



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 26.04.2016

Coram

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

H.C.P. (MD) No.96 of 2016

Nallathambi

.. Petitioner

Vs.

1.The Secretary to Government,  
Home, Prohibition and Excise Department,  
Secretariat, Chennai - 600 009.

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

3.The Superintendent of Prison,  
Palayamkottai Central Prison,  
Tirunelveli District.

.. 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 entire records connected with the detention order of the second respondent in H.S.(M).Confdl.No.03/2016 dated 16.01.2016 and quash the same and direct the respondents to produce the body and person of the detenu namely Anbu patturaj @ Patturajan, S/o.Nallathambi Nadar aged about 32 years detained in Palayamkottai Central prison before this Court and set him at liberty.

For Petitioner : Mr.R.Alagumani  
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 H.S.(M).Confdl.No.03/2016 dated 16.01.2016 by the detaining authority who has been arrayed as second respondent herein against the detenu by name Anbu Patturaj @ Patturajan, S/o.Nallathambi Nadar and quash the same.

2.The Inspector of Police, Srivaikundam 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.82 of 2014, Murappanad Police Station, registered under Sections 147, 148, 294(b), 324 and 506(ii) of the Indian Penal Code and 3 of TNPPDL Act, 1992 altered to Sections 147, 148, 294(b) and 506(ii) of the Indian Penal Code and 3 of TNPPDL Act.

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(ii) Crime No.272 of 2014, Srivaikundam Police Station, registered under Sections 147, 448, 379 (NP), 294(b), 506(ii) of the Indian Penal Code and 3 and 4 of TNPPDL Act, 1992 altered to Sections 147, 148, 448, 294(b) and 506(ii) of the Indian Penal Code and 3 and 4 of TNPPDL Act.

(iii) Crime No.273 of 2014, Srivaikundam Police Station, registered under Sections 147, 448, 294(b) and 506(ii) of the Indian Penal Code and 3 and 4 of TNPPDL Act, 1992 altered to Sections 147, 148, 448, 294(b) and 506(ii) of the Indian Penal Code and 3 and 4 of TNPPDL Act.

(iv) Crime No.74 of 2015, Srivaikundam Police Station, registered under Sections 147, 148, 302, 307 and 506(ii) of the Indian Penal Code altered to Sections 147, 148, 302, 307 and 506(ii) of the Indian Penal Code r/w 120-B of the Indian Penal Code.

3. Further it is stated in the affidavit that on 24.12.2015 one Mani S/o.Chinnadurai as defacto complainant has given a complaint to the Inspector of Police, Srivaikundam Police Station against the detenu and the same has been registered in Crime No.410 of 2015 under Sections 294 (b), 387, 397, 307 and 506(ii) 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 father 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 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.

7.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 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 with regard to first

representation in between column Nos.7 to 9, 24 clear working days are available and in between column Nos.12 and 13, 12 clear working days are available and with regard to second representation in between column Nos.7 to 9, 10 clear working days are available and in between column Nos.12 and 13, 12 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 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 16.01.2016 passed in H.S.(M).Confdl.No.03/2016 by the detaining authority/second respondent herein is quashed and the detenu by name Anbu patturaj @ Patturajan, S/o.Nallathambi Nadar 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 Secretary to Government,  
Home, Prohibition and Excise Department,  
Secretariat, Chennai - 600 009.
- 2.The District Collector and District Magistrate,  
Thoothukudi District, Thoothukudi.
- 3.The Superintendent of Prison,  
Palayamkottai Central Prison,  
Tirunelveli District. (In duplicate to communicate the detenu)
- 4.The Addl.Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.

+1CC to M/S.R.Alagumani, Advocate, SR.No. 23886

H.C.P. (MD) No.96 of 2016  
26.04.2016

AM/NGM.SS/AR-I/28.04.2016/3P/7C