



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 23.04.2015
CORAM:

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

HABEAS CORPUS PETITION (MD) No.82 of 2015

Backiyavalli .. Petitioner

Vs.

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
State of Tamil Nadu,
Secretariat, Fort St. George,
Chennai - 600 009.
- 2.The District Collector and
District Magistrate,
Office of the District Collector and
District Magistrate,
Thoothukudi.
- 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 H.S(M)Confdl.No.01/2015, dated 10.01.2015 and quash the same and direct the respondents to produce the body or person of the detenu by name Murugan @ Attukal Murugan @ Manakkarai Murugan, Son of Angappa Thevar, aged about 47 years, now detained in Palayamkottai Central Prison before this Court and set him at liberty forthwith and pass such further or other orders.

For Petitioner : Mr.R.Alagumani
For Respondents : Mr.T.Mohan
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 H.S(M)Confdl.No.01/2015, dated 10.01.2015 by the detaining authority, who has been arrayed as second respondent herein against the detenu by name Murugan @ Attukal Murugan @ Manakkarai Murugan, Son of Angappa Thevar and quash the same and thereby set him at liberty forthwith.



2. The Inspector of Police, Murappanadu 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.353 of 2013 Thoothukudi North Police Station registered under Sections 294(b), 387, 307 and 506(ii) of the Indian Penal Code.

(ii) Crime No.465 of 2013 Thoothukudi South Police Station registered under Sections 341, 294(b), 387, 307 and 506(ii) of the Indian Penal Code and also under Section 3 of TNPPDL Act.

(iii) Crime No.687 of 2014 Thoothukudi South Police Station registered under Sections 294(b), 324, 323, 506(ii) of the Indian Penal Code altered into Sections 294(b), 324, 326, 307 and 506(ii) of the Indian Penal Code.

3. Further it is stated in the affidavit that on 29.12.2014 one Manikandan as defacto complainant has given a complaint in Murappanadu Police Station against the detenu and the same has been registered in Crime No.296 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 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 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.

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, twelve clear working days are available and in between Column Nos.12 and 13, fifteen clear working days are available and with regard to second representation in between Column Nos.7 to 9, thirty clear working days are available and in between Column Nos.12 and 13, five 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 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 H.S(M)Confdl.No.01/2015, dated 10.01.2015 by the second respondent/detaining authority is quashed and consequently the respondents are directed to set the detenu viz., Murugan @ Attukal Murugan @ Manakkarai Murugan, Son of Angappa Thevar at liberty forthwith, unless he is required to be incarcerated in connection with any other case.

Sd/-

Assistant Registrar(RTI)

\\True copy\\

Sub Assistant Registrar

To

- 1.The Secretary to Government, Home, Prohibition and Excise Department, State of Tamil Nadu, Secretariat, Fort St. George, Chennai - 600 009.
- 2.The District Collector and District Magistrate, Office of the District Collector and District Magistrate, Thoothukudi.
- 3.The Superintendent of Prison, Palayamkottai Central Prison, Tirunelveli District.
- 4.The Joint Secretary to Govt.Pulic(Law & Order) department Fort St.George, Chennai-9
- 5.The Additional Public Prosecutor, Madurai Bench of Madras High Court, Madurai.

+1cc to MR.R.ALAGUMANI, ADVOCATE SR.NO.22058

ORDER MADE IN
H.C.P(MD)No.82 of 2015
23.04.2015

PS

NA/24/04/2015/P3/7C