



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.01.2016

CORAM:

THE HONOURABLE MR.JUSTICE P.R.SHIVAKUMAR

and

THE HONOURABLE MR.JUSTICE V.S.RAVI

H.C.P(MD)No.1636 of 2015

Annamuthu

.. Petitioner

Vs.

1.State of Tamil Nadu, rep by,

The Secretary to Government, Government of Tamilnadu
Home, Prohibition and Excise Department,
Fort.St.George,
Chennai 600 009.

2.The Commissioner of Police,

Madurai City,
Madurai.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus to call for the entire records pertaining to the proceedings of the 2nd respondent made in No.130/BCDFGISSSV/2015, dated 14.10.2015, quash the same and set the petitioner's husband by name Veeramani S/o.Alagar, aged about 32 years at liberty from the Central Prison, Madurai.

For petitioner

: Mr.M.Jegadeesh Pandian

For Respondents

: Mr.A.Ramar

Additional Public Prosecutor

O R D E R

[Order of the Court was made by P.R.SHIVAKUMAR, J.]

The petitioner is the wife of the detenu viz., Veeramani S/o.Alagar. The detenu has been detained by the second respondent by his detention order in No.130/BCDFGISSSV/2015, dated 14.10.2015, holding him to be a "Goonda", as contemplated under Section 2(f) of Tamil Nadu Act 14 of 1982, taking note of the ground case in Crime No.534 of 2015 registered on the file of W1 Thirunagar Police Station for offences punishable under Sections 392 r/w 397 and 506(ii) of the Indian Penal Code and the following adverse case:-

"Crime No.591 of 2015 registered on the file of D2 Sellur Police Station for offences punishable under Sections 147, 148, 302 and 506(ii) of the Indian Penal Code."

2. The Detaining Authority, expressing subjective satisfaction that the detenu conformed to the definition of "Goonda" and that his presence at large would be prejudicial to the maintenance of public order and also expressing subjective satisfaction that it was very likely that the detenu would come out on bail in the ground case, passed the impugned detention order. The said order is challenged in the present Habeas Corpus Petition.



3. Though a number of grounds have been raised assailing the order of detention, the learned counsel for the petitioner primarily relies on the following contention:-

"There is non application of mind on the part of the detaining authority in respect of a relied on material viz., the case diary entry dated 02.10.2015 relating to the ground case, in which the said entry dated 02.10.2015 contains a recital to the effect that the remand of the detenu had been extended upto 26.10.2015. As the remand was made in respect of IPC offences, the remand extension could not have been made beyond 15 days at a time. Even if it is assumed that the remand extension was made on the date of the diary entry, the remand extension could not have been made beyond 16.10.2015. However, the diary entry refers to the date upto which the remand was said to have been extended as 26.10.2015. This discrepancy escaped the attention of the detaining authority. Had the detaining authority applied its mind to the above said document, the detaining authority would have asked for a clarification from the sponsoring authority. The failure to do so will show non application of mind and mechanical passing of the order of detention on the part of the detaining authority. Hence, the order of detention shall be set aside. "

4. The submissions made by the learned Additional Public Prosecutor in reply to the above said contentions raised by the learned counsel for the petitioner are also heard.

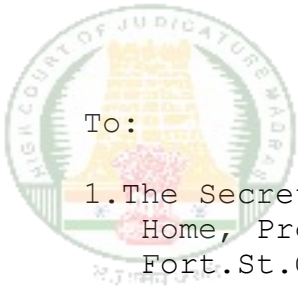
5. As rightly contended by the learned counsel for the petitioner, in the case diary entry dated 02.10.2015 relating to the the ground case found at page No.199 of the booklet, the remand of the detenu was stated to have been extended upto 26.10.2015, which could not have been made beyond 16.10.2015. The said discrepancy was not noticed by the detaining authority. Had the detaining authority noticed the said discrepancy, the detaining authority would have invited a clarification from the sponsoring authority. As no such clarification was sought, as rightly contended by the learned counsel for the petitioner, there was non-application of mind on the part of the detaining authority and the order came to be clamped mechanically without any application of mind. On that score alone, the order of detention is liable to be set aside.

6. In the result, the Habeas Corpus Petition is allowed and this Court sets aside the Order of Detention dated 14.10.2015, made in No.130/BCDFGISSSV/2015, passed by the second respondent / the Commissioner of Police, Madurai City, Madurai and directs the release of the detenu, by name Veeramani S/o.Alagar forthwith, if his continued custody is not authorised in specific cases or by any other detention order.

Sd/-

Assistant Registrar(RTI)

/True copy/



To:

1.The Secretary to Government,
Home, Prohibition and Excise Department,
Fort.St.George, Chennai 600 009.

2.The Commissioner of Police,
Madurai City,
Madurai.

3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

4.The Superintendent of Prison, Madurai(In Duplicate)

5.The Joint Secretary to Government,
Public (Law & Order), Fort Saint George, Chennai-9.

+1cc to Mr.M.Jegadeeshpandian, Advocate Sr.No.2268

sm:sk-Skn:25.01.2016:3p/8c

ORDER MADE IN
H.C.P (MD) No.1636 of 2015
11.01.2016