



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 09.03.2015
CORAM:

THE HONOURABLE MR.JUSTICE A.SELVAM
and
THE HONOURABLE MS.JUSTICE V.M.VELUMANI

HABEAS CORPUS PETITION(MD)No.1268 of 2014

Valarmathi .. 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,
Cooperation, Food and Consumer
Protection Department,
Secretariat,
Fort St. George,
Chennai - 600 009.

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

4.The Inspector of Police,
CSCID, Trichy,
Trichy District. .. 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 the records pertaining to the order of detention passed by the third respondent in his proceedings in P.B.M.M.S.E.C.Act/C.M.P.No.02/2014, dated 07.10.2014 and quash the same as illegal and produce the detenu, namely, Krishnan, Son of Vanni, aged about 36 years, now he is confined in Central Prison, Trichy before this Court and set him at liberty and pass such further or other orders.

For Petitioner : Mr.T.Lenin Kumar

For R - 1 : Mr.G.R.Swaminathan

For R - 2 to 4 : Mr.A.Ramar
Additional Public Prosecutor

**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 P.B.M.M.S.E.C.Act/ C.M.P.No.02/2014 dated 07.10.2014 by the detaining authority, who has been arrayed as third respondent herein against the detenu by name Krishnan, Son of Vanni and quash the same and thereby set him at liberty forthwith.

2. The Inspector of Police, Civil Supplies CID., Tiruchirappalli as sponsoring authority has submitted an affidavit to the detaining authority, wherein it is stated that the detenu has involved in the following adverse case:

Crime No.409 of 2012 on the file of Tiruchirappalli CSCID registered under Section 6(4) of TNSC (RDCS) Order 1982 read with 7(1)(a)(ii) of the Essential Commodities Act, 1955.

3. Further it is stated in the affidavit that on 18.09.2014, the detenu has been found in illegal possession of 20 bags of PDS rice and consequently a case has been registered in Crime No.473 of 2014 under section 6(4) of TNSC (RDCS) Order 1982 read with 7(1)(a)(ii) of the Essential Commodities Act, 1955 and ultimately requested the detaining authority to invoke Central Act 7 of 1980 against the detenu.

4. 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 is a habitual offender and ultimately branded him as 'Black Marketeer' by way of passing the impugned detention order and in order to quash the same, the present Habeas Corpus Petition has been filed by the wife of the detenu as petitioner.

5. On the side of the respondents counter has been filed, wherein it has been contended that all the averments made in the petition are false and ultimately prayed to dismiss the same.

6. 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 it has been erroneously mentioned that the detenu has been arrested in connection with Crime No.466 of 2014 and no case has been registered against him under the said crime number and therefore, the detaining authority, without applying her mind properly, has erroneously passed the detention order. Under the said circumstances, the same is liable to be quashed.

7. The learned Additional Public Prosecutor has contended that the representation submitted on the side of the detenu has been duly considered and disposed of without delay and further, no error apparent on the face of record in the detention order. Under the said circumstances, the same does not call for any interference.



8. On the side of the respondents, a proforma has been submitted wherein it has been clearly stated that in between Column Nos.7 to 9, five clear working days are available.

9. As rightly pointed out on the side of the petitioner in the detention order it has been stated to the effect that the detenu has been arrested and remanded to custody in connection with Crime No.466 of 2014, but it is an admitted fact that a ground case has been registered against the detenu in Crime No.473 of 2014 and no Crime No.466 of 2014 has been existence against the detenu.

10. Considering the aforesaid factual circumstances, this Court is of the considered view that the detaining authority has not applied her mind properly in passing the impugned detention order. Further, it has already been pointed out that in disposing of the representation submitted on the side of the detenu, a delay of five days has occurred and no explanation has been given on the side of the respondents 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.

11. In fine, this Habeas Corpus Petition is allowed and the detention order dated 07.10.2014 passed in P.B.M.M.S.E.C.Act/C.M.P.No.02/2014 by the third respondent/detaining authority is quashed and consequently the detenu viz., V.Krishnan, Son of Vanni is ordered to be set at liberty forthwith, unless he is required to be incarcerated in connection with any other case.

Sd/-

Assistant Registrar(AS)

\\True copy\\

Sub Assistant Registrar

To

- 1.The Additional Secretary, Government of India,
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(Department of Consumer Affairs), Room No.270, Krishi Bhavan,
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Protection Department, Secretariat, Fort St. George,
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 - 3.The District Collector and District Magistrate,
Trichy District, Trichy.
 - 4.The Inspector of Police, CSCID, Trichy, Trichy District.
 - 5.The Superintendent, Central Prison, Trichy
 - 6.The Additional Public Prosecutor, Madurai Bench of Madras High Court,
Madurai.
- +1 CC TO M/S.T.LENINKUMAR, ADVOCATE SR.NO.11295

ORDER MADE IN

H.C.P (MD) No.1268 of 2014

09.03.2015