



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.03.2016

CORAM:

THE HONOURABLE MR.JUSTICE A.SELVAM

and

THE HONOURABLE MR.JUSTICE G.CHOCKALINGAM

HABEAS CORPUS PETITION (MD) No.15 of 2016

Rama Devi

..Petitioner

Vs.

1.The Secretary to Government,
Department of Co-operation, Food and
Consumer Protection,
Secretariat,
Chennai - 600 009.

2.The District Collector and District Magistrate,
Office of the District Collector and District Magistrate,
Thoothukudi District,
Thoothukudi.

3.The Additional Secretary to Government of India,
Ministry of Consumer Affairs,
Food and Public Distribution,
(Department of Consumer Affairs),
Room No.270, Krishi Bavan,
New Delhi - 110 001.

4.The Superintendent of Prison,
Palayamkottai Central Prison,
Tirunelveli 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 connected with the detention order in H.S.(M) Confdl.No.77/2015 dated 30.12.2015 and quash the same and direct the respondents to produce the body and person of the detenu namely Siva @ Sivakumar, son of Balasubramaniyan, aged 42 years, now detained in Palayamkottai Central Prison before this Court and set him at liberty forthwith.

For Petitioner : Mr.R.Alagumani

For RR 1, 2 & 4 : Mr.C.Ramesh
Additional Public Prosecutor

For R - 3 : Mr.K.Asok Kumar Ram
Central Government Standing Counsel

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 dated 30.12.2015 passed in H.S.(M)Confdl.No.77/2015 by the detaining authority, who has been arrayed as second respondent herein, against the detenu by name Siva @ Sivakumar and quash the same.

2. It is averred in the petition that the Inspector of Police, C.S.CID, Thoothukudi 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:-

(i) Crime No.04 of 2008 Irukkankudi Police Station registered under Sections 408, 409, 468, 471, 477(A) and 120(b) of the Indian Penal Code and 6(4) of TNSC (RDCS) Order 1982 read with 7(1)a(ii) of E.C Act, 1955.

(ii) Crime No.08 of 2008 Sathur Taluk Police Station registered under Sections 120(b), 403, 406, 407, 408, 409, 468, 471 and 420 of the Indian Penal Code and 6(4) of TNSC (RDCS) Order 1982 read with 7(1)a(ii) of E.C Act, 1955.

(iii) Crime No.09 of 2008 Sathur Taluk Police Station registered under Section 6(4) of TNSC (RDCS) Order 1982 read with 7(1)a(ii) of E.C Act, 1955 and 403, 406, 408, 420, 468 and 120(b) of the Indian Penal Code.

3. Further it is stated in the affidavit that on 06.07.2015, the Inspector of Police, C.S.CID, Thoothukudi has intercepted a vehicle bearing Registration No.TN-75-4214 and found 39 PDs rice bags without licence and subsequently, a case has been registered against the detenu in Crime No.128 of 2015 under Section 6(4) of TNSC (RDCS) Order 1982 read with 7(1)a(ii) of E.C Act, 1955 and ultimately requested to invoke Central Act 7 of 1980 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 chronic offender and ultimately branded him as Black Marketeer by way of passing the impugned detention order, dated 30.12.2015 and in order to quash the same, the present petition has been filed.

5. On the side of the respondents, a detailed counter has been filed wherein it has been contended to the effect that since the detenu is a chronic offender, the detaining authority has rightly derived the subjective satisfaction and passed the impugned detention order, dated 30.12.2015 and therefore, the present petition deserves to be dismissed.

6. The learned counsel appearing for the petitioner has contended that on the side of the petitioner, a representation has been sent on 02.01.2016 and the same has been received on 08.01.2016, but remarks have been called for on 12.01.2016 and remarks have been received on 17.02.2016. Under the said circumstances, there is a delay in disposing



of the representation and the same would affect the rights of the detenu and therefore the detention order in question is liable to be quashed.

7. The learned Additional Public Prosecutor appearing for the respondents 1, 2 & 4 has contended that the representation sent by the petitioner has been duly disposed of and therefore the present petition deserves to be dismissed.

8. On the side of the respondents 1, 2 & 4, a proforma has been submitted wherein, it has been clearly stated that in between column Nos.6 and 7, two clear working days are available and in between column Nos.7 to 9, twenty four clear working days are available and no explanation has been given on the side of the respondents 1, 2 & 4 with regard to huge delay as mentioned supra. Under the said circumstances, the detention order in question is liable to be quashed.

9. In fine, this Habeas Corpus Petition is allowed and the detention order passed in H.S.(M) Confdl.No.77/2015 dated 30.12.2015 by the second respondent/detaining authority is quashed and consequently the respondents are directed to set the detenu viz., Siva @ Sivakumar, son of Balasubramaniyan at liberty forthwith, unless he is required to be incarcerated in connection with any other case.

Sd/-

Assistant Registrar(AS)

/True Copy/

Sub Assistant Registrar(CS)

To

- 1.The Secretary to Government,
Department of Co-operation, Food and Consumer Protection,
Secretariat, Chennai - 600 009.
- 2.The District Collector and District Magistrate,
Office of the District Collector and District Magistrate,
Thoothukudi District, Thoothukudi.
- 3.The Additional Secretary to Government of India,
Ministry of Consumer Affairs, Food and Public Distribution,
(Department of Consumer Affairs),
Room No.270, Krishi Bavan,
New Delhi - 110 001.
- 4.The Superintendent of Prison,
Palayamkottai Central Prison,
Tirunelveli District.
(in duplicate for communicate to detenue)
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1cc to M/s.R.Alagumani, Advocate in SR.12810

+1cc to M/s.K.Asok Kumar Ram, Advocate in SR.13329

H.C.P (MD) No.15 of 2016

07.03.2016