

(2014) 12 MAD CK 0280

Madras High Court (Madurai Bench)

Case No: Habeas Corpus Petition(MD) No. 1021 of 2014

Ganapathy

APPELLANT

Vs

The District Collector, Dindigul
District

RESPONDENT

Date of Decision: Dec. 9, 2014

Acts Referred:

- Constitution of India, 1950 - Article 22(5), 226
- Explosive Substances Act, 1908 - Section 3, 4, 5
- Penal Code, 1860 (IPC) - Section 120(b), 147, 148, 302, 307

Hon'ble Judges: V.S. Ravi, J; A. Selvam, J

Bench: Division Bench

Judgement

@JUDGMENTTAG-ORDER

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 detention order passed in Detention Order No. 19/2014, dated 18.07.2014 by the detaining authority, who has been arrayed as first respondent herein against the detenu by name G.Mani @ Estate Mani, Son of Ganapathy and quash the same and thereby set him at liberty forthwith.

2. The Inspector of Police, Ammaiyaanackanur Police Station as sponsoring authority has submitted an affidavit to the detaining authority, wherein it is stated that the detenu has involved in the following adverse cases:

(i) Crime No. 173 of 2013, Erode Town Police Station registered under Sections 302, 307 and 324 of the Indian Penal Code @ Sections 120(b), 324, 307 and 302 read with 34 of the Indian Penal Code.

(ii) Crime No. 171 of 2014, Sempatty Police Station registered under Sections 395 and 506(ii) of the Indian Penal Code.

3. Further it is stated in the affidavit that on 16.06.2014, Special Sub Inspector of Police, Highway Patrol-III, Ammaiyanaickanur Police Station has lodged a complaint against the detenu and others and the same has been registered in Crime No. 102 of 2014 under Sections 147, 148, 341 and 307 of the Indian Penal Code read with Sections 3, 4 and 5 of the Explosive Substance Act, 1908 and ultimately requested the detaining authority to invoke Act 14 of 1982 against the detenu.

4. The detaining authority viz., first respondent herein after perusing the averments made in the affidavit coupled with 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 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.

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 considered 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 considered and disposed of without delay and therefore the detention order in question is not liable to be quashed.

8. On the side of the respondents, a proforma has been submitted wherein it has been clearly stated that in between Column Nos. 7 and 9, six clear working days are available and in between Column Nos. 12 and 13, ten 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 the 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 18.07.2014 passed in Detention Order No. 19/2014 by the first respondent/detaining authority is quashed and consequently the respondents are directed to set the detenu viz., G.Mani @ Estate Mani, Son of Ganapathy at liberty forthwith, unless he is required to be incarcerated in connection with any other case.