



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 10.03.2016

CORAM:

THE HONOURABLE MR.JUSTICE A.SELVAM
and
THE HONOURABLE MR.JUSTICE V.S.RAVI

HABEAS CORPUS PETITION (MD) No.2 of 2016

S.Sathya

.. Petitioner

Vs.

1.State of Tamil Nadu,
Rep. By the Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai - 9.

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

3.The Superintendent of Central Prison,
Central Prison,
Palayamkottai.

.. 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 in detention order passed in No.185/BCDFGISSSV/2015 dated 19.12.2015 on the file of the second respondent herein and set aside the same as illegal and direct the respondents to produce the body or person of the petitioner's husband namely Senthil @ Senthilpandi, Son of Rajendran, male, aged about 35 years, who is detained in Central Prison, Palayamkottai before this Court and set him at liberty.

For Petitioner : Mr.K.A.S.Prabhu

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 the detention order passed in No.185/BCDFGISSSV/2015 dated 19.12.2015 against the detenu by name Senthil @ Senthilpandi, Son



of Rajendran by the detaining authority, who has been arrayed as second respondent herein and quash the same.

2. The Inspector of Police, E3 Anna Nagar Police Station as sponsoring authority has submitted an affidavit to the detaining authority wherein it has been specifically stated that one Muthuvel as defacto complainant has given a complaint stating that his brother by name Balamurugan has been murdered at the instigation of the detenu. The complaint has been registered in Crime No.1599 of 2015 under Sections 147, 148, 302 and 506(ii) of the Indian Penal Code 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 submitted by the sponsoring authority, has derived subjective satisfaction and consequently passed the impugned detention order and thereby branded the detenu as Goonda and in order to quash the same, the present petition has been filed by the wife of the detenu.

4. 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 the detaining authority has rightly passed the impugned order 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, three representations have been submitted to the concerned authority 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 by the detenu have been duly disposed of without delay and therefore the detention order 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 three representations have been submitted on the side of the detenu. 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, ten clear working days are available. In respect of second representation in between Column Nos.7 to 9, six clear working days are available and in between Column Nos.12 and 13, fourteen clear working days are available. In respect of third representation in between Column Nos.7 to 9, five clear working days are available and in between Column Nos.12 and 13, twelve clear working days are available and no explanation has been given on the side of the respondents with regard to huge delay occurred



in disposing of the representations given by the detenu 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.185/BCDFGISSSV/2015 dated 19.12.2015 by the second respondent/detaining authority is quashed and consequently the respondents are directed to set the detenu viz., Senthil @ Senthilpandi, Son of Rajendran at liberty forthwith, unless he is required to be incarcerated in connection with any other case.

Sd/-

Assistant Registrar (Crl.Side)

/True Copy/

Sub-Assistant Registrar

To

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George, Chennai - 9.
- 2.The Commissioner of Police,
O/o.The Commissioner of Police, Madurai City.
- 3.The Superintendent of Central Prison,
Central Prison, Palayamkottai.
(In duplicate to be communicate to the detenu)
- 4.The Joint Secretary to Government,
Public (Law and Order)
Fort Saint George, Chennai-9
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+One cc to M/s.K.A.S.Prabhu, Advocate, SR.No.13477

ps

RL/8C/SKS/RR/15/3/2016

ORDER MADE IN
H.C.P (MD) No.2 of 2016

10.03.2016