



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.08.2015

CORAM:

THE HONOURABLE MR.JUSTICE S.NAGAMUTHU

and

THE HONOURABLE MR.JUSTICE V.S.RAVI

H.C.P(MD)No.344 of 2015

Manoharan

.. 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-9.

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

4.The Inspector of Police
CSCID, Karur, Karur District. .. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, to produce the detenu namely Balu @ Balasubramaniam son of Palaniyappan aged about 48 years before this Court, who is now detained in Central Prison, Tiruchirappalli in pursuant to the detention order passed by the 3rd respondent by his proceedings in Cr.M.P.No.02/2015 (CS) dated 24.02.2015 and call for the records and quash the same and release the detenu at liberty forthwith.

For petitioner : Mr.C.Muthu Saravanan

For respondents : Mr. T.Mohan

2 to 4 Additional Public Prosecutor

Mr.P.Subbiah for R1

central Government counsel

O R D E R

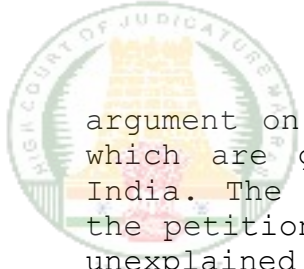
[Order of the Court was made by V.S.RAVI,J]

The petitioner is the father-in-law of one Balu @ Balasubramaniam. The detenu has been detained as per the order of the 3rd respondent under Section 3(1) read with 3(2)(a) of the Act (Central Act 7 of 1980), branding him as "Black Marketeer".

2. We have heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondents and we have also perused the records carefully.

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

3. Though several grounds have been raised in the Habeas Corpus Petition, the learned counsel for the Petitioner would mainly focus his



argument on the ground that there is violation of procedural safeguards, which are guaranteed under Articles 21 and 22 of the Constitution of India. The learned counsel would submit that the representation made by the petitioner was not considered on time and there was an inordinate and unexplained delay. The learned counsel has relied on few Judgments of the Hon'ble Supreme Court. Based on the same, the learned counsel would plead for setting aside the detention order.

4. But, the learned Additional Public Prosecutor would, however, oppose this Habeas Corpus Petition. He would submit that though there was delay in considering the representation, on that score, the impugned detention order need not be interfered with, as on account of the said delay, no prejudice has been caused to the detenu and thus, there is no violation of the fundamental rights guaranteed under Articles 21 and 22 of the Constitution of India.

5. We have considered the above submissions.

6. In this case, the Detention Order was passed on 24.02.2015. As against the same, the petitioner made a representation on 11.03.2015. The remarks were called for by the Government from the Detaining Authority on 17.03.2015. The remarks were received by the Detaining Authority on 25.03.2015. Thereafter, the Government considered the issue and passed the order rejecting the representation on 01.04.2015. It is the contention of the petitioner that there was delay of six days in submitting the remarks by the Detaining Authority and there was also the delay of two days on the part of the Government in considering the same.

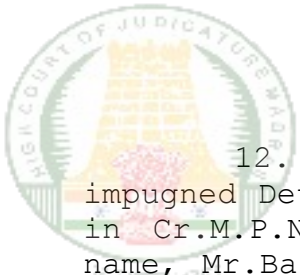
7. Now, the question is as to whether on that score, the impugned order can be quashed.

8. In *Rekha Vs. State of Tamil Nadu*, [2011 (5) SCC 244], the Hon'ble Supreme Court has held that the right to life and liberty of a person is protected, under Article 21 of the Constitution of India. The Hon'ble Supreme Court has further held that the procedural safeguards are required to be zealously watched and enforced by the Courts of law and their rigour cannot be allowed to be diluted on the basis of the nature of the alleged activities of the detenu.

9. In *Sumaiya Vs. The Secretary to Government*, [2007 (2) MWN (Cr.) 145], a Division Bench of this Court has held that the unexplained delay of three days in disposal of the representation made on behalf of the detenu/detenu would be sufficient to set aside the detention order.

10. In *Tara Chand Vs. State of Rajasthan and others*, [1980 (2) SCC 321], the Hon'ble Supreme Court has held that any inordinate and unexplained delay on the part of the Government in considering the representation renders the detention illegal. This dictum has been followed in several Judgments consistently by the Hon'ble Supreme Court as well as this Court.

11. Applying the said dictum laid down by the Hon'ble Supreme Court, if we look into the facts of the present case, undoubtedly, there is an inordinate and unexplained delay of eight days and therefore, the impugned detention order is liable to be quashed.



12. In the result, this Habeas Corpus Petition is allowed and the impugned Detention Order, passed by the 3rd respondent, in his proceedings in Cr.M.P.No.02/2015 (CS) dated:24.02.2015 is quashed. The detenu, by name, Mr.Balu @ Balasubramaniam son of Palaniyappan aged about 48 years, is ordered to be set at liberty forthwith, if he is not required for detention in connection with any other case.

Sd/-

The Assistant Registrar(co)

/True copy/

Sub-Assistant Registrar

To:

- 1.The Additional Secretary to Government,
Ministry of Consumer Affairs, Food and
Public Distribution (Department of Consumer Affairs)
Room No.270, Krishi Bhavan, New Delhi.
- 2.The Secretary,
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- 3.The District Collector and District Magistrate
Karur District, Karur.
- 4.The Inspector of Police
CSCID, Karur, Karur District.
- 5.The Superintendent,
central prison, Tirunelveli.
- 6.The Joint Secretary to Government,
Public (Law & Order) Fort ST. George, Chennai-9.
7. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1cc to Mr.P.Subbiah, Advocate SR.NO.45121

+1cc to Mr.C.Muthu Saravanan, Advocate SR.No.44648

RR

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ORDER MADE IN
H.C.P (MD) No.344 of 2015
07.08.2015