BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 10.05.2012
CORAM:
THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR.JUSTICE D.HARIPARANTHAMAN

H.C.P(MD)No.570 of 2012

T.Gurusamy Desikar ... Petitioner

Vs.

1.The Commissioner of Police,
Madurai District,
Madurai District.

2.The Inspector of Police,
Vilakkuthoon Police Station,
Madurai District.

3.The Emigration Officer,
Madurai Airport,
Madurai District,
Madurai.

4.Swami Nithiyanandha,
Pidathi Ashramam,
Bangalore. ... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus directing the respondents 1 and 2 to produce the body or person of the detenu/Madurai Aathinam, Arunagirinatha Paramasariyar Swamigal before this Court and set him at liberty.

For Petitioner : Mr.W.Peter Ramesh Kumar
for Ms.E.Udhaya

For Respondents : Mr.T.S.Mohammed Mohideen,
Additional Govt. Pleader
for R.1 to R.3

Mr.Veera.Kathiravan for R.4

* * * * *

ORDER

The petitioner claiming to be a devotee of Dharmapuram Mutt as well as the

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ORDER

The petitioner claiming to be a devotee of Dharmapuram Mutt as well as the

Manager of the Dharmapuram Mutt, came forward to invoke the jurisdiction of this Court under Article 226 of the Constitution of India by filing this Habeas Corpus petition directing the respondents 1 and 2 to produce the body or person of Madurai Adheenam, Arunagirinatha Paramasariyar Swamigal who is the Head of Madurai Adheenam and set him at liberty.

2. In the affidavit filed in support of this petition, it is averred among other things that there were 18 ancient Adheenams throughout Tamil Nadu and according to the unchanged custom and practice Thiruvavadudurai and Dharmapuram are treated as eyes of Saivites and those two were found in 19th century and at present there are only 12 Adheenams in Tamil Nadu.

3. The petitioner would further aver that the fourth respondent in the colour of religion, deluded the devotees and had indulged in various mischievous activities contrary to a Saint and in this regard, number of criminal cases are registered against him and they are pending trial before the Courts of law and he had some influence over the detenu and managed to get himself appointed as next Adheenam. It is further averred by the petitioner that aggrieved by the appointment of the fourth respondent as Madurai Adheenam, all Heads of other Adheenams called for an urgent meeting on 01.05.2012 and passed an unanimous resolution calling for the removal of the fourth respondent.

4. It is also averred by the petitioner that the person to be appointed as Adheenam should possess certain qualifications that he should be Saivite belonging to Saiva Chettiar, Saiva Pillaimar and Saiva Muthaliyar community and before appointing him as the successor to Madurai Adheenam, certain mandatory formalities are to be performed, but in the case of appointment as fourth respondent, none of the rituals or age old practices were followed and they were given a go-by.

5. Since the present detenu is under the illegal custody of the fourth respondent

and his whereabouts were not known and further that, the fourth respondent is taking steps to send the detenu to a foreign country, the detenu is to be produced before this Court and the learned Counsel for the petitioner prayed for the production of the said detenu before this Court and setting him at liberty.

6. Mr.W.Peter Ramesh Kumar, learned Counsel for the petitioner has also drawn the attention of this Court to the writ petition filed in W.P(MD)No.6607 of 2012 filed by M.Solaikannan, the President of Hindu People Party and also the writ petition filed in W.P.No.12915 of 2012 by Ma.Gouthaman before the Principal Seat of this Court and would submit that the detenu is regularly being administered with narcotic drugs and psychotropic substances and consequently, he is not in a position to take his decision in a sane manner and under the influence of the drugs, he named the fourth respondent as 293rd Guru Maha Saneethanam.

7. It is further submitted by the learned Counsel for the petitioner that serious attempts are also made to send the detenu to a foreign country to enable the fourth respondent to take complete control over Madurai Adheenam which owns properties in India as well as abroad worth about crores and crores and the real intention of the fourth respondent is to usurp the properties for his personal gain and benefit.

8. It is vehemently contended by the learned Counsel for the petitioner that since the detenu is under the control of the fourth respondent and emergent steps are taken to send him abroad, urgent and immediate orders are necessary for his production before this Court and set him at liberty.

9. Mr.Veera.Kathiravan, learned Counsel representing M/s.G.Bala, learned Counsel for the detenu, has filed the affidavit of the detenu dated 03.05.2012 and would submit that the fact that even as per the the newspapers reports and visual

media reports, the detenu made a categorical statement that he is not under the influence of the fourth respondent and he has taken the decision solely in the interest of the Mutt and therefore, it is false to allege that he is under the influence of the fourth respondent. It is the further submission of the learned Counsel for the fourth respondent that the detenu is not intended to leave abroad and even assuming that the appointment of the fourth respondent is not in accordance with law and custom, it is open to the petitioner herein to avail other remedies available under the statute.

10. This Court has carefully considered the rival submissions and also perused the affidavit filed in support of this petition and the affidavit of the detenu.

