



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 09.01.2015

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THE HONOURABLE MR.JUSTICE A.SELVAM
and
THE HONOURABLE MR.JUSTICE T.MATHIVANAN

H.C.P. (MD) No.1214 of 2014

Selvalakshmi

.. Petitioner

Vs.

1.The Additional Secretary,
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
Government of Tamil Nadu
Co-operation, Food and Consumer
Protection Department,
Secretariat, Fort St.George,
Chennai - 600 009.

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

4.The Inspector of Police,
CSCID, Uthamapalayam,
Theni District.

.. Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus to call for entire records connected with the detention order dated 05.10.2014 passed in Detention Order No.7 of 2014 (CS) and quash the same as illegal and produce the detenu namely Rajavel S/o.Chandran aged about 33 years now he is confined in Central Prison, Madurai before this Court and set him at liberty.

For Petitioner : Mr.K.Gokul

For RR - 2 to 4 : Mr.A.Ramar

Addl.Public Prosecutor

<https://hcservices.ecourts.gov.in/hcservices/>

: Mr.G.R.Swaminathan

Addl.Advocate Solicitor General

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 the detention order passed in No.7 of 2014 (CS) dated 05.10.2014 by the detaining authority who has been arrayed as third respondent herein against the detenu by name Rajavel and quash the same and thereby set him at liberty forthwith.

2. The fourth respondent herein viz., Inspector of Police, CSCID, Uthamapalayam as sponsoring authority has submitted an affidavit to the detaining authority, wherein it is stated that the on 23.09.2014 at about 15.00 hours, the Special Squad has intercepted two lorries bearing Registration Nos.TN-60-J-3198 and TN-60-L-2947 and ultimately found smuggled public distribution system rice and consequently a case has been registered in Crime No.302 of 2014 under Sections 6(2)(3)(4) of TNSC (RDCS) Order 1982 r/w 7(i)a(ii) of EC Act, 1955 and ultimately requested the detaining authority to brand the detenu as 'black marketeer'.

3. The detaining authority after perusing the averments made in the affidavit has derived subjective satisfaction to the effect that the detenu is a 'black marketeer' and consequently passed the detention order in question and in order to quash the same, the present Habeas Corpus Petition has been filed by the wife of the detenu as petitioner.

4. 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.

5. 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 disposed of without delay and further, in the detention order at paragraph 5(ii) it has been stated to the effect that the detaining authority has received a secret information to the effect that the detenu has made attempt to file a bail application and the same has not been fortified by way of submitting any record and therefore, the detention order in question is liable to be quashed.

6. The learned Additional Public Prosecutor as well as the learned Additional Advocate Solicitor General have also equally contended that as per the records submitted to the detaining authority, the detention order in question has been passed and the same does not suffer from any infirmity and further the representation submitted on the side of the detenu has been duly disposed of without delay and therefore, the detention order in question does not require any interference.

7. On the side of the respondents, a proforma has been submitted, wherein it has been clearly stated that a representation has been received on 15.10.2014, remarks have been called for on 16.10.2014 and remarks received on 20.10.2014. During interregnum period two holidays are intervened. Therefore, there is a delay of two days in submitting remarks to the concerned authority.



8. As rightly pointed out on the side of the petitioner, in paragraph 5(ii) of the detention order, it is stated like thus:

"Based on secret information received, he or his relatives will be filing bail application in competent courts very soon."

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9. It is an admitted fact that already a bail application has been filed in Cr.M.P.No.9310 of 2014 before the Judicial Magistrate court, Uthamapalayam and the same has been dismissed on 29.09.2014. But with regard to secret information as mentioned in paragraph 5(ii) of the detention order, no reliable document has been filed. Therefore, viewing from any angle, the observation made by the detaining authority with regard to the said aspect is baseless.

10. It has already been pointed out that in submitting remarks, two days delay has occurred. Further it is mentioned earlier that without any basis the detaining authority has observed that a secret information has been received to the effect that the detenu is going to file bail application in the competent Court very soon. Therefore, viewing from any angle, the detention order in question is liable to be quashed.

11. In fine, this Habeas Corpus Petition is allowed and the detention order dated 05.10.2014 passed in Detention Order No.7 of 2014 (CS) by the detaining authority/third respondent is quashed and the detenu by name Rajavel is ordered to be set at liberty forthwith, unless he is required to be incarcerated in any other case.

Sd/-

Assistant Registrar

/True Copy/

Sub Assistant Registrar(C.S.)

To

- 1.The Additional Secretary, 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 Government of Tamil Nadu Co-operation, Food and Consumer Protection Department, Secretariat, Fort St.George, Chennai - 600 009.
- 3.The District Collector and District Magistrate, Theni District, Theni
- 4.The Inspector of Police, CSCID, Uthamapalayam, Theni District.
- 5.The Addl.Public Prosecutor, Madurai Bench of Madras High Court, Madurai.

Copy to.

The Superintendent of Central Prison, Madurai.

+1cc to Mr. K.Gokul, Advocate in SR.No. 1063