



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:30.09.2015

CORAM:

THE HONOURABLE MR.JUSTICE S.NAGAMUTHU

and

THE HONOURABLE MR.JUSTICE V.S.RAVI

H.C.P(MD)No.901 of 2015

M.Esakkimuthu

.. Petitioner

Vs.

1. State of Tamilnadu represented,
by its Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St. George,
Chennai-9.

2. The District Collector and District Magistrate,
Tirunelveli District,
Tirunelveli.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus, to call for the records pertaining to the proceedings of the 2nd respondent made in his proceedings in M.H.S.Confdl.No.29/2015, dated 19.03.2015 and quash the same and set the petitioner namely M.Esakkimuthu, S/o.Mariappan, aged about 27 years, at liberty from Central Prison, Palayamkottai, Tirunelveli District.

For Petitioner : Mr.S.Krishnan

For Respondents : Mr.T.Mohan

Additional Public Prosecutor.

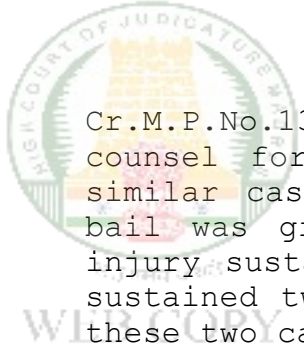
O R D E R

[Order of the Court was made by S.NAGAMUTHU, J]

The petitioner has been detained under the Tamil Nadu Act 14 of 1982 by the order of the second respondent, in his proceedings in No.M.H.S.Confdl.No.29/2015, dated 19.03.2015, branding him as a "Goonda". Challenging the same, the petitioner is before this Court with this Habeas Corpus Petition.

2. We have heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondents.

3.Though several grounds have been raised in this petition, the learned counsel for the petitioner would mainly focus his argument only on two grounds. The first and foremost ground is that the petitioner was detained in prison as a remand prisoner in Crime No.43 of 2015. The petition filed by him seeking bail was pending before the learned Principal Sessions Court, Tirunelveli. But, still the Detaining Authority came to the conclusion that there was likelihood of the petitioner coming out on bail. This conclusion was arrived at based on the bail granted to the petitioner by the learned Principal Sessions Judge, Tirunelveli, in



Cr.M.P.No.1343 of 2015, dated 07.03.2015, in a similar case. The learned counsel for the petitioner would submit that the said case is not a similar case at all. Secondly, he would point out that in that case, bail was granted by the learned Sessions Judge, because there was no injury sustained by nobody, whereas in the ground case, even the detenu sustained two injuries, out of which one was the lacerated injury. Thus, these two cases were not similar.

4. We find some force in the said argument. Apart from that, there is no material referred to by the detaining authority to show that the involvement of the petitioner in the offences in Crime No.43 of 2015 was prejudicial to the public order. In the impugned order, the Detaining Authority has stated that on seeing the occurrence, the auto drivers left their autos and ran away with fear and panic. The persons, who drove bicycles and motorcycles, left the same and ran away with fear and panic. Due to this incident, normal traffic and routine life of the common public came to standstill for a while. In order to arrive at this conclusion, we find no material placed at all before the Detaining Authority. Therefore, the satisfaction arrived at by the Detaining Authority that the act of the petitioner was prejudicial to the maintenance of public order, shows the non application of mind on the part of the Detaining Authority. On the above grounds, we are inclined to set aside the impugned order.

7. In the result, this Habeas Corpus Petition is allowed and the impugned Detention Order, passed by the second respondent, in Detention Order No.29/2015, dated 19.03.2015, is quashed. The detenu, by name, Esakkimuthu, S/o.Mariappan, aged 27 years, is ordered to be set at liberty forthwith, if he is not required for detention in connection with any other case.

Sd/-

Assistant Registrar (CO)

/True copy/

Sub Assistant Registrar

To

1. The Secretary to Government, Home, Prohibition and Excise Department, Secretariat, Fort St. George, Chennai-9.
2. The District Collector and District Magistrate, Tirunelveli District, Tirunelveli.
3. The Superintendent of Prison, Central Prison, Palayamkottai, Tirunelveli District.
(in duplicate to communicate the detenu)
4. The Joint Secretary to Government, Public (Law & Order) Department, Fort St.George, Secretariat, Chennai-9.
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1cc to M/s.K.J. Associates, Advocate in SR.No.57554