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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.03.2015

CORAM:

THE HONOURABLE MR.JUSTICE A.SELVAM

and

THE HONOURABLE MR.JUSTICE T.MATHIVANAN

HABEAS CORPUS PETITION(MD)No.1474 of 2014

Thamayananthi

..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,
Madurai District, Madurai.

4.The Inspector of Police,
CSCID, Madurai,
Madurai District.

..Respondents

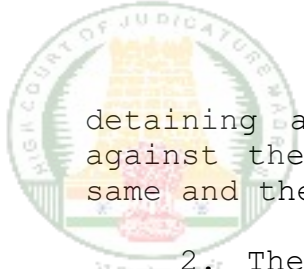
Prayer:- Habeas Corpus Petition is filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus praying to call for the records pertaining to the order of detention passed by the third respondent in his proceedings in C.M.P.No.05/2014 (CS), dated 29.11.2014 and quash the same as illegal and produce the detenu, namely, R.S.Thirupathi, Son of Sonai, aged about 44 years, now he is confined in Central Prison, Madurai, 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 RR 2 to 4	: Mr.A.Ramar
	Additional Public Prosecutor

ORDER

(Order of the Court was made by A.SELVAM, J)

<https://hcservices.courts.gov.in/hcservices> 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 C.M.P.No.05/2014 (CS), dated 29.11.2014 by the



detaining authority, who has been arrayed as third respondent herein against the detenu by name R.S.Thirupathi, Son of Sonai and quash the same and thereby set him at liberty forthwith.

2. The Inspector of Police, Madurai Civil Supplies CID., Unit 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.306 of 2013 Madurai Civil Supplies CID Unit registered under Sections 6(4) of TNSC (RDCS) Order 1982 read with 7(1)(a)(ii) of the Essential Commodities Act, 1955.

(ii) Crime No.422 of 2014 Madurai Civil Supplies CID Unit registered under Sections 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 25.11.2014, the detenu has been illegally found in possession of some sacks of PDs rice and ultimately, a case has been registered in Crime No.490 of 2014 under sections 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 therefore the detention order in question 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 therefore the detention order in question need not be quashed.

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, four clear working days are available and no explanation has been given on the side of the respondents with regard to such delay in disposing of the representation submitted on the side of the detenu 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.

9. In fine, this Habeas Corpus Petition is allowed and the detention order dated 29.11.2014 passed in C.M.P.No.05/2014 (CS) by the third



respondent/detaining authority is quashed and consequently the detenu viz., R.S.Thirupathi, Son of Sonai is ordered to be set at liberty forthwith, unless he is required to be incarcerated in connection with any other case.

Sd/-

Assistant Registrar (Writs)

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/True copy/

Sub Assistant Registrar

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

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

4.The Inspector of Police,
CSCID, Madurai, Madurai District.

5.The Joint Secretary to Government,
Public (Law & Order), Fort St.George,
Chennai-9.

6.The Superintendent, Central Prison, Madurai.
(in duplicate to communicate the detenu)

7.The Assistant Solicitor General of India,
Madurai Bench of Madras High Court,
Madurai.

8.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1CC to M/s.T.Leninkumar, Advocate in SR.11910

H.C.P (MD) No.1474 of 2014
12.03.2015

ps

PBK 13/03/2015 ::3P-11C: