

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.10.2015

C O R A M

THE HONOURABLE MR.JUSTICE C.T.SELVAM

AND

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

Habeas Corpus Petition No.1543 of 2015

Muniyasamy,
S/o.Vellaiyan

... Petitioner

-vs-

1.The Secretary to the Government,
Department of Consumer Affairs,
Government of India, "Krishi Bhavan",
New Delhi - 110 001.

2.The Secretary to the Government,
Co-operation, Food and Consumer
Protection Department,
Secretariat, Chennai-600 009.

3.The District Collector and
District Magistrate,
Kancheepuram District,
Kancheepuram.

... Respondents

Writ petition under Article 226 of the Constitution of India filed praying for issuance of a writ of Habeas Corpus to call for the records in connection with the order of detention passed by the third respondent dated 24.05.2015 in D.O. No.47/2015/M6 against the petitioner's son Thangadurai, male, aged 24 years, S/o.Muniyasamy, now confined at Central Prison, Vellore and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr.S.Senthil Vel
For Respondents : Mr.G.Venkatesan
CGSC for R1
Mr.M.Maharaja,
Additional Public Prosecutor
for R2 and R3

O R D E R

(The order of the Court was made by C.T.SELVAM, J.)

Petitioner is the father of the detenu Thangadurai, S/o.Muniyasamy, who has been branded as "Black Marketeer" under the Tamil Nadu Act 14 of 1982 and detained under orders of third respondent passed in D.O. No.47/2015/M6 dated 24.05.2015. Such order is under challenge herein.

2.Even though learned counsel for petitioner raised many grounds in assailing the impugned order of detention in the petition, he confined his arguments only to the ground of delay in considering the representation of the detenu, dated 25.06.2015. According to the learned counsel for petitioner, representation dated 25.06.2015 has been received by the Government on 26.06.2015; remarks were called on 30.06.2015, but the said remarks were received only on 13.07.2015; after a delay of thirteen days. He adds that though the file was submitted to the Under Secretary on 15.07.2015, the Minister has dealt with the said file of the detenu only on 20.07.2015, with a further delay of five days and the rejection letter was sent to the detenu on 22.07.2015. It is his further submission that as per the Proforma submitted by the learned Additional Public Prosecutor, there were four intervening holidays and even after excluding the intervening holidays, there still is a delay of nine[9] days, which remains unexplained. The unexplained delay in considering the representation of the detenu vitiates the detention order.

3.We have heard learned Additional Public Prosecutor on the above submissions.

4.As per the Proforma submitted by the learned Additional Public Prosecutor, it is clear that in between 30.06.2015 and 13.07.2015, there is a delay of thirteen days. Even if the four intervening holidays, namely 04.07.2015, 05.07.2015, 11.07.2015 and 12.07.2015 are excluded, there still is a delay of nine days, which remains unexplained. For the aforesaid reason, this Court would allow the present petition.

5.This Habeas Corpus Petition is allowed. The impugned order passed by third respondent against the detenu Thangadurai, S/o.Muniyasamy, made in D.O. No.47/2015/M6 dated 24.05.2015, is quashed. The detenu is ordered to be set at liberty forthwith, unless his custody is required in connection with any other case.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

vga
To

1.The Secretary to the Government,
Department of Consumer Affairs,
Government of India, "Krishi Bhavan",
New Delhi - 110 001.

2.The Secretary to the Government,
Co-operation, Food and Consumer
Protection Department,
Secretariat, Chennai-600 009.

3.The District Collector and
District Magistrate,
Kancheepuram District,
Kancheepuram.

4.The Superintendent of Central Prison,
Vellore.

5.The Public Prosecutor
High Court, Chennai.

6.The Joint Secretary to Government
Public Law and Order Department,
Secretariat, Chennai-9
+1 cc to Mr.B.G.Venkatesan, Central Government Counsel
sr.56486

H.C.P.No.1543 of 2015

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