



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 29.04.2015

Coram

THE HONOURABLE MR.JUSTICE A.SELVAM

and

THE HONOURABLE MR.JUSTICE V.S.RAVI

H.C.P.(MD)No.94 of 2015

Muthukumar @ Maduraimuthu

..Petitioner

Vs.

1.The Principal Secretary to Government,
Home, Prohibition & Excise (IX) Department,
Secretariat, Chennai - 9.

2.The District Collector & District Magistrate,
O/o.District Collector & District Magistrate,
Thoothukudi District,
Thoothukudi.

3.The Superintendent of Prison,
Palayamkottai Central Prison,
Tirunelveli District.

..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 detention order passed by the 2nd respondent in H.S.(M)Confdl No.18/2014 dated 14.08.2014 and quash the same as illegal and direct the respondents to produce the detenu namely Muthukumar @ Maduraimuthu S/o.Balakrishnan Asari, aged 24 years now detained in Central Prison, Palayamkottai before this Court and set him at liberty.

For Petitioner : Mr.R.Alagumani

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 H.S.(M)Confdl No.18/2014 dated 14.08.2014 by the detaining authority who has been arrayed as second respondent herein against the detenu by name Muthukumar @ Maduraimuthu and quash the same and thereby set him at liberty forthwith.

2. The Inspector of Police, SIPCOT 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.149 of 2011, Meignanapuram Police Station

<https://hcservices.ecourts.gov.in/hcservices/>

under Sections 147, 148, 294(b), 326, 307 and 506
(ii) of the Indian Penal code and 4 of TNPPDL Act.

(ii)Crime No.883 of 2012, South Police Station



registered under Sections 294(b), 387 and 506(ii) of the Indian Penal code.

(iii) Crime No.508 of 2013, North Police Station registered under Sections 294(b), 387 and 506(ii) of the Indian Penal code.

(iv) Crime No.198 of 2014, South Police Station registered under Sections 294(b) and 506(ii) of the Indian Penal code.

(v) Crime No.279 of 2014, SIPCOT Police Station registered under Sections 302, 506(ii) of the Indian Penal code altered to sections 302, 506(ii) and 120(b) of the Indian Penal Code.

Further it is stated in the affidavit that on 24.07.2014 one Kannan, as defacto complainant has given a complaint against the detenu and others in SIPCOT Police Station and the same has been registered in Crime No.280 of 2014 under Sections 341, 294(b), 387 and 506(ii) 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 '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 detenu himself as petitioner.

4. 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.

5. The learned counsel appearing for the petitioner has contended that the detaining authority has relied upon a bail order passed in Cr.M.P.No.819 of 2014 by the Principal District and Sessions Court, Thoothukudi as similar case particular and in fact, the facts mentioned therein are not identical to the facts of the present case and therefore, the detaining authority has not applied his mind properly. Under the said circumstances, the detention order in question is liable to be quashed.

6. The learned Additional Public Prosecutor has contended that the detaining authority after considering the gravity of offences alleged to have been committed by the detenu and also his habitual nature in committing crimes one after another, has rightly branded him as 'goonda' by way of mentioning similar case particulars on the basis of the bail order passed in CR.M.P.No.819 of 2014 and therefore, the detention order in question does not call for any interference.

7. On the basis of the divergent submissions made on either side, this Court has perused the bail order passed in Cr.M.P.No.819 of 2014 by the Principal District and Sessions Court, Thoothukudi, wherein it has been clearly stated that some of the co-accused have already been released and further a final report has been filed against the petitioner therein and others and the same has been taken on file in PRC No.73 of 2014 and no mention has been made with regard to bad antecedent of the petitioner therein.



8. In the instant case, admittedly the detenu has involved in five adverse cases and further, the case registered in Crime No.280 of 2014 is in initial stage. Under the said circumstances, the circumstances available in the present case are not similar to that of the circumstances mentioned in the bail order passed in Cr.M.P.No.819 of 2014 and therefore, the detaining authority has not applied his mind properly in passing the detention order in question and that itself would be sufficient to quash the same.

9. In fine, this Habeas Corpus Petition is allowed and the detention order dated 14.08.2014 passed in H.S.(M)Confdl No.18/2014 by the detaining authority/second respondent herein is quashed and the petitioner/detenu is ordered to be set at liberty forthwith, unless he is required to be incarcerated in any other case.

Sd/-

Assistant Registrar(Crl.side)

/True copy/

Sub Assistant Registrar

To

- 1.The Principal Secretary to Government,
Home, Prohibition & Excise Department,
Secretariat, Chennai - 9.
- 2.The District Collector & District Magistrate,
O/o.District Collector & District Magistrate,
Thoothukudi District, Thoothukudi.
- 3.The Superintendent of Prison,
Palayamkottai Central Prison,
Tirunelveli District.
- 4.The Joint Secretary to Government,
Public (Law & Order), Fort St.George,
Chennai-9.
- 5.The Addl.Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1CC to M/s.R.Alagumani, Advocate in SR.23756

H.C.P. (MD) No.94 of 2015
29.04.2015

mj

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