



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 26.04.2016

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

H.C.P. (MD) No.59 of 2016

Anjalai

.. Petitioner

Vs.

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

2.The Commissioner of Police,
Tiruchirapalli City,
Tiruchirapalli.

.. 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 records relating to the Detention order passed by the 2nd Respondent in his proceedings C.No.45/Detention/ C.P.O/T.C/2015 dated 14.12.2015 and quash the same and direct the respondents to produce the body or person of the detenu namely Prabhu S/o. Perumal, aged 24 years (now detained at Central Prison, Trichy) before this Court and set him at liberty.

For Petitioner : Mr.N.Anandakumar
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 C.No.45/Detention/C.P.O/T.C/2015 dated 14.12.2015 by the detaining authority who has been arrayed as second respondent herein against the detenu by name Prabhu S/o. Perumal and quash the same.

2.The Inspector of Police, Ponmalai Police Station as
<https://hcservices.accounts.gov.in/hcservices/>
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.16 of 2014, Tiruchirapalli City, Ponmalai Police Station, registered under Sections 341, 294(b), 324 and 506(ii) of the Indian Penal Code; and

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(ii) Crime No.135 of 2014, Pudukottai District, Pudukottai Town Police Station, registered under Sections 147, 148, 120(b), 302, 294(b), 324 and 506(ii) of the Indian Penal Code.

3. Further it is stated in the affidavit that on 25.10.2015 one Ravichandran S.o.Parasuraman as defacto complainant has given a complaint against the detenu in Ponmalai Police Station and the same has been registered in Crime No.525 of 2015 under Section 392 r/w 397 of the Indian Penal Code and ultimately requested the detaining authority to invoke Act 14 of 1982 against the detenu.

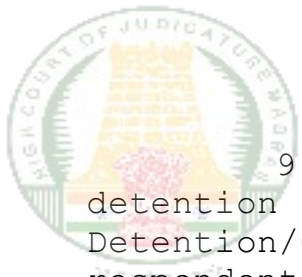
4.The detaining authority after considering the averments made in the affidavit and other connected documents has derived subjective satisfaction to the effect that the detenu is a 'habitual offender' and ultimately branded him as 'boot-legger' by way of passing the impugned detention order and in order 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 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.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, 5 clear working days are available and in between column Nos.12 and 13, 11 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 rights of the detenu. The detention order is liable to be quashed 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 14.12.2015 passed in C.No.45/ Detention/C.P.O/T.C/2015 by the detaining authority /second respondent herein is quashed and the detenu by name Prabhu S/o. Perumal 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,
State of Tamilnadu,
Home, Prohibition and Excise Department,
Fort St.George, Chennai - 600 009.
2. The Joint Secretary to Government,
Public (Law & Order)
Fort. St.Gerge, Chennai-600 009.
3. The Superintendent of Prison,
Central Prison, Trichy.
(In duplicate copy communicate to detenu)
4. The District Collector, Trichy District, Trichy.
5. The Inspector General of Prisons, Chennai.
6. The Commissioner of Police,
Tiruchirapalli City,
Tiruchirapalli.
7. The Addl.Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

RG.JGB-SS/SAR-I 09/05/2016 3P.9C

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