



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 27.04.2016

Coram

THE HONOURABLE MR.JUSTICE A.SELVAM

and

THE HONOURABLE MR.JUSTICE B.GOKULDAS

H.C.P. (MD) No. 60 of 2016

B.Prakash

.. Petitioner

Vs.

1.The Secretary to Government,
Government of Tamil Nadu,
Prohibition and Excise IX,
Secretariat, George Fort, Chennai - 600 009.

2.The District Magistrate and District Collector,
Dindigul District,
Dindigul.

.. 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 on the file of the 2nd respondent in Detention Order No.2/2016 and set aside the order of detention passed therein dated 03.01.2016 and direct the Respondents to produce the detenu by name Vinoth aged 25 years S/o.Baskaran before this Court now detained at Central Prison, Madurai and set him at liberty forthwith.

For Petitioner : Mr.J.William Christopher

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 Detention Order No.2/2016 dated 03.01.2016 by the detaining authority who has been arrayed as second respondent herein against the detenu by name Vinoth S/o.Baskaran and quash the same.

2.The Inspector of Police, Vilampatty Police Station, as sponsoring authority has submitted an affidavit to the detaining authority, wherein it is stated that on 07.11.2015 one Manibharathi S/o.Subramani as defacto complainant has given a complaint against the detenu and others and the same has been registered in Crime No.150 of 2015 under Sections 149 and 302 of the Indian Penal Code r/w 3(2)(v) of SC/ST Act, 1989 altered to Sections 147, 148, 149, 120(b), 302 of the Indian Penal Code r/w 3(2)(v) of SC/ST Act 1989 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 has derived subjective satisfaction to the effect that the detenu can be branded as 'goonda'. Under the said circumstances, he passed 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.

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 ultimately prayed to dismiss the same.

5.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.

6.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 require any interference.

7.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, 8 clear working days are available and in between column Nos.12 and 13, 13 clear working days are available and no explanation has been given on the side of the respondents with regard to such delay in disposing of the representation 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.

8. In fine, this Habeas Corpus Petition is allowed and the detention order dated 03.01.2016 passed in Detention Order No.2/2016 by the detaining authority/second respondent herein is quashed and the detenu by name Vinoth S/o.Baskaran 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.The Secretary to Government,
Government of Tamil Nadu,
Prohibition and Excise IX,
Secretariat, George Fort, Chennai - 600 009.

2.The District Magistrate and District Collector,
Dindigul District,
Dindigul.



3.The Superintendent,
Central Prison, Madurai.(In duplicate communicate to the detenu)

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

5.The Inspector of Police,
Vilampatty Police Station, Dindigul District.

6.The Director General of Police,
Chennai - 600 004.

7.The Inspector General of Prisons,
Chennai - 600 008.

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

+1cc to M/S.J.William Christopher, Advocate in SR.No.24565

H.C.P. (MD) No.60 of 2016
27.04.2016

mj

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