



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.02.2016

CORAM:

THE HONOURABLE MR.JUSTICE A.SELVAM

and

THE HONOURABLE MR.JUSTICE G.CHOCKALINGAM

HABEAS CORPUS PETITION(MD)No.1681 of 2015

G.Rani

..Petitioner

Vs.

1.The Government of Tamil Nadu,
Rep. By the Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai - 600 009.

2.The District Collector and District Magistrate,
Thanjavur,
Thanjavur 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 the entire records, connected with the detention order of the second respondent in P.D.No.37/2015 dated 11.07.2015 and quash the same and direct the respondents to produce the body or person of the petitioner's son namely Baskar, son of Ganesh, aged about 31 years now confined at Central Prison, Tiruchirappalli and set him at liberty forthwith and pass such further or other orders.

For Petitioner	: Mr.Anand Kumar for Mr.B.Jameel Arasu
For Respondents	: 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 P.D.No.37/2015 dated 11.07.2015 by the detaining authority, who has been arrayed as second respondent herein, against the detenu by name Baskar, son of the petitioner.

2. The Inspector of Police, Thanjavur Town East Police Station as sponsoring authority has submitted an affidavit to the detaining authority, wherein it has been clearly stated that the detenu has involved in the following adverse cases:

(i) Crime No.208 of 2015 Thiruppur City North Police Station registered under Section 392 of the Indian Penal Code.

(ii) Crime No.63 of 2015 Thanjavur Town South Police Station registered under Section 392 of the Indian Penal Code.

(iii) Crime No.66 of 2015 Thanjavur Medical College Police Station registered under Section 392 of the Indian Penal Code.



(iv) Crime No.90 of 2015 Thanjavur Medical College Hospital Police Station registered under Section 392 of the Indian Penal Code.

(v) Crime No.118 of 2015 Thanjavur Town South Police Station registered under Section 392 of the Indian Penal Code.

(vi) Crime No.269 of 2015 Thanjavur Town West Police Station registered under Section 392 of the Indian Penal Code.

(vii) Crime No.226 of 2015 Thanjavur Town East Police Station registered under Section 392 of the Indian Penal Code.

3. Further it is averred in the petition that on 05.05.2015 one Kumaresan has given a complaint to the Thanjavur Town East Police Station against the detenu and the same has been registered in Crime No.227 of 2015 under Sections 294(b), 342, 392 and 506(ii) of the Indian Penal Code read with 3(1) of TNPPDL Act and ultimately prayed 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 passed the impugned detention order in P.D.No.37/2015, dated 11.07.2015 and in order to quash the same, the present petition has been filed.

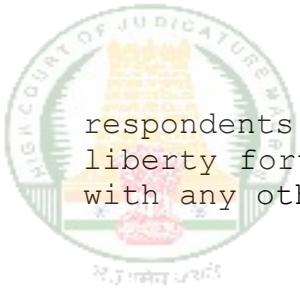
5. On the side of the respondents, a detailed counter has been filed wherein it has been clearly stated that all the averments made in the petition are false and ultimately prayed to dismiss the same.

6. The learned counsel appearing for the petitioner has contended that on the side of the detenu two representations have been given on 30.08.2015 and with regard to first representation, it has reached on 15.09.2015; remarks have been called for on 16.09.2015; remarks submitted on 19.09.2015 and subsequently the Deputy Secretary has dealt with the file on 22.09.2015 and submitted to the concerned Minister on 25.09.2015. In between 22.09.2015 and 25.09.2015, three clear working days are available and no explanation has been given on the side of the respondents. Likewise, with regard to second representation the same delay has occurred. Under the said circumstances, the impugned detention order is liable to be quashed.

7. Per contra, the learned Additional Public Prosecutor has contended that the representations given by the detenu have been considered and disposed of without delay and therefore, the detention order 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 respect of two representations, in column Nos.12 and 13 three clear working days are available and no satisfactory explanation has been given on the side of the respondents and that itself would be sufficient for coming to a conclusion that 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 P.D.No.37/2015, dated 11.07.2015 by the second respondent/detaining authority is quashed and consequently the



respondents are directed to set the detenu viz., Baskar, son of Ganesh at liberty forthwith, unless he is required to be incarcerated in connection with any other case.

Sd/-

Assistant Registrar(CS-II)

/True copy/

Sub Assistant Registrar(CS)

To

- 1.The Secretary to Government,
Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St. George, Chennai - 600 009.
- 2.The District Collector and District Magistrate,
Thanjavur, Thanjavur District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.
- 4.The Superintendent of Prison,
Central Prison, Trichy.
(in duplicate for communicate to detenu)

H.C.P(MD)No.1681 of 2015
10.02.2016

PS

PBK/SK-SKN/SAR-I 12/02/2016 ::3P-6C:: (IT)