent No.3 to revoke the order of Detention, and the same has not been considered expeditiously by them. Hence, the petitioner has requested to quash the impugned Detention Order, dated 17.04.2015.

3. On the other hand, in the Counter affidavit as well as on behalf of the respondents Mr.T.Mohan, learned Additional Public Prosecutor has contended that a case has been registered in Mayanur Police Station against the detenu in Crime No.125 of 2014 under Sections 302 I.P.C., and 5, 6 of Protection of Children from Sexual Offences Act, 2012 and the detenu has been arrested by the Inspector of Police, S.V.Mangalam Police Station in Crime No.92 of 2014 and recorded his confession and the detenu has admitted the commission of offence registered in Chinthamanipatti Police Station Crime No.90 of 2014. There is no time limit to detain any anti social elements under Tamil Nadu Act 14 of 1982. In order to defuse and prevent him from indulging in further course of activities which are prejudicial to the maintenance of public order, the second respondent has ordered to detain him under the provisions of 2(ggg) of the Tamil Nadu Act 14 of 1982, vide detention order in Cr.M.P.No.04 of 2015, dated 17.04.2015. In this case, there is even no necessity to discuss about bail granted in similar case, because, according to section 167 Cr.P.C., he is eligible for bail without any refusal. The detenu is a habitual crime and Law and order offender. In Tiruchirappalli District, he is having several cases like this particularly chain snatching cases. It is therefore, prayed to dismiss the present petition.

4. Based upon the submissions of both sides, the following points arise for consideration:-

1. Whether the impugned Order of Detention has been passed in accordance with the provisions of Tamil Nadu Act 14 of 1982?

2. Whether the order of the preventive detention has been passed on proper and valid grounds?



5. The petitioner/ detenu himself has admitted in the affidavit that he has been designed as "Sexual Offender" and detained at Central Prison, Tiruchirappalli, in proceedings in Cr.M.P. No.4 of 2015 dated 17.04.2015. The petitioner / detenu has enclosed at Page Nos.1-16 of the typed set of papers, the Detention Order dated 17.04.2015 and grounds of Detention in English and also in Tamil. In the grounds of detention, it has been clearly pointed out on behalf of the respondents that a case has been registered in Mayanur Police Station against the detenu in Crime No.125 of 2014 under Sections 302 I.P.C., and 5, 6 of Protection of Children from Sexual Offences Act, 2012 and the detenu has been arrested by the Inspector of Police, S.V.Mangalam Police Station in Crime No.92 of 2014 and recorded his confession and the detenu has also involved in the case registered in Chinthamanipatti Police Station Crime No.90 of 2014. On that ground only, in the counter affidavit, the second respondent has categorically stated that in order to defuse and prevent him from indulging in further course of activities which are prejudicial to the maintenance of public order, he has ordered to detain him under the provisions of 2(ggg) of the Tamil Nadu Act 14 of 1982, vide detention order in Cr.M.P.No.04 of 2015, dated 17.04.2015. Further, the second respondent has specifically stated in the counter affidavit that the G.O. (D) No.19 is an order empowering the detaining authority to detain the anti social elements and the second respondent has passed the impugned order of preventive detention after taking into consideration the subjective satisfaction regarding the detenu's past activities. Further, the second respondent has submitted the typed set of material records with 137 pages, regarding the past activities of the said detenu.

6. On a careful perusal of material records, it is seen that the detenu has involved in grave crimes earlier and the representation dated 27.04.2015 has been dealt with without any loss of time and the detention order has been served to the detenu himself on 18.04.2015 at 10.00 hours as per the acknowledgement made in typed set of papers filed by the petitioner himself. Further, the grounds of detention order also has been served to the said detenu on 18.04.2015 as per the endorsement found in the typed set of papers filed on behalf of the petitioner. Further, in the acknowledgement itself, it has been categorically stated that detenu has received a clean copy of the detention order and grounds of detention and the same has been explained to him and also understood by the detenu.

