



WEB COPY

1

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 29.04.2016

Coram

THE HONOURABLE MR.JUSTICE A.SELVAM

and

THE HONOURABLE MR.JUSTICE B.GOKULDAS

H.C.P.(MD)No.52 of 2016

Anthoniammal

.. Petitioner

Vs.

1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai - 600 009.

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

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

.. Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus to call for the entire records connected with the detention order of the second respondent in M.H.S.Confdl.No.145/2015, dated 15.12.2015 and quash the same and direct the respondents to produce the detenu namely Sudhakar @ Sutti Sudhakar, son of Raj, aged about 34 years detained in Palayamkottai Central Prison before this Court and set him at liberty forthwith.

For Petitioner : Mr.R.Alagumani

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 M.H.S.Confdl.No.145/2015, dated 15.12.2015 by the detaining authority, who has been arrayed as second respondent herein, against the detenu by name Sudhakar @ Sutti Sudhakar, son of Raj and quash the same.

<https://hcservices.ecourts.gov.in/hcservices/>

2. The Sub-Inspector of Police, Koodankulam 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.126 of 2015, Koodankulam Police Station, registered under Sections 147, 148, 353, 294(b) and 506(ii) of the Indian Penal Code and also under Sections 3 and 4 of Explosive Substances Act, 1908 and also under Section 3(1) of Tamil Nadu Property (Prevention of Damage and Loss) Act;

(ii) Crime No.127 of 2015, Koodankulam Police Station, registered under Sections 147, 148, 294(b), 307 and 506(ii) of the Indian Penal Code and also under Section 3 of Explosive Substances Act, 1908 and also under Section 3(1) of Tamil Nadu Property (Prevention of Damage and Loss) Act.

3. Further it is stated in the affidavit that on 09.12.2015 one Lakshmanan, Sub-Inspector of Police as defacto complainant has given a complaint in Koodankulam Police Station against the detenu and the same has been registered in Crime No.252 of 2015 under Sections 294(b), 353, 307 and 506(ii) of the Indian Penal Code and also under Sections 3 and 4 of Explosive Substances Act and ultimately requested the detaining authority to invoke Act 14 of 1982 against the detenu.

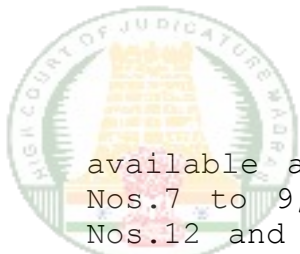
4. The detaining authority after considering the averments made in the affidavit and other connected documents has derived subjective satisfaction to the effect that the detenu is a 'habitual offender' and ultimately branded him as 'goonda' by way of passing the impugned detention order and in order to quash the same, the present Habeas Corpus 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 ultimately prayed to dismiss the same.

6. The learned counsel appearing for the petitioner has contended that on the side of the detenu four 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. The learned Additional Public Prosecutor has contended that all the representations submitted on the side of the detenu are duly disposed of without delay and therefore, the detention order in question need not be quashed.

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.12 and 13, 14 clear working days are available. With regard to second representation in in between column Nos.7 to 9, 17 clear working days are available and in between column Nos.12 and 13, 11 clear working days are available. With regard to third representation, in between column Nos.7 to 9, 7 clear working days are available and in between column Nos.12 and 13, 10 clear working days are



available and with regard to fourth representation, in between column Nos.7 to 9, 8 clear working days are available and in between column Nos.12 and 13, 12 clear working days are available and no explanation has been given on the side of the respondents with regard to huge delay which occurred in disposing of the representations submitted on the side of the detenu and that itself would affect his rights 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 M.H.S.Confdl.No.145/201 by the detaining authority/second respondent herein is quashed and the detenu by name Sudhakar @ Sutti Sudhakar, son of Raj 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(C.S)
Madurai Bench of Madras High Court,
Madurai.

To

- 1.State of Tamil Nadu,
Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George, Chennai - 600 009.
- 2.The Deputy Inspector General of Police,
Tirunelveli Range and Commissioner of Police,
Tirunelveli City, (Full Additional Charge)
Tirunelveli.
- 3.The Superintendent of Prison,
Central Prison,Palayamkottai,Tirunelveli.
(In duplicate communicate to the detenu)
- 4.The Joint Secretary to Government,
(Law and Order),Fort St.George,Chennai - 9.
- 5.The Addl.Public Prosecutor,
Madurai Bench of Madras High Court,Madurai.
+1cc to M/S.R.Alagumani, Advocate in SR.No.25477

H.C.P. (MD) No.52 of 2016
29.04.2016

ps

PA/NGM-SS/AR I/29.04.2016/3P/8C