



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 27.04.2016  
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**THE HONOURABLE MR.JUSTICE A.SELVAM**  
**and**  
**THE HONOURABLE MR.JUSTICE B.GOKULDAS**

H.C.P.(MD)No.14 of 2016

Esther .. Petitioner  
Vs.

1.State of Tamil Nadu,  
rep.by the Secretary to Government,  
Home, Prohibition and Excise Department,  
Fort St. George, Chennai - 600 009.

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

3.The Superintendent of Prison,  
Central Prison, Palayamkottai,  
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 entire records connected with the detention order passed in No.82/BCDFGISSSV/2015 dated 28.12.2015 on the file of the 2nd respondent herein and quash the same and direct the respondents to produce the detenu or body of the detenu namely Selvam S/o.Kuttidurai @ Arumuga Nainar, aged about 24 years now detained at Central Prison, Palayamkottai before this Court and set him at liberty.

For Petitioner : Mr.K.Sudalaiyandi  
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.82/BCDFGISSSV/2015 dated 28.12.2015 by the detaining authority who has been arrayed as 2nd respondent herein against the detenu by name Selvam S/o.Kuttidurai @ Arumuga Nainar and quash the same.



2.The Inspector of Police, Thatchanallur 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.531 of 2015, Pettai Crime Police Station, registered under Sections 341, 307, 302 and 506(ii) of the Indian Penal Code altered into Sections 147, 148, 341, 307, 302 and 506(ii) of the Indian Penal Code and 3(1)(x) and 3(2)(v) of SC/ST (Prevention of Atrocities) Act, 1989.

3.Further it is stated in the affidavit that on 26.10.2015 one Veerapandi as defacto complainant has given a complaint to the Inspector of Police, Thatchanallur Police Station against the detenu and the same has been registered in Crime No.343 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.

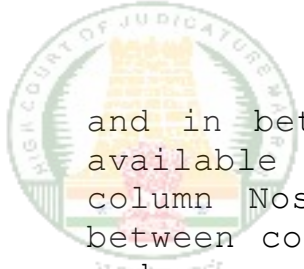
4.The detaining authority after considering the averments made in the affidavit and other connected documents has derived subjective satisfaction to the effect that the detenu is a 'habitual offender' and ultimately branded him as 'goonda' by way of passing the impugned detention order and in order to quash the same, the 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 three representations have been 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 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, 7 clear working days are available and in between column Nos.12 and 13, 13 clear working days are available; with regard to second representation in between column Nos.7 to 9, 9 clear working days are available



and in between column Nos.12 and 13, 12 clear working days are available and with regard to third representation, in between column Nos.7 to 9, 8 clear working days are available and 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 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 28.12.2015 passed in No.82/BCDFGISSSV/2015 by the detaining authority/second respondent herein is quashed and the detenu by name Selvam S/o.Kuttidurai @ Arumuga Nainar is ordered to be set at liberty forthwith, unless he is required to be incarcerated in any other case.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

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To

- 1.State of Tamil Nadu, Secretary to Government,  
Home, Prohibition and Excise Department,  
Fort St. George, Chennai - 600 009.
- 2.The Deputy Inspector General of Police,  
Tirunelveli Range and Commissioner of Police,  
Tirunelveli City, (Full Additional Charge)  
Tirunelveli.
- 3.The Superintendent of Prison,  
Central Prison, Palayamkottai,  
Tirunelveli. (In Duplicate Communicate to the detenu)
- 4.The Addl.Public Prosecutor,  
Madurai Bench of Madras High Court, Madurai.
- 5 The Joint Secretary to Government  
Public (Law and Order) Department,  
Secretariat, Chennai -9,

+1CC to Mr.K.Sudalaiyandi Advocate Sr.No.24360

GJM/AA1/MPA/SAR-II-3.5.16-3p-8C