11. It is very pertinent and relevant to point out at this juncture that the detenu himself filed the affidavit dated 03.05.2012 stating as follows:

"I, the 292nd Guru Maha Sannidhanam Sri La Sri Arunagirinatha Sri Gnanasambanda Desiga Paramachariya Swamigal also called as Madurai Adheenam, aged about 67 years, residing and having my Head Quarters Office at No.70, South Avani Moola Veedhi, Madurai - 1 do hereby solemnly affirm and sincerely state as follows:

1. I have been implicated as an alleged detenu in the above Habeas Corpus petition. At the outset I deny all the allegations set out in affidavit filed in support of the above Habeas Corpus Petition.

The above petition and affidavit has been filed with imaginary information without verifying the essential facts and actual truth.

2. I submit that, I am neither under the control nor under the illegal custody of any person, including the fourth respondent herein.

3. I submit that, the above HCP filed by the petitioner is a clear case of abuse of the process of law. The petitioner has no locus standi to file the present Habeas Corpus Petition.

4. I submit that, the present petition has been filed with an intention for tweet media publicity.

5. I submit that I have been meeting the devotee's everyday at my Madurai Aadheenam and I had also met all the general public and press people and gave a public statement on 2/05/2012 at Madurai in order to clear all the unwarranted rumors.

6. I submit that, the petitioner herein is not known to me and he has filed this petition only with an intention to be-little me and the image of my Madurai Aadheenam in the eyes of the public.

7. I submit that, I am fully eligible, empowered and competent to manage, administer and appoint my successor of Madurai Aadheenam. The petitioner has no locus standi or is a person aggrieved by the functions of the Aadheenam. Hence, approaching this Hon'ble Court by filing this Habeas Corpus Petition is unwarranted, uncalled for and amount to abuse of the process of law.

8. I submit that, at present I have no plans to leave the country. Hence, the statement that the fourth respondent is trying to send me off to a foreign country is totally denied as false.

9. I submit that the conduct of the petitioner is insulting, scandalous and motivated by malice. This imputations made in the affidavit filed in support of the petition has brought disgrace and humiliation to the entire Madurai Adheenam and its devotees. I reserve my right to proceed against the petitioner herein as per the provisions of both civil and criminal law for his unwarranted interference in the affairs of the Madurai Aadheenam."

12. The contents of the affidavit of the detenu would disclose that he is neither under the control nor under the illegal custody of any person including the fourth respondent and the present Habeas Corpus Petition has been filed only with an

intention to get media publicity. It is further stated by the detenu that the allegations are scandalous in nature and motivated by malice and brought disgrace and humiliation to the entire Madurai Aadheenam and its devotees and that he is not having any plan to leave Tamil Nadu and also specifically denied the allegation that the fourth respondent is trying to send him to a foreign country.

13. The detenu also reserved his right over the petitioner as per the provisions of the civil and criminal law for his unwarranted interference in the affairs of Madurai Aadheenam.

14. Admittedly, no complaint or representation has been sent to the respondents 1 and 2 and the document relied on is a copy of the resolution said to have been passed by various Heads of religious Heads and no supporting affidavit has been filed to show that such a meeting was convened and a resolution was passed.

15. This Court on careful perusal of the affidavit filed by the detenu is of the view that he is not in illegal custody or detention and in the absence of sufficient materials, is not inclined to order this petition.

16. In the result, the Habeas Corpus Petition is dismissed.

Index:Yes/No
Internet :Yes/No
rsb

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PRE-DELIVERY ORDER MADE IN
H.C.P(MD)No.570 of 2012
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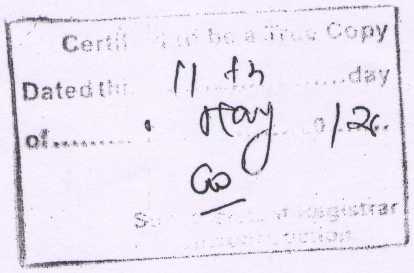
2/2

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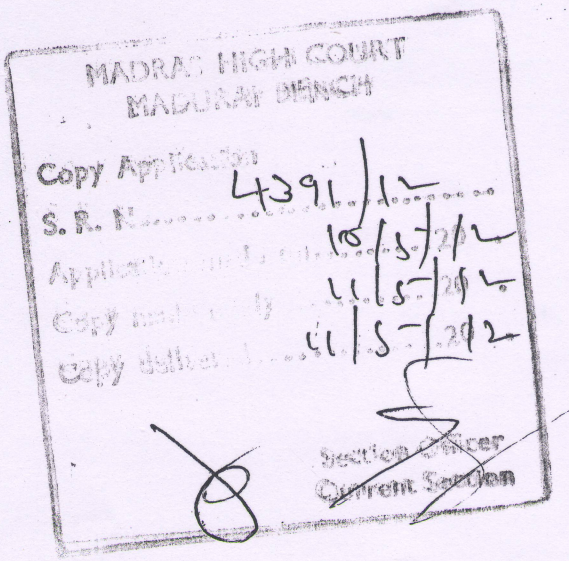
MADRAS HIGH COURT
MADURAI BENCH
Copy Application
4391/12
S. F. No.
10/5/2012
11/5/2012
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Section Officer
Current Section