



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 07.04.2015

CORAM:

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

HABEAS CORPUS PETITION (MD) No.88 of 2015

Jahir Hussain

.. Petitioner

Vs.

1.The Secretary to Government,
Department of Co-operation,
Food and Consumer Protection,
Secretariat,
Chennai - 600 009.

2.The District Collector and
District Magistrate,
Office of the District Collector and
District Magistrate,
Tirunelveli District,
Tirunelveli.

3.The Additional Secretary to Government
of India,
Ministry of Consumer Affairs,
Food and Public Distribution,
(Department of Consumer Affairs),
Room No.270,
Krishi Bhavan,
New Delhi - 110 001.

4.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 M.H.S.Confdl.No.104/2014, dated 22.12.2014 and quash the same and direct the respondents to produce the body or person of the detenu namely Jahir Hussain, Son of Kabeer, aged about 32 years, now detained in Palayamkottai Central Prison before this Court and set him at liberty forthwith.

For Petitioner : Mr.R.Alagumani

For RR 1, 2 & 4 : 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 M.H.S.Confdl.No.104/2014, dated 22.12.2014 by the detaining authority, who has been arrayed as second respondent herein against the detenu by name Jahir Hussain, Son of Kabeer and quash the same and thereby set him at liberty forthwith.

2. The Civil Supplies Criminal Investigation Department, Tirunelveli Unit as sponsoring authority has submitted an affidavit to the detaining authority, wherein it is stated that on 11.12.2014, the Inspector of Police, Civil Supplies Criminal Investigation Department, Tirunelveli Unit has conducted a raid and at that time, the accused has been found in possession of PD's rice in 40 plastic bags and consequently, a case has been registered in Crime No.317 of 2014 under Section 6(4) of Tamil Nadu Scheduled Commodities (Regulation of Distribution by card system) Order 1982 read with Section 7(1)(a)(ii) of Essential Commodities Act, 1955 and ultimately requested the detaining authority to invoke Central Act 7 of 1980 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 'Black Marketeer' 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 detenu himself as petitioner.

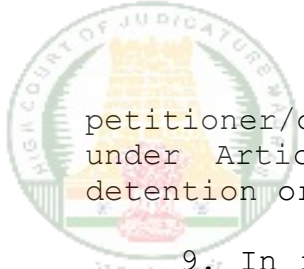
4. On the side of the respondents 1, 2 and 4 counter has been filed, wherein it has been contended *inter alia* to the effect that all the averments made in the petition are false and ultimately prayed to dismiss the same.

5. In the counter filed on the side of the third respondent it is averred that the representation has not been received from the detenu and therefore, the present petition deserves to be dismissed.

6. The learned counsel appearing for the petitioner/detenu has contended that on the side of the petitioner/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 petitioner/detenu has been 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 in between Column Nos.7 to 9, eight clear working days are available and in between Column Nos.13 and 14, three clear working days are available and in between Column Nos.14 and 15, 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 representation submitted on the side of the



petitioner/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 passed in M.H.S.Confdl.No.104/2014, dated 22.12.2014 by the second respondent/detaining authority is quashed and consequently the respondents are directed to set the detenu viz., Jahir Hussain, Son of Kabeer at liberty forthwith, unless he is required to be incarcerated in connection with any other case.

Sd/-

Assistant Registrar(AE)

/True copy/

Sub Assistant Registrar

ps

To

- 1.The Secretary to Government,
Department of Co-operation,
Food and Consumer Protection,
Secretariat,
Chennai - 600 009.
- 2.The District Collector and
District Magistrate,
Office of the District Collector and
District Magistrate,
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- 3.The Additional Secretary to Government
of India,
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Room No.270,
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- 4.The Superintendent of Prison,
Palayamkottai Central Prison,
Tirunelveli District.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

ORDER MADE IN
H.C.P(MD)No.88 of 2015
07.04.2015