



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 26.06.2015

Coram

THE HONOURABLE MR.JUSTICE A.SELVAM
and
THE HONOURABLE MR.JUSTICE V.S.RAVI

H.C.P. (MD) No.66 of 2015

P.Vellathai

.. Petitioner

Vs.

1.The Commissioner of Police,
Madurai City, Madurai.

2.The Secretary to Government of Tamilnadu,
Public (Law and Order-F) Department,
Secretariat, Chennai - 9.

3.The Secretary to Government,
Government of India,
Ministry of Home Affairs,
(Department of Internal Security)
North Block, New Delhi.

.. 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 pertaining to the impugned detention order passed by the 1st respondent in his proceedings in No.06/NSA/2014 dated 15.12.2014 and quash the same and set the petitioner's son by name Pandi @ Pistol Pandi @ Thangapandi S/o.Palanichamy aged 25 years at liberty from Central Prison, Madurai.

For Petitioner : Mr.M.Karunanithi

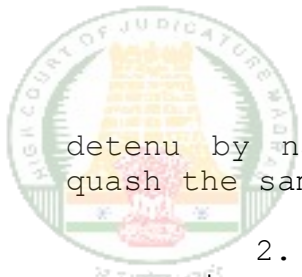
For RR - 1 & 2 : Mr.K.Chellapandian
Addl.Advocate General
For Mr.C.Ramesh
Addl.Public Prosecutor

For R - 3 : M/s.Srimathy

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.06/NSA/2014 dated 15.12.2014 by the detaining authority who has been arrayed as first respondent herein against the



detenu by name Pandi @ Pistol Pandi @ Thangapandi S/o.Palanichamy and quash the same and thereby set him at liberty forthwith.

2. The Inspector of Police, E3, Anna Nagar Police Station as sponsoring authority has submitted an affidavit to the detaining authority, wherein it is stated that on 10.11.2014 the detenu and others are found in possession of a country made bombs and due to that a case has been registered against them in Crime No.1490 of 2014 under Section 4 of Explosive Substances Act, 1908 and ultimately requested the detaining authority to invoke National Security Act against the detenu.

3. The detaining authority after considering the nature of offence alleged to have been committed by the detenu has detained him under National Security Act and in order to quash the same, the present Habeas Corpus Petition has been filed by the mother of the detenu as petitioner.

4. In the counter filed on the side of the respondents 1 and 2 it is averred that the detaining authority after considering the averments made in the affidavit submitted by the sponsoring authority has rightly invoked National Security Act against the detenu and further the representation given on the side of the detenu has been duly disposed of without delay and therefore, the detention order in question need not be quashed.

5. In the counter filed on the third respondent it is averred that the report as envisaged under Section 3(5) of the National Security Act, 1980 has been sent by the State Government on 26.12.2014 and the same has reached the Central Government on 05.01.2015 and no delay on the part of the third respondent and therefor, the present petition deserves to be dismissed.

6. The learned counsel appearing for the petitioner has sparingly contended that as per Section 3(5) of the National Security Act, 1980 a representation must be sent to Central Government within a period of seven days either from the date of detention or from the date of approval. But in the instant case, the said report has reached Central Government only on 05.01.2015 even though it has been sent on 26.12.2014 and such delay has not been explained on the side of the respondents and therefore, the detention order in question is liable to be quashed.

7. Mr.K.Chellapandian, learned Additional Advocate General appearing for the respondents 1 and 2 has sparingly conceded the delay which occurred in sending the report as contemplated under Section 3(5) of the National Security Act, 1980.

8. Considering the fact that there is a delay in sending the report as envisaged under Section 3(5) of the National Security Act, 1980, and no acceptable explanation has been given on the side of the respondents, the detention order in question can be quashed on the sole ground mentioned supra.

<https://hcservices.ecourts.gov.in/hcservices/>
9. In the result, this Habeas Corpus Petition is allowed and the detention order dated 15.12.2014 passed in No.06/NSA/2014 by the detaining



authority/first respondent herein is quashed and the detenu by name Pandi @ Pistol Pandi @ Thangapandi is ordered to be set at liberty forthwith, unless he is required to be incarcerated in any other case.

WEB COPY

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

- 1.The Commissioner of Police,
Madurai City, Madurai.
- 2.The Secretary to Government of Tamilnadu,
Public (Law and Order-F)Department,
Secretariat, Chennai - 9.
- 3.The Secretary to Government,
Government of India,
Ministry of Home Affairs,
(Department of Internal Security)
North Block, New Delhi.
4. The Principal Secretary to Government,
Home Department, Secretariat, Chennai.
5. The Additional Director General of Police, Law & order, Chennai.
6. The Director General of Police, Chennai.
7. The Superintendent, Central Prison, Madurai.
8. The Inspector General of Police, Intelligence, Chennai.
- 9.The Addl.Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to M/S. K.J.ASSOCIATES, Advocate in SR.No 34268

+1cc to M/S. S.M.S.Johnny Basha, Advocate in SR.No 34215

TS/26.06.2015/3P -12C

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