



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.07.2015

CORAM:

THE HONOURABLE MR.JUSTICE A.SELVAM

and

THE HONOURABLE MR.JUSTICE V.S.RAVI

HABEAS CORPUS PETITION (MD) No.1131 of 2014

K.Raman

.. Petitioner

Vs.

1.The State of Tamil Nadu,  
Rep. By the Secretary to Government,  
Secretariat,  
Chennai - 600 009.

2.The Secretary to the Government of India,  
Ministry of Home Affairs,  
Department of Internal Security,  
New Delhi - 1.

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

4.The Superintendent,  
Central Prison,  
Madurai.

.. Respondents

**Prayer:-** Habeas Corpus Petition is filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus praying to call for records in connection with in N.S.A.D.O. No.04/2014 dated 30.08.2014 and quash the same and produce the petitioner's son namely Thiruselvam @ Kumar @ Sankar @ Murali @ Murasu @ Kannan, Son of Raman, aged about 36 years now detained under National Security Act, 1980 in Central Prison, Madurai before this Court and set him at liberty and pass such further or other orders.

For Petitioner : Mr.P.Pugalenthir

For RR 1, 3 & 4 : Mr.C.Ramesh

Additional Public Prosecutor

For R - 2 : Mr.R.Vijayarajan

Senior Panel Counsel for  
Central Government

### 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 detention order passed in N.S.A.D.O.No.04/2014 dated 30.08.2014 by the detaining authority, who has been arrayed as third respondent



herein, against the detenu by name Thiruselvam @ Kumar @ Sankar @ Murali @ Murasu @ Kannan, Son of Raman and quash the same and thereby set him at liberty forthwith.

2. The Deputy Superintendent of Police, Q Branch CID, Madurai 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.136 of 1999 Kallal Police Station registered under Sections 147, 148, 452, 427, 326, 307 and 302 of the Indian Penal Code read with Section 109 of the Indian Penal Code read with Section 25(1-B) (a) of Arms Act and also under Sections 3, 4(b), 5 and 6 of Explosive Substances Act, 1908.

(ii) Crime No.107 of 2000 Kallal Police Station registered under Sections 302 and 379 of the Indian Penal Code altered into Sections 120(b), 302, 379 of the Indian Penal Code read with Section 34 of the Indian Penal Code.

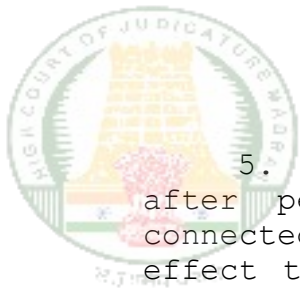
(iii) Crime No.94 of 2012 Kallal Police Station registered under Sections 302 and 120(b) of the Indian Penal Code.

(iv) Crime No.25 of 2014 Odhiansalai Police Station registered under Section 4 of Explosive Substances Act, 1908.

(v) Crime No.10 of 2014 Nachiyapuram Police Station registered under Section 153(A)(1) of the Indian Penal Code altered into Section 153(A)(1) of the Indian Penal Code and also under Sections 3 and 5 of Explosive Substances Act, 1908, altered into Section 120(b) of the Indian Penal Code read with Sections 121, 121-A, 124-A, 153(A)(1) of the Indian Penal Code and also under Sections 3 and 5 of Explosive Substances Act, 1908 and also under Section 15 read with Sections 16, 18 and 20 of the Unlawful Activities (Prevention) Act, 1967.

3. Further it is stated in the affidavit that on 10.02.2014, since an iron pipe bomb and mazza plastic bottle have been found in reliance market building, a complaint has been received from one Sivathanu, Son of Prabhakaran and the same has been registered in Othakadai Police Station in Crime No.47 of 2014 under Sections 4 and 5 of the Explosive Substances Act, 1908.

4. Considering the gravity of offences alleged to have been committed by the detenu and other accused, the case has been transferred to the Deputy Superintendent of Police, Q Branch, Madurai and ultimately requested the detaining authority to invoke National Security Act, 1980 (Central Act 65 of 1980) against the detenu.



