



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 21.04.2016

Coram

THE HONOURABLE MR.JUSTICE A.SELVAM
and

THE HONOURABLE MR.JUSTICE B.GOKULDAS

H.C.P. (MD) No.90 of 2016

Kamayee

.. Petitioner

Vs.

1.The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Chennai - 9.

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

3.The Inspector of Police,
Vilampatti Police Station,
Dindigul District.

.. Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India praying to call for the entire records pertaining to the order of detention passed by the 2nd respondent vide his proceedings in Detention Order No.04/2016 dated 03.01.2016 and quash the same and consequently set the detenu Niranjana S/o.Tamilvanan, Male aged 26 years who is presently confined at Central Prison, Madurai at liberty.

For Petitioner : Mr.M.Pitchaimuthu

For Respondents : Mr.C.Ramesh

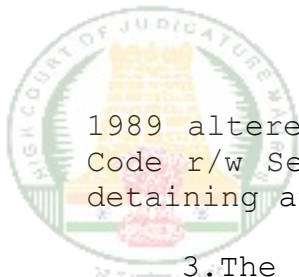
Addl.Public Prosecutor

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.04/2016 dated 03.01.2016 by the detaining authority against the detenu by name Niranjana S/o.Tamilvanan and quash the same.

2.The Inspector of Police, Vilampatti Police Station as sponsoring authority has submitted an affidavit to the detaining authority, wherein it is stated that on 07.11.2015 one Manibharathi as defacto complainant has given a complaint against the detenu and others in Vilampatti Police Station 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 Section 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 and also after considering the gravity of offence alleged to have been committed by the detenu, has branded him as 'goonda' by way of passing the impugned detention order and in order to quash the same, the present petition has been filed by the mother 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 two 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.

6.The learned Additional Public Prosecutor has contended that 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.

7.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.7 to 9, 10 clear working days are available and in between column Nos.12 and 13, 10 clear working days are available and with regard to second representation, in between column Nos.7 to 9, 14 clear working days are available and in between column Nos.12 and 13, 6 clear working days are available and no explanation has been given on the side of the respondents with regard to such delay and that itself 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.

8.In fine, this Habeas Corpus Petition is allowed and the detention order dated 03.01.2016 passed in Detention Order No.04/2016 by the detaining authority/second respondent herein is quashed and the detenu by name Niranjana S/o.Tamilvanan is ordered to be set at liberty forthwith, unless he is required to be incarcerated in any other case.

Sd/
Assistant Registrar

/True Copy/

Sub Assistant Registrar.

To

1.The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Chennai - 9



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

3.The Inspector of Police,
Vilampatti Police Station,
Dindigul District.

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

5. The Joint Secretary to Government,
Public (Law and Order) Department,
Fort St. George,
chennai.

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

+1CC to M/S.M.Pitchai Muthu,Advocate, SR.No. 23304

H.C.P. (MD) No.90 of 2016
21.04.2016

AM/JGB.DP/SAR-I/26.04.2016/3P/9C