

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.2012 of 2015

A.Shanthi
W/o.Anbu @ Anbalagan ... Petitioner

-vs-

- 1.The Additional Secretary to Government of India,
Ministry of Consumer affairs,
Food and Public Distribution,
(Department of Consumer Affairs),
Room No.270, Krishi Bhavan,
New Delhi - 110 001.
- 2.The Secretary to the Government,
Co-operation, Food and Consumer
Protection Department,
Namakkal Kavingnar Maaligai,
II Floor, Secretariat, Chennai-600 009.
- 3.The District Collector and
District Magistrate,
Krishnagiri District, Krishnagiri. ... 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 in his office ref. S.C. No.62/2015(CS) dated 17.06.2015 against the petitioner's son namely Karthikeyan, S/o.Anbu @ Anbalagan, aged about 30 years, now detained at Central Prison, Salem, Salem District and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr.E.Kannadasan

For Respondents : 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 mother of the detenu Karthikeyan, S/o.Anbu @ Anbalagan, who has been branded as "Black Marketeer" under the Tamil Nadu Act 14 of 1982 and detained under orders of third respondent passed in S.C. No.62/2015(CS) dated 17.06.2015. 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 10.08.2015. According to the learned counsel for petitioner, representation dated 10.08.2015 has been received by the Government on 18.08.2015; remarks were called on 20.08.2015, but the said remarks were received only on 07.09.2015; after a delay of eighteen days. He adds that though the file was submitted to the Under Secretary on 10.09.2015, the Minister has dealt with the said file of the detenu only on 15.09.2015, with a further delay of five days and the rejection letter was sent to the detenu on the next day i.e. on 16.09.2015. It is his further submission that as per the Proforma submitted by the learned Additional Public Prosecutor, there were seven intervening holidays and even after excluding the intervening holidays, there still is a delay of sixteen[16] 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 20.08.2015 and 07.09.2015, there is a delay of eighteen days. Even if the seven intervening holidays, namely 22.08.2015, 23.08.2015, 28.08.2015, 29.08.2015, 30.08.2015, 05.09.2015 and 06.09.2015 are excluded, there still is a delay of eleven days, which remain unexplained. For the aforesaid reason, this Court would allow the present petition.

5.This Habeas Corpus Petition is allowed. The impugned order passed by second respondent against the detenu Karthikeyan, S/o.Anbu @ Anbalagan, made in S.C. No.62/2015(CS) dated

17.06.2015, is quashed. The detenu is ordered to be set at liberty forthwith, unless his custody is required in connection with any other case.

vga

s/d-
Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

To

1. The Additional Secretary to Government of India,
Ministry of Consumer affairs,
Food and Public Distribution,
(Department of Consumer Affairs),
Room No.270, Krishi Bhavan,
New Delhi - 110 001.
2. The Secretary to the Government,
Co-operation, Food and Consumer
Protection Department,
Namakkal Kavingnar Maaligai,
II Floor, Secretariat, Chennai-600 009.
3. The District Collector and
District Magistrate,
Krishnagiri District, Krishnagiri.
4. The Secretary to Govt.
Home, Prohibition and Excise Dept.
Fort St.George, Chennai 9.
5. The Superintendent of Central Prison,
Salem.
6. The Joint Secretary to Govt.
Public (Law and Order) dept.
Fort St.George, Chennai 09.
7. The Public Prosecutor
High Court, Chennai.

kji(co)
prk27/10

H.C.P.No.2012 of 2015