



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.04.2016

CORAM:

THE HONOURABLE MR.JUSTICE A.SELVAM

and

THE HONOURABLE MR.JUSTICE B.GOKULDAS

HABEAS CORPUS PETITION (MD) No.120 of 2016

D.Janakiammal,
W/o.Duruwaiya (Late)
21/5, North Street,
Mathichiyam,
Madurai.

.. Petitioner

Vs.

1.The Home Secretary,
Department of Home, Excise, Prohibition,
Secretariat,
St. George Fort,
Chennai.

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

3.The Superintendent of Prison,
Madurai Central Prison,
Madurai 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 relating to the detention order No.126/BCDFGISSSV/2015, dated 25.09.2015 passed by the second respondent and quash the same as illegal and unconstitutional and consequently direct the respondents to produce the body and person of the petitioner's son by name Iyyappan, aged about 32 years, who was detained as a Goonda at Madurai Central Prison before this Court and set him at liberty forthwith.

For Petitioner : Mr.S.M.A.Jinnah

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 No.126/BCDFGISSSV/2015, dated

25.09.2015 against the detenu by name Iyyappan, son of Thuruvaiah by the detaining authority, who has been arrayed as second respondent herein and quash the same.

2. The Inspector of Police, Vilakkuthoon Police Station as sponsoring authority has submitted an affidavit to the detaining authority, wherein it is stated that on 18.07.2015, one Nainar Mohammed as defacto complainant has given a complaint against the detenu and others in Vilakkuthoon Police Station wherein it is stated that the detenu and others have murdered Mohammed Yasin and the same has been registered in Crime No.803 of 2015 under Sections 147, 148 and 302 of the Indian Penal Code and Section 3 of Explosive Substances Act, 1908 and ultimately requested the detaining authority to invoke Act 14 of 1982 against the detenu.

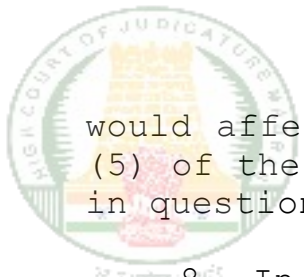
3. The detaining authority, after considering the averments made in the affidavit and other connected documents, has derived subjective satisfaction to the effect that the detenu has committed serious offence and ultimately branded him as 'Goonda' by way of passing the impugned detention order and in order to quash the same, the present petition has been filed by the mother of the detenu as petitioner.

4. On the side of the respondents, a counter has been filed wherein it is stated that all the averments made in the petition are false and the detaining authority, after considering the available materials on record, has rightly invoked Act 14 of 1982 against the detenu and therefore the present petition deserves to be dismissed.

5. The learned counsel appearing for the petitioner has contended that on the side of the detenu, two representations have been given and the same have not been disposed of without delay and therefore the detention order in question is liable to be quashed.

6. Per contra, the learned Additional Public Prosecutor appearing for the respondents 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.

7. 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, six clear working days are available and in between Column Nos.12 and 13, eight clear working days are available and with regard to second representation in between Column Nos.7 to 9, seven clear working days are available and in between Column Nos.12 and 13, five 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 the 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.

8. In fine, this Habeas Corpus Petition is allowed and the detention order passed in No.126/BCDFGISSSV/2015, dated 25.09.2015 by the second respondent/detaining authority is quashed and consequently the respondents are directed to set the detenu viz., Iyyappan, son of Thuruvaiah 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
Madurai Bench of Madras High Court,
Madurai.

ps

To

- 1.The Principal Secretary to Government
Department of Home, Excise, Prohibition,
Secretariat, Chennai.
- 2.The Joint Secretary to Government
Public (Law & Order) Secretariat, Chennai-9
- 3.The Commissioner of Police,
Madurai City, Madurai.
- 4.The Director General of Police,
Mylapore, Chennai 600 004.
- 5.The Superintendent of Prison,
Madurai Central Prison,
Madurai District.(to communicate to the detenu)
- 6.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 cc to Mr.S.M.A.Jinnah, Advocate, SR No.20074

RG.JGB-DP/SAR-I 13.04.2016 3P.9C

ORDER MADE IN
H.C.P(MD) No.120 of 2016
11.04.2016