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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 26.04.2016

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THE HONOURABLE MR.JUSTICE A.SELVAM

and

THE HONOURABLE MR.JUSTICE B.GOKULDAS

H.C.P. (MD) No.107 of 2016

Jothi

.. Petitioner

Vs.

1.State of Tamilnadu,
rep.by its Principal Secretary to Government,
Home, Prohibition and Excise Department,
Chennai - 9.

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

3.The Superintendent of Central Prison,
Central Prison,
Palayamkottai
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 the entire records in connection with the Detention Order in M.H.S.Confdl No.150/2015 dated 29.12.2015 passed by the second respondent on petitioner's husband namely Samidurai (48/16) S/o. Karuthapandi Thevar residing at Melatheru, Thalaivankottai, Sivagiri Taluk, Tirunelveli District who has been detained and branded as Goonda under the Tamil Nadu Prevention of Dangerous activities of Boot-leggers Drug offenders Forest offenders Goondas Act and confined at Central Prison, Palayamkottai and set aside the same and to produce him before this Court.

For Petitioner : Mr.M.Maran

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 M.H.S.Confdl No.150/2015 dated 29.12.2015 by the detaining authority who has been arrayed as second respondent herein against the detenu by name Samidurai S/o. Karuthapandi Thevar and quash the same.



2.The Inspector of Police, Tenkasi Police Station, as sponsoring authority has submitted an affidavit to the detaining authority, wherein it is stated that the detenu has already involved in the following adverse case:

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Crime No.222 of 2015, Achanpudur Police Station, registered under Sections 147, 323, 365 of the Indian Penal Code altered to Sections 147, 148, 364, 302 and 201 of the Indian Penal Code.

3. Further it is stated in the affidavit that on 19.12.2015 one Kannan as defacto complainant has given a complaint against the detenu in Tenkasi Police Station and the same has been registered in Crime No.573 of 2015 under Sections 294(b), 323, 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 present Habeas Corpus Petition has been filed by the wife of the detenu as petitioner.

5.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.

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, 5 clear working days are available and in between column Nos.12 and 13, 13 clear working days are available and with regard to second representation in between column Nos.12 and 13, 13 clear working days are available and no explanation has been given on the side of the respondents with regard to such delay and the same would affect rights of the detenu 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 29.12.2015 passed in M.H.S.Confdl.No.150/2015 by the detaining authority/second respondent herein is quashed and the detenu by name Samidurai S/o. Karuthapandi Thevar is ordered to be set



at liberty forthwith, unless he is required to be incarcerated in any other case.

Sd/
Assistant Registrar(CS-II)

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Sub Assistant Registrar(C.S)
Madurai Bench of Madras High Court,
Madurai.

To

- 1.The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Chennai - 9.
- 2.The District Collector & District Magistrate,
O/o.District Collector & District Magistrate,
Tirunelveli District, Tirunelveli.
- 3.The Superintendent of Central Prison,
Central Prison,
Palayamkottai
Tirunelveli District. (In duplicate communicate to the detenu)
- 4.The Addl.Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- 5.The Joint Secretary to Govt.,
Public (Law and Order),
Secretariat,Chennai - 600 009.
- 6.The Director General of Police,Chennai - 4.
- 7.The Inspector General of Prison,Chennai.
- 8.The Inspector of Police,
Achanpudur Police Station,Tirunelveli District.

+1cc to M/S.M.Maran, Advocate in SR.No.23580

H.C.P. (MD)No.107 of 2016
26.04.2016

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