



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.5 of 2016

M.Suganya

..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.175/BCDFGISSSV/2015 dated 12.12.2015 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 brother namely Manikandan @ Pulikutti Mani, Son of Muniasamy, male, aged about 33 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

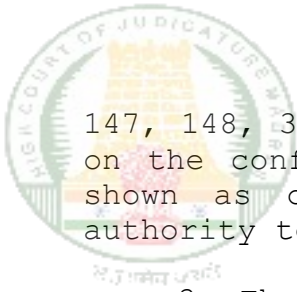
Additional Public Prosecutor

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 detention order passed in No.175/BCDFGISSSV/2015 dated 12.12.2015 against the detenu by name Manikandan @ Pulikutti Mani, Son of Muniasamy 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 ~~servant~~ ^{servant} has given a complaint stating that his brother by name Balamurugan has been murdered at the instigation of Senthil Pandi. The complaint has been registered in Crime No.1599 of 2015 under Sections



147, 148, 302 and 506(ii) of the Indian Penal Code. During investigation, on the confession given by Suresh @ Market Suresh, the detenu has been shown as one of the accused 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 sister 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, a representation has been submitted to the concerned authority and the same has 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 the representation submitted by the detenu has 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 a representation has been submitted on the side of the detenu and in between Column Nos.7 to 9, four clear working days are available and in between Column Nos.12 and 13, eleven 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 representation 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.175/BCDFGISSSV/2015 dated 12.12.2015 by the second respondent/detaining authority is quashed and consequently the respondents are directed to set the detenu viz., Manikandan @ Pulikutti Mani, Son of Muniasamy 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(CS)
Madurai Bench of Madras High Court,
Madurai-23.



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 for communicate to detenu)

4. The Joint Secretary to Government,
Public (Law & Order) Department,
Fort St.George, Chennai-9.

5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to M/s.K.A.S.Prabhu, Advocate in SR.13479

H.C.P (MD) No.5 of 2016
10.03.2016

ps

PBK/AAL-MPA 15/03/2016 ::3P-8C::