



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 29.04.2016

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

H.C.P.(MD)No.134 of 2016

Thavamani

.. Petitioner

Vs.

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

2.The Commissioner of Police,
O/o.Commissioner of Police,
Madurai City, Madurai.

3.The Inspector of Police,
C4, Thilagarthidal Police Station,
Madurai.

.. 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 in No. 02/BCDFGISSSV/2016 dated 20.01.2016 on the file of the respondent No.2 and quash the same and direct the respondents to produce the body and person of the petitioner's son Ajaykumar S/o.Thavamani aged about 27 years now confined at Central Prison Madurai before this Court and set him at liberty forthwith.

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

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 No.02/BCDFGISSSV/2016 dated 20.01.2016 by the detaining authority against the detenu by name Ajaykumar S/o.Thavamani and quash the same.



2. The Inspector of Police, C4, Thilagar Thidal 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 case:

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Crime No.843 of 2015, C3, S.S.Colony Police Station, registered under Sections 147, 148, 294(b), 323, 307, 506(ii) of the Indian Penal Code altered to 294(b), 323, 307 and 506(ii) of the Indian Penal Code.

3.Further it is stated in the affidavit that on 24.12.2015 one Pandiarajan S/o.Subramani as defacto complainant has lodged a complaint against the detenu in Thilagarthidal Police Station and the same has been registered in Crime No.999 of 2015 under Sections 392 r/w 397, 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 father of the detenu as petitioner.

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 have been 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.12 and 13, 12 clear working days are available and with regard to second representation in between column Nos.7 to 9, 4 clear working days are available and in between column Nos.12 and 13, 11 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 20.01.2016 passed in No. 02/BCDFGISSSV/2016 by the detaining authority/second respondent herein is quashed and the detenu by name Ajaykumar S/o.Thavamani is ordered to be set at liberty forthwith, unless he is required to be incarcerated in any other case.

Sd/-

Assistant Registrar(CS-I)

/True copy/

Sub Assistant Registrar
Madurai Bench of Madras High Court,
Madurai.

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To

- 1.The Principal Secretary to Government,
Home, Prohibition and Excise(XVI) Department,
Secretariat, Chennai - 600 009.
- 2.The Commissioner of Police,
O/o.Commissioner of Police,
Madurai City, Madurai.
- 3.The Inspector of Police,
C4, Thilagarthidal Police Station, Madurai.
- 4.The Addl.Public Prosecutor,
Madurai Bench of Madras High Court,Madurai.
- 5.The Joint Secretary to Government,
Public (Law & Order), Fort. St. George, Chennai-9
- 6.The Superintendent,
Central Prison, Madurai.
(In duplicate copy communicate to detenu)

+1 cc to Mr.S.M.A.Jinnah, Advocate, SR No.25451
RG.JGB-SS/ 09/05/2016 3P.9C

H.C.P. (MD) No.134 of 2016
29.04.2016