7. On a careful scrutiny of entire records it is found that the second respondent has followed the procedures established by law and he has perused the materials placed before him before passing the Order of Detention and the order of the second respondent has been approved by the Government within a reasonable time. Further, on a careful perusal of entire material records, it is seen that the preventive Detention Order has been passed on proper and valid grounds and there is a necessity to pass the impugned Detention Order in order to maintain public order and to prevent the detenu from indulging in such future prejudicial activities. Further, as per the acknowledgement made by the detenu himself in the Detention Order and grounds of Detention, it is seen that clean copies have been provided and explained to the detenu for making effective representation.

8. Further, it is also useful to refer the following judgments:-
<https://hcservices.ecourts.gov.in/hcservices/> the decision of Hon'ble Supreme Court, in the case of Rekha Vs. State of Tamil Nadu, reported in 2011 (5) SCC 244, it is clearly observed as follows:-



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"Procedural rights are not based on sentimental concerns for the detenu. The procedural safeguards are not devised to coddle criminals or provide technical loopholes through which dangerous persons escape the consequences of their acts. They are basically society's assurances that the authorities will behave properly within rules distilled from long centuries of concrete experiences."

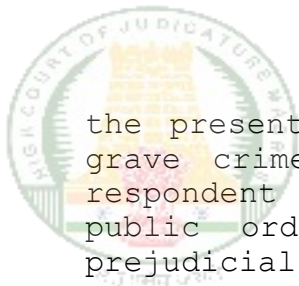
ii) In the decision of Hon'ble Supreme Court, in the case of Huidrom Konungjao Singh Vs. State of Manipur, reported in 2012 (3) MLJ (Crl.) 794(SC), it is precisely held as follows:-

"... The decisions referred to above lead to the conclusion that an order for detention can be validly passed against a person in custody and for that purpose it is necessary that the grounds of detention must show that (i) the detaining authority was aware of the fact that the detenu is already in detention; and (ii) there were compelling reasons justifying such detention despite the fact that the detenu is already in detention. The expression "compelling reasons" in the context of making an order for detention of a person already in custody implies that there must be cogent material before the detaining authority on the basis of which it may be satisfied that (a) the detenu is likely to be released from custody in the near future, and (b) taking into account the nature of the antecedent activities of the detenu, it is likely that after his release from custody he would indulge in prejudicial activities and it is

necessary to detain him in order to prevent him from engaging in such activities."

In this case also, it is seen that the respondents have come to the conclusion, based upon the material records, that it is necessary to detain the detenu in order to prevent him from indulging in future prejudicial activities.

9. Further, the learned counsel for the petitioner has pointed out that the detenu has not filed any bail application in respect of ground case. For that, in the counter affidavit, the second respondent has clearly and rightly pointed out that at the time of passing the impugned order, the detenu has crossed his incarceration beyond 90 days and hence, there is a real possibility of the detenu, coming out on bail by filing another bail petition before the appropriate Court. Further, in



the present case, it is found that the detenu has already involved in grave crimes as pointed out in the counter affidavit and the second respondent has passed impugned preventive detention, to maintain the public order and to prevent the detenu from indulging in future prejudicial activities.

WEB COPY 10. Based upon the incidents mentioned in the grounds of Detention only, the subjective satisfaction has been arrived at, by the Detaining Authority as to how the acts of the detenu are prejudicial to the maintenance of public order. The impugned Order of Detention is rightly passed under the provisions of Act 14 of 1982 and the order of preventive Detention is rightly passed on proper and valid grounds. Therefore, we are of the view that no question of issuing of Writ of Habeas Corpus would arise in this case. Hence, this Habeas Corpus Petition is dismissed.

Sd/-

Assistant Registrar(Co)

/True Copy/

Sub Assistant Registrar.

To

1. The Secretary to Government of TamilNadu,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai-600 009.
2. The District Collector & District Magistrate,
Karur District,
Karur.
3. The Superintendent of Central Prison,
Central Prison,
Tiruchirappalli.(In duplicate communicate to the detenu)
4. The Joint Secretary to Government, Public (Law and Order) Department,
Fort St. George, Chennai-600 009.
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Order made
in

H.C.P (MD) No. 626 of 2015
13.10.2015

AM/28.10.2015/AMF/5P/7C