



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.119 of 2016

Balamurugan

.. Petitioner

Vs.

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

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

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 the entire records connected with the detention order of the respondent No.2 in M.H.S.Confdl.No.03/2016 dated 10.01.2016 and quash the same and direct the respondents to produce the detenu namely Balamurugan S/o.Madasamy aged about 26 years detained in Palayamkottai Central Prison before this Court.

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 M.H.S.Confdl.No.03/2016 dated 10.01.2016 by the detaining authority who has been arrayed as second respondent herein against the detenu by name Balamurugan S/o.Madasamy and quash the same.



2. The Inspector of Police, Kadayam 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 cases:

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(i) Crime No.316 of 2015, Rajapalayam South Police Station, registered under Sections 379 of the Indian Penal Code altered to Sections 379, 471, 411, 414 of the Indian Penal Code r/w 34 of the Indian Penal Code;

(ii) Crime No.206 of 2015, Kadayam Police Station, registered under Sections 457 and 380 of the Indian Penal Code;

(iii) Crime No.347 of 2015, Kadayam Police Station, registered under Section 380 of the Indian Penal Code;

(iv) Crime No.374 of 2015, Kadayam Police Station, registered under Section 379 of the Indian Penal Code;

(v) Crime No.390 of 2015, Kadayam Police Station, registered under Sections 457 and 380 of the Indian Penal Code; and

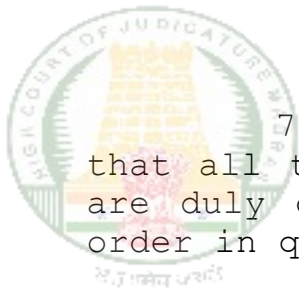
(vi) Crime No.415 of 2015, Kadayam Police Station, registered under Section 379 of the Indian Penal Code;

3. Further it is stated in the affidavit that on 23.12.2015 one Vasantha as defacto complainant has lodged a complaint against the detenu in Kadayam Police Station and the same has been registered in Crime No.414 of 2015 under Sections 341, 397 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 detenu himself as petitioner.

5. On the side of the respondents counter has been filed, wherein it has been contended *inter alia* 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 three representations are submitted and the same have not been disposed of without delay and therefore, the detention order in question is liable to be



7. The learned Additional Public Prosecutor has contended that all 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, 9 clear working days are available and in between column Nos.12 and 13, 9 clear working days are available; with regard to second representation in between column Nos.7 to 9, 6 clear working days are available and in between column Nos.12 and 13, 7 clear working days are available and with regard to third representation, in between column Nos.7 to 9, 6 clear working days are available and in between column Nos.12 and 13, 7 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 10.01.2016 passed in M.H.S.Confdl.No.03/2016 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

/True copy/

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

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To

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

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

3. The Superintendent of Prison,
Balakrishnan Central Prison,

Tirunelveli District. (In duplicate to communicate for detenu)



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

+1 cc to Mr.R.Alagumani, Advocate, SR No.23884

RG.JGB-DP/SAR-I 28.04.2016 4P.7C

H.C.P. (MD) No.119 of 2016
26.04.2016