



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.63 of 2015

Elumalai

.. Petitioner

Vs.

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

2.The District Collector & District Magistrate,
Perambalur District, Perambalur. .. 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 Cr.M.P.No.17/2014 dated 02.01.2015 and quash the same and direct the respondents to produce the detenu namely Siva, S/o.Elumalai aged about 23 years, now detained in Central Prison, Tiruchirapalli 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 Cr.M.P.No.17/2014 dated 02.01.2015 by the detaining authority who has been arrayed as second respondent herein against the detenu by name Siva, S/o.Elumalai and quash the same and thereby set him at liberty forthwith.



2. The Inspector of Police, Prohibition Enforcement Wing, Perambalur as sponsoring authority has submitted an affidavit to the detaining authority, wherein it is stated that on 13.12.2014 on the basis of secret information, police party have intercepted four vehicles and ultimately found that the present detenu and others are in possession of illicit arrack of 7595 liters and consequently a case has been registered in Crime No.830 of 2014 under Sections 4(1)(aaa) r/w 4(1-A) and Section 7 of the Tamilnadu Prohibition Act and 4, 6, 7 TNRS Rules 2000 and 328, 420, 468 and 471 of the Indian Penal Code and ultimately requested the detaining authority to invoke Act 14 of 1982 against the detenu.

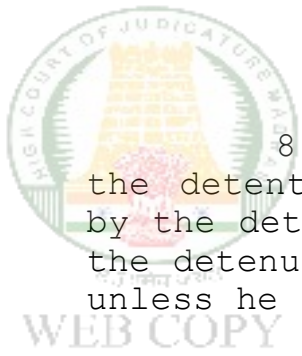
3. The detaining authority after considering the averments made in the affidavit and other connected documents has derived subjective satisfaction to the effect that the detenu is a 'bootlegger' and ultimately branded him under the said caption by way of passing the impugned detention order and in order 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 two representations are submitted and the same have 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 all the representations submitted on the side of the detenu are duly disposed of without delay and therefore, the detention order in question does no call for any interference.

7. On the side of the respondents, a proforma has been submitted, wherein it has been clearly stated that with regard to first representation in between column Nos.7 and 9, 3 clear working days are available and in between column Nos.12 and 13, 9 clear working days are available and with regard to second representation in between column Nos.12 and 13, 9 clear working days are available and no explanation has been given on the side of the respondents with regard to huge delay in disposing of the representation and that itself would affect 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 dated 02.01.2015 passed in Cr.M.P.No.17/2014 by the detaining authority/second respondent herein is quashed and the detenu by name Siva is ordered to be set at liberty forthwith, unless he is required to be incarcerated in any other case.

Sd/-

Assistant Registrar(Writs)

/True Copy/

Sub-Assistant Registrar

To

- 1.The Secretary to Government,
Home, Prohibition & Excise Department,
Secretariat, Chennai - 9.
- 2.The District Collector & District Magistrate,
Perambalur District, Perambalur.
- 3.The Superintendent, Central Prison, Trichirappalli.
[in duplicate for communication to the detenu]
- 4.The Joint Secretary to Government of Tamilnadu,
Public (Law & order) Department, Fort St.George, Chennai-9.
- 5.The Inspector of Police, Prohibition Enforcement Wing,
Perambalur.
- 6.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1cc to Mr.M.Siddharthan, Advocate, in SR. No.21618.

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22.04.2015

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