



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 26.04.2016

Coram

WEB COPY

THE HONOURABLE MR.JUSTICE A.SELVAM
and
THE HONOURABLE MR.JUSTICE B.GOKULDAS

H.C.P. (MD) No.56 of 2016

K.Linganathan

.. Petitioner

Vs.

1.State of Tamilnadu,
rep.by its Secretary to Government,
Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Chennai - 600 009.

2.The District Collector and District Magistrate,
Ramanathapuram District,
Ramanathapuram. .. Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus to call for records pertaining to the proceedings of the 2nd respondent made in his proceedings in No.19/Goonda/2015 dated 01.10.2015 and quash the same and set the petitioner's brother by name Vadivelmurugan S/o.Kilavan aged about 25 years at liberty from Central Prison, Madurai.

For Petitioner : Mr.N.I.Ilango
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 No.19/Goonda/2015 dated 01.10.2015 by the detaining authority who has been arrayed as second respondent herein against the detenu by name Vadivelmurugan S/o.Kilavan and quash the same.



2.The Inspector of Police, Kamuthi Police Station as sponsoring authority has submitted an affidavit to the detaining authority, wherein it is stated that the detenu has already involved in the following adverse cases:

(i)Crime No.166 of 2014, Kamuthi Police Station, registered under Sections 294(b) and 324 of the Indian Penal Code; and

(ii)Crime No.52 of 2015, Kamuthi Police Station, registered under Sections 341, 294(b) of the Indian Penal Code and 3 of TNPPDL Act.

3. Further it is stated in the affidavit that on 10.08.2015 one Kilavan S/o.Valivittan as defacto complainant has given a complaint against the detenu in Kamuthi Police Station and the same has been registered in Crime No.214 of 2015 under Sections 294(b) and 307 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 Habeas Corpus Petition has been filed by the brother of the detenu as petitioner.

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 the same.

6.The learned counsel appearing for the petitioner has contended that on the side of the detenu a representation has been submitted and the same has 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 has contended that the representation submitted on the side of the detenu has been 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 in between column Nos.7 to 9, 13 clear working days are available and in between column Nos.12 and 13, 14 clear working days are available and no compliance has been given on the side of the respondents with regard to such delay and the same 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 01.10.2015 passed in No.19/Goonda/2015 by the detaining authority/second respondent herein is quashed and the detenu by name Vadivelmurugan S/o.Kilavan 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.

mj

To

1. State of Tamilnadu,
Secretary to Government,
Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Chennai - 600 009.
2. The District Collector and District Magistrate,
Ramanathapuram District,
Ramanathapuram.
3. The Superintendent Central Prison, Madurai.
(in duplicate copy to communicate the detenu)
4. The Joint Secretary to Government
Public (Law & Order) St., Fort George, Chennai-
5. The Addl. Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 cc to Mr.N.I.Ilango, Advocate, SR No.23766

RG.SK-SKN/SAR-I 29.04.2016 3P.8C

H.C.P. (MD) No.56 of 2016
26.04.2016