5. The detaining authority viz., the third respondent herein, after perusing the averments made in the affidavit and other connected documents, has derived subjective satisfaction to the effect that the detenu in the habit of committing crimes one after another and ultimately detained him under the National Security Act, 1980 (Central Act 65 of 1980) by way of passing the impugned detention order, dated 30.08.2014 and in order to quash the same, the present Habeas Corpus Petition has been filed by the father of the detenu as petitioner.

6. In the counter filed on the side of the respondents 1, 3 and 4, it is averred that the detenu has involved in so many adverse cases and he has also involved in ground case and the detention order passed by the third respondent has been duly approved by the State Government and further, the representation submitted on the side of the detenu has also been duly disposed of and no lapses on the part of the respondents 1, 3 and 4 and therefore, the detention order in question is not liable to be quashed.

7. In the counter filed on the side of the second respondent, it is clearly stated that on the side of the detenu a representation dated 11.09.2014 has been sent to the Government of Tamil Nadu and the same has been forwarded to the Central Government on 18.09.2014, reached on 19.09.2014 and subsequently, two reminders dated 16.10.2014 and 30.10.2014 have been sent to the State Government for submitting for office remarks and ultimately received the same on 12.11.2014 and no lapses on the part of the second respondent and therefore, the present petition is liable to be dismissed.

8. The learned counsel appearing for the petitioner has sparingly contended that on the side of the detenu a representation dated 11.09.2014 has been given to the Government of Tamil Nadu and the same has been reached by the Home Ministry on 18.09.2014 and subsequently, the Central Government has called for parawise remarks and even after two reminders, the Government of Tamil Nadu has caused much delay and ultimately submitted on 12.11.2014 and therefore, the detention order in question is liable to be quashed.

9. The learned Additional Public Prosecutor has contended that the detention order in question has been duly approved by the State Government and further, the representation dated 11.09.2014 has been submitted to the Central Government without delay and subsequently proper parawise remarks have been submitted and therefore, the detention order in question does not call for any interference.

10. The learned Senior Panel Counsel for Central Government has simply reiterated the averments made in the counter filed on the side of the second respondent.

11. The only question that comes up for consideration in the present petition is as to whether the representation dated 11.09.2014 has been duly disposed of without delay?

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12. In paragraph No.5 of the counter filed on the side of the second respondent it has been clinchingly stated that the



representation dated 11.09.2014 has been received by the Central Government on 18.09.2014 without parawise remarks and subsequently, the Government of Tamil Nadu has been directed to submit parawise remarks and two reminders dated 16.10.2014 and 30.10.2014 have also been sent to the Government of Tamil Nadu. But ultimately the Central Government has received the same on 12.11.2014. Therefore, it is quite clear that in disposing of the representation sent to the Central Government through Government of Tamil Nadu huge delay has occurred and the Government of Tamil Nadu has not explained 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.

13. In fine, this Habeas Corpus Petition is allowed and the detention order passed in N.S.A.D.O.No.04/2014 dated 30.08.2014 by the third respondent/detaining authority is quashed and consequently the respondents are directed to set the detenu viz., Thiruselvam @ Kumar @ Sankar @ Murali @ Murasu @ Kannan, Son of Raman at liberty forthwith, unless he is required to be incarcerated in connection with any other case.

Sd/-

Assistant Registrar(RTI)

\\True copy\\

Sub Assistant Registrar

To

- 1.The Secretary to Government, State of Tamil Nadu,  
Secretariat, Chennai - 600 009.
- 2.The Secretary to the Government of India,Ministry of Home Affairs,  
Department of Internal Security, New Delhi - 1.
3. The Joint Secretary to Government, Public (Law and Order),  
Fort St.George, Chennai -9.
- 4.The District Collector and District Magistrate,  
Madurai District, Madurai.
- 5.The Superintendent, Central Prison, Madurai.
- 6.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court, Madurai.

+1cc to Mr.P.Pugalendhi, Advocate Sr.No.41855

+1cc to Mr.R.Vijayaraj, Advocate Sr.No.42040

akm/28.07.15 /4p-9c/

**ORDER MADE IN**  
**H.C.P (MD) No.1131 of 2014**  
**27.07.2015**