



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 29.04.2016

Coram

THE HONOURABLE MR.JUSTICE A.SELVAM
and
THE HONOURABLE MR.JUSTICE B.GOKULDAS

H.C.P.(MD)No.100 of 2016

Kannan

.. Petitioner

Vs.

1.The Deputy Inspector General of Police,
Tirunelveli Range and
Commissioner of Police,
Tirunelveli City,
(Full Additional Charge)

2.The State
rep.by Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.

3.The Inspector of Police,
Melapalayam Police Station,
Tirunelveli.

.. Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus to call for the records in No.79/BCDFGISSSV/2015 dated 06.12.2015 and issue a writ order or direction more particularly in the nature of WRIT OF HABEAS CORPUS or any other order or direction and set aside the same and direct the Respondents herein to produce the detenu Alex @ Alex Pandian aged 26 years S/o. kannan who has been termed as GOONDA now confined in central prison Palayamkottai before this Court and set the detenu at liberty.

For Petitioner : Mr.P.Rajkumar
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 and quash the detention order passed in No.79/BCDFGISSSV/2015 dated 06.12.2015 by the detaining authority against the detenu by name Alex @ Alex Pandian S/o.kannan and quash the same.



2. The Inspector of Police, Melapalayam 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:

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(i) Crime No.452 of 2013, Tirunelveli District, Munneerpallam Police Station, registered under Sections 294(b), 323, 506(ii) of the Indian Penal Code and 4 of Tamilnadu Prohibition of Harassment of Women Act.

(ii) Crime No.236 of 2014, Tirunelveli District, Suthamalli Police Station, registered under Sections 307 and 324 of the Indian Penal Code altered to 147, 148, 120(b), 294(b), 307 and 324 of the Indian Penal Code altered to 147, 148, 120(b), 294(b), 307, 326 of the Indian Penal Code r/w 34 of the Indian Penal Code.

(iii) Crime No.179 of 2015, Tirunelveli District, Munneerpallam Police Station, registered under Sections 147, 148 of the Indian Penal Code r/w 25(1)(A) and 7(1)(a) Criminal Law Amendment Act altered into 147, 148, 120(b) of the Indian Penal Code r/w 25(1)(A) Arms Act and 7(1)(a) Criminal Law Amendment Act.

(iv) Crime No.180 of 2015, Tirunelveli District, Munneerpallam Police Station, registered under Sections 341, 294(b), 307 and 506(ii) of the Indian Penal Code.

(v) Crime No.232 of 2015, Tirunelveli District, Suthamalli Police Station, registered under Sections 341, 294(b), 387 and 506(ii) of the Indian Penal Code.

3. Further it is stated in the affidavit that on 27.11.2015 one Vinayagar Devidasan S/o.Gurudamy as defacto complainant has given a complaint against the detenu in Melapalayam Police Station and the same has been registered in Crime No.524 of 2015 under Sections 341, 294(b), 387, 307 and 506(ii) of the Indian Penal Code and ultimately requested the detaining authority 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 branded him as 'goonda' by way of passing the impugned detention order and in order to quash the same, the father of the detenu as petitioner has filed the present Habeas Corpus Petition.

5. On the side of the respondents a detailed counter has been filed wherein it is 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 are submitted and the same have 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 representations submitted on the side of the detenu are duly 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 with regard to first representation in between column Nos.7 to 9, 8 clear working days are available and in between column Nos.12 and 13, 10 clear working days are available and with regard to second representation in between column Nos.7 to 9, 7 clear working days are available and in between column Nos.12 and 13, 17 clear working days are available and no explanation has been given on the side of the respondents with regard to such delay in disposing of the representations submitted on the side of the 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 dated 06.12.2015 passed in No.79/BCDFGISSSV/2015 by the detaining authority/first respondent herein is quashed and the detenu by name Alex @ Alex Pandian S/o.kannan is ordered to be set at liberty forthwith, unless he is required to be incarcerated in any other case.

Sd/-

Assistant Registrar(Crl.side)

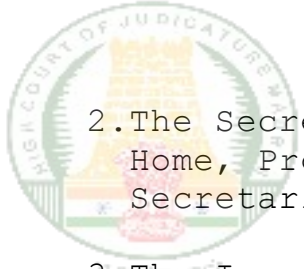
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Sub Assistant Registrar

To

1.The Deputy Inspector General of Police,
Tirunelveli Range and
Commissioner of Police,
Tirunelveli City,

<https://hcservices.ecourt.gov.in/hcservices> (For Additional Charge)



2.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.

3.The Inspector of Police,
Melapalayam Police Station,
Tirunelveli.

4.The Addl.Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

sm:17.5.2016:4P/5C

H.C.P. (MD) No.100 of 2016
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