



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 27.04.2016

Coram

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

H.C.P.(MD)No.69 of 2016

R.Sulochana

.. Petitioner

Vs.

1.State of Tamil Nadu,
rep.by the Principal Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George, Chennai - 600 009.

2.The Commissioner of Police,
O/o.Commissioner of Police, Madurai City.

3.The Superintendent of Central Prison,
Central Prison, Palayamkottai, .. Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus to for the entire records in detention order passed in No.188/BCDFGISSSV/2015 dated 30.12.2015 on the file of the 2nd respondent herein and set aside the same as illegal and direct the respondents to produce the body or person of the petitioner's son namely Madhan @ Madhankumar @ Kurangu S/o.Raju, male aged about 23 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

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.188/BCDFGISSSV/2015 dated 30.12.2015 by the detaining authority who has been arrayed as 2nd respondent herein against the detenu by name Madhan @ Madhankumar @ Kurangu S/o.Raju 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 is stated that one Muthuvel as defacto complainant has given a complaint against the detenu and others and the same has been registered in Crime No.1599 of 2015 under Sections 147, 148, 302 and 506(ii) of the Indian Penal Code 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 has committed a grave offence 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.

4. On the side of the respondents a detailed counter has been filed, wherein it has been contended *inter alia* 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 represented 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.

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, 5 clear working days are available and in between column Nos.12 and 13, 14 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 30.12.2015 passed in No.188/BCDFGISSSV/2015 by the detaining authority/second respondent herein is quashed and the detenu by name Madhan @ Madhankumar @ Kurangu S/o.Raju is ordered to be set at liberty forthwith, unless he is required to be incarcerated in any other case.

Sd/-

Assistant Registrar(CSII)



To

- 1.State of Tamil Nadu,
The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George, Chennai - 600 009.
 - 2.The Commissioner of Police,
O/o.Commissioner of Police, Madurai City.
 - 3.The Superintendent of Central Prison,
Central Prison, Palayamkottai,
 - 4.The Joint Secretary to Government,
Public(Law and Order),
Fort Saint George, Chennai-9
 - 5.The Inspector of Pollice,
E-3 Anna Nagar Police Station,
Madurai
 - 6.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai
- +One cc to Mr.K.A.S.Prabhu, Advocate, SR.No.24151
- mj
RL/8C/3P/NGM/SS/SARI/2/5/2016

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