

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27-09-2016

CORAM:

THE HON'BLE MR. JUSTICE A.SELVAM

and

THE HON'BLE MR. JUSTICE P.KALAIYARASAN

HCP No.1061 of 2016

Periyasamy ... Petitioner/Cousin brother of the detenu

Vs.

1. Government of Tamilnadu, rep. by its  
Secretary  
Co-operation, Food and  
Consumer Protection Department  
Fort St. George  
Chennai - 600 009

2. The District Magistrate and District Collector  
Dharmapuri

3. The Additional Secretary to Government  
of India, Ministry of Consumer Affairs  
Food and Public Distribution  
Department of Consumer Affairs  
Room No.270, Krishi Bhavan  
New Delhi 110 001

.. Respondents

Habeas Corpus Petition filed under Article 226 of the  
Constitution of India, praying to issue writ of habeas corpus  
calling for the records in connection with the detention order  
dated 31-03-2016 in SC No.07/2016 against the petitioner's  
cousin brother Thiru Subramani @ Chittu Subramani aged 53 years  
S/o. Gopal, who is confined at Central Prison, Salem and set him  
at liberty and pass orders.

For Petitioner : Mr. P. Subhadra Devi

For Respondents: Mr.V.M.R.Rajendran

Addl.Public Prosecutor for RR1 & 2  
Mr. S. Arockiam CGSC for R3

O R D E R

[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 detention order dated 31-03-2016 in SC No.07/2016 against the detenu by name Subramani @ Chittu Subramani by the detaining authority and quash the same.

2. The Inspector of Police, Dharmapuri Civil Supplies CID 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. Dharmapuri Civil Supplies CID Crime No.15 of 2016 under Sections 6(4) of TNSC (RDSCS) order of 1982 r/w 7(1)a (ii) of Essential Commodities Act

3. Further, it is averred in the affidavit that on 22-03-2016, the Inspector of Police, Civil Supplies, CID Krishnagiri and Dharmapuri and others have made vehicle check up and ultimately found a vehicle bearing Registration No.TN-29-BB-3848 wherein 22 bags containing PDS rice are available and ultimately registered a case against the detenu in Crime No.18 of 2006 under Sections 6(4) of TNSC (RDSCS) of 1982 r/w 7(1)a(ii) of EC Act 1955 and requested the detaining authority to invoke Act 14 of 1982 against the detenu.

4. The detaining authority, after considering the averments made in the affidavit and other connected documents, has derived subjective satisfaction that the detenu is a habitual offender and ultimately branded him as a 'Black Marketer', by way of passing the impugned detention order and in order to quash the same, the present petition has been filed by the cousin of the detenu, as petitioner.

5. On the side of the respondents a detailed counter has been filed wherein it has been contended to the effect that the detaining authority all the averments placed made in the affidavit are false and ultimately prayed to dismissed 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 represented that the representation submitted by the detenu has been duly disposed of without delay and therefore, the present petition deserves to be dismissed.

8. On the side of the respondents, a proforma has been submitted wherein it is stated that the remarks have been called for on 18-05-2016 and actually remarks have been received on 22-09-2016 and in between Column Nos.7 and 8, 86 clear working days are available and no explanation has been given on the side of the respondents with regard to huge delay and that itself would affect the rights of the detenu under Article 22(5) of the Constitution of India and on that ground alone the detention order in question is liable to be quashed.

In fine, the habeas corpus petition is allowed and the detention order dated 31-03-2016 in SC No.07/2016 is quashed. The respondents are directed to set the detenu, by name Subramani @ Chittu Subramani, at liberty forthwith, unless he is required to be incarcerated in any other case.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

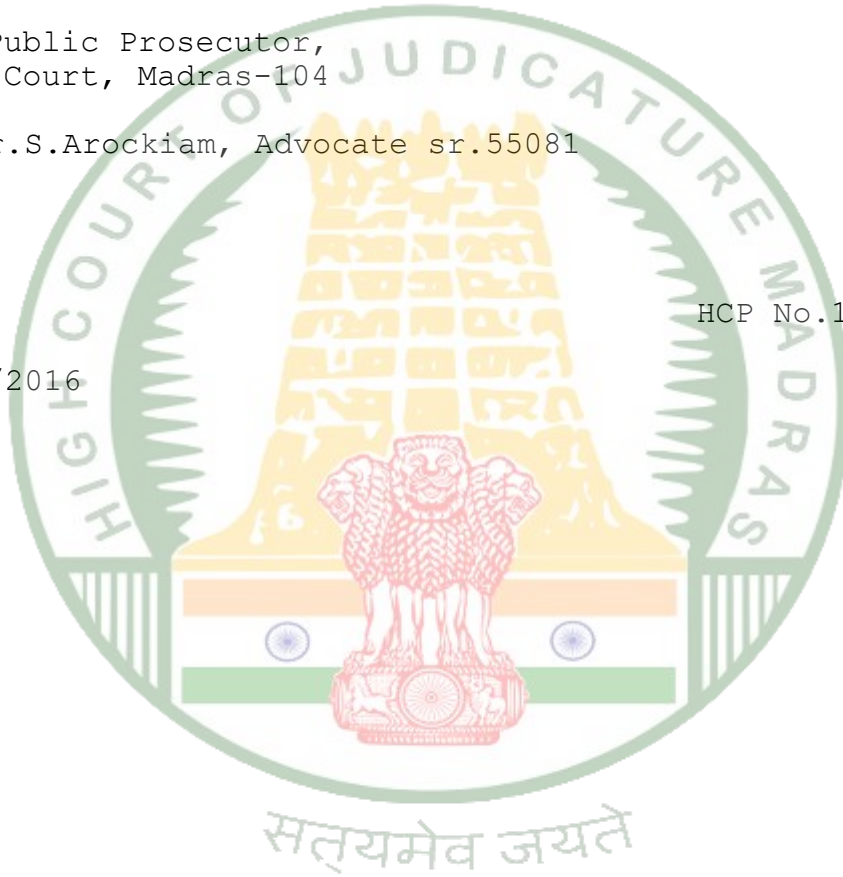
1. The Secretary,  
Co-operation, Food and  
Consumer Protection Department,  
Fort St. George,  
Chennai - 600 009.
2. The District Magistrate and District Collector,  
Dharmapuri.
3. The Additional Secretary to Government,  
of India, Ministry of Consumer Affairs,  
Food and Public Distribution,  
Department of Consumer Affairs,  
Room No.270, Krishi Bhavan,  
New Delhi 110 001.

4. The Inspector of Police,  
Civil Supplies CID, Dharmauri.
5. The Superintendent,  
Central Prison,  
Salem.
6. The Joint Secretary to Government,  
Public(Law & Order),  
Fort Saint George, Chennai - 9.
7. The Public Prosecutor,  
High Court, Madras-104

+1cc to