



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.04.2015

CORAM:

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

HABEAS CORPUS PETITION (MD) No.73 of 2015

Selin

.. Petitioner

Vs.

1.The Principal Secretary to Government,
Home, Prohibition and Excise (IX) Department,
Secretariat, Chennai - 600 009.

2.The Commissioner of Police,
Office of the Commissioner of Police,
Tirunelveli City,
Tirunelveli.

3.The Superintendent of Prison,
Palayamkottai Central Prison,
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 entire records, connected with the detention order of the respondent No.2 in No.28/BCDFGISSSV/2014, dated 04.12.2014 and quash the same and direct the respondents to produce the detenu namely Kumuli @ Rajkumar, Son of Perumal, aged about 34 years detained in Palayamkottai Central Prison before this Court and set him at liberty and pass such further or other orders.

For Petitioner : Mr.P.Rajkumar

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.28/BCDFGISSSV/2014, dated 04.12.2014 by the detaining authority, who has been arrayed as second respondent herein against the detenu by name Kumuli @ Rajkumar, Son of Perumal and quash the same and thereby set him at liberty forthwith.



2. The Inspector of Police, Thatchanallur 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 case:

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 Siva, Son of Nagarajan as defacto complainant has given a complaint in Thatchanallur Police Station against the detenu and the same has been registered in Crime No.582 of 2014 under Sections 341, 294(b), 387, 307 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 wife of the detenu as petitioner.

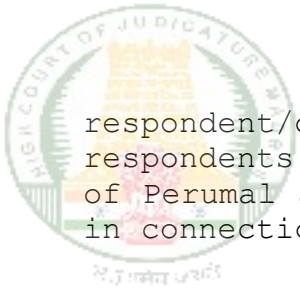
5. On the side of the respondents, a detailed counter has been filed, wherein it has been contended *inter alia* to the effect that all the averments made in the petition are false and ultimately prayed to dismiss the same.

6. The learned counsel appearing for the petitioner has contended that on the side of the detenu three 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.

7. The learned Additional Public Prosecutor has represented that all the representations submitted on the side of the detenu are duly considered and disposed of without delay and therefore the detention order in question does not call for any interference.

8. 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 to 9, four clear working days are available. In respect of second representation in between Column Nos.12 and 13, twenty two clear working days are available and with regard to third representation in between Column Nos.7 to 9, six clear working days are available and in between Column Nos.12 and 13, sixteen clear working days are available and no explanation has been given on the side of the respondents with regard to inordinate delay in disposing of the representations submitted on the side of the detenu and that itself would affect the 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.

9. In fine, this Habeas Corpus Petition is allowed and the detention order passed in No.28/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., Kumuli @ Rajkumar, Son of Perumal at liberty forthwith, unless he is required to be incarcerated in connection with any other case.

Sd/-
Assistant Registrar(CO)

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\\True copy\\

Sub Assistant Registrar

To

1. THE PRINCIPAL SECRETARY TO GOVERNMENT, HOME, PROHIBITION AND EXCISE IX DEPARTMENT, SECRETARIAT, CHENNAI.
2. THE COMMISSIONER OF POLICE OFFICE OF THE COMMISSIONER OF POLICE, TIRUNELVELI CITY, TIRUNELVELI.
3. THE SUPERINTENDENT PALAYAMKOTTAI CENTRAL PRISON, TIRUNELVELI DISTRICT (IN DUPLICATE TO COMMUNICATE THE DETENUE)
4. THE JOINT SECRETARY TO GOVT. OF TAMIL NADU PUBLIC (LAW & ORDER) FORT ST GEORGE, CHENNAI-9
5. THE ADDITIONAL PUBLIC PROSECUTOR, MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1cc to MR.P.RAJKUMAR, ADVOCATE SR.NO.23502

ORDER MADE IN
H.C.P (MD) No.73 of 2015
27.04.2015

ps

NA/29/04/2015/P3/8C