



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 21.04.2016

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THE HONOURABLE MR.JUSTICE A.SELVAM

and

THE HONOURABLE MR.JUSTICE B.GOKULDAS

H.C.P.(MD)No.4 of 2016

Gopi

.. Petitioner

Vs.

1.State of Tamilnadu,

The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai - 600 009.

2.The District Collector and District Magistrate,
O/o.District Collector and District Magistrate,
Thanjavur District, Thanjavur.

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

.. Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India praying to call for the entire records in detention order passed in P.D.No.73/2015 dated 15.12.2015 on the file of the 2nd Respondent herein and set aside the same as illegal and direct the Respondents to produce the Petitioner namely Gopi S/o.Nagarajan, Male aged 24 years, who is detained in Central Prison, Tiruchirappalli before this Court and set him at liberty.

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

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 P.D.No.73/2015 dated 15.12.2015 by the detaining authority against the detenu by name Gopi S/o.Nagarajan and quash the same and thereby set him at liberty forthwith.

<https://hcservices.ecourts.gov.in/hcservices/> 2.The Inspector of Police, Thiruvidadaimaruthur 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.137 of 2015, Thiruvidadaimaruthur Police Station, registered under Sections 341, 324, 307, 302 of the Indian Penal Code r/w Section 3(1) of Tamil Nadu Property (Prevention of Damage and Loss) Act, 1992 altered into Sections 147, 148, 341, 323, 324, 307, 302, 120(b), 109 of the Indian Penal Code r/w Section 3(1) of Tamil Nadu Property (Prevention of Damage and Loss) Act, 1992 altered into Sections 147, 148, 341, 323, 324, 307, 302, 120(b), 109 of the Indian Penal Code r/w Section 3(1) of Tamil Nadu Property (Prevention of Damage and Loss) Act, 1992 and Section 5 of Explosive Substances Act, 1908;

(ii) Crime No.219 of 2015, Thiruneelagudi Police Station, registered under Sections 294(b), 386 and 506 (ii) of the Indian Penal Code r/w Section 3(1) of Tamilnadu Property (Prevention of Damage and Loss) Act, 1992; and

(iii) Crime No.240 of 2015, Natchiyarkovil Police Station, registered under Sections 341, 294(b), 386 and 506(ii) of the Indian Penal Code r/w Section 3(1) of Tamilnadu Property (Prevention of Damage and Loss) Act, 1992; and

3. Further it is stated in the affidavit that on 02.09.2015 one Sivakumar as defacto complainant has given a complaint against the detenu in Thiruvidadaimaruthur Police Station and the same has been registered in Crime No.338 of 2015 under Sections 294(b), 386 and 506(ii) of the Indian Penal Code r/w Section 3(1) of Tamilnadu Property (Prevention of Damage and Loss) Act, 1992 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 detenu himself has filed the present Habeas Corpus Petition.

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



6.The learned counsel appearing for the petitioner has contended that the detenu has given a representation and the same has 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 representation given by the detenu has been duly disposed of. Under the said circumstances, the present petition is liable to be dismissed.

8.On the side of the respondents, a proforma has been submitted, wherein it has been clearly stated that in between column Nos.7 to 9, 14 clear working days are available and in between column Nos.12 and 13, 8 clear working days are available and no explanation has been given by the concerned authorities and that itself would affect 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 dated 15.12.2015 passed in P.D.No.73/2015 by the detaining authority/second respondent herein is quashed and the petitioner/detenu 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
Madurai Bench of Madras High Court,
Madurai.

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To

1.The Principal Secretary to Government
Home Excise and Prohibition Department,
Fort St.George, Chennai - 600 009.

2.The Secretary to Government,
State of Tamilnadu,
Home, Prohibition and Excise Department,
Fort St.George, Chennai - 600 009.

3.The Joint Secretary to Government,
Public (Law & Order), Department,
Fort St.George, Chennai - 600 009.

<https://hccourtservices.in>
4.The Director General of Police,
Chennai 600 004.



5.The Inspector General of Prison, Chennai 600 009.

6.The Inspector General of Police, Central Region, Tiruchirapalli.

7.The Superintendent of Police, Thanjavur.

8.The District Collector and District Magistrate,
O/o.District Collector and District Magistrate,
Thanjavur District, Thanjavur.

9.The Superintendent of Central Prison,
Central Prison,Tiruchirapalli.
(In duplicate communicate to the detenu)

10.The Deputy superintendent of police,
Thiruvidaimaruthur Sub Division, Thanjavur District.

11.The Addl.Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

12.The Inspector of Police, Thiruvidaimaruthur.

+1 cc to Mr.K.A.S.Prabhu, Advocate, SR No.22642

RG.SK-SKN/AR-I 28.04.2016 4P.15C

H.C.P. (MD) No.4 of 2016
21.04.2016