



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.GOKULDASS

HABEAS CORPUS PETITION (MD) No.21 of 2016

Ananji Ammal,
W/o.Esakkimuthu,
No.49F, Sathankovil Street,
Kovilkulam,
Ambasamudram Taluk,
Tirunelveli District.

... Petitioner

Vs.

1. The State of Tamil Nadu,
Rep. By its Secretary to Government,
Government of Tamil Nadu, Home, Prohibition
and Excise Department, Chennai - 9.
2. The District Collector and District Magistrate,
Tirunelveli District, Tirunelveli.
3. The Inspector of Police,
Vickramasingapuram Police Station,
Vickramasingapuram,
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 records pertaining to the proceedings of the second respondent made in his proceedings M.H.S.Confdl.No.114/2015, dated 13.10.2015 and quash the same and set the petitioner namely Murugesan, son of M.Essakimuthu, aged about 19 years at liberty from Borstal School and District Jail, Pudukkottai.

For Petitioner : Mr.S.Krishnan

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 M.H.S.Confdl.No.114/2015, dated 13.10.2015 against the detenu by name Murugesan, aged 19 years, son of M.Essakimuthu by the detaining authority, who has been arrayed as second respondent herein and quash the same.

2. The Inspector of Police, Vickiramasasingapuram 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 cases:-

(i) Crime No.198 of 2015 Kallidaikurichi Police Station registered under Section 394 of the Indian Penal Code altered into Section 397 of the Indian Penal Code.

(ii) Crime No.200 of 2015 Vickiramasasingapuram Police Station registered under Section 379 of the Indian Penal Code.

(iii) Crime No.212 of 2015 Vickiramasasingapuram Police Station registered under Section 379 of the Indian Penal Code.

(iv) Crime No.216 of 2015 Ambasamudram Police Station registered under Sections 457 and 380 of the Indian Penal Code.

3. Further it is stated in the affidavit that on 14.09.2015, one Samuvel Prince as defacto complainant has given a complaint against the detenu and others in Vickiramasasingapuram Police Station and the same has been registered in Crime No.222 of 2015 under Sections 147, 148, 294(b) 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 petition has been filed by the mother of the detenu as petitioner.

5. On the side of the respondents, a detailed 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, after considering the averments submitted by the



sponsoring authority and also after considering the documents submitted to him, has rightly invoked Act 14 of 1982 against the detenu 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 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. Per contra, the learned Additional Public Prosecutor appearing for the respondents has contended that 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, six clear working days are available and in between Column Nos.12 and 13, three clear working days are available and with regard to second representation 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.

9. In fine, this Habeas Corpus Petition is allowed and the detention order passed in M.H.S.Confdl.No.114/2015, dated 13.10.2015 by the second respondent/detaining authority is quashed and consequently the respondents are directed to set the detenu viz., Murugesan, son of M.Essakimuthu 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

To

1. The Secretary to Government,
Rep. By the State of Tamil Nadu,
Home, Police, Probation and Excise Department,
Chennai - 9.



2. The District Collector and District Magistrate,
Tirunelveli District, Tirunelveli.
3. The Inspector of Police,
Vickramasingapuram Police Station,
Vickramasingapuram,
Tirunelveli District.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
5. The Borstal School and District Jail,
Pudukkottai.
6. The Joint Secretary to Government,
Public (Law and Order) Department,
Secretariat, Chennai - 9.

+1cc to Mr. S. Krishnan, Advocate, Sr.No.20250

ps

JM/GSV-PM/15.04.2016/4P-8C

ORDER MADE IN
H.C.P (MD) No.21 of 2016
11.04.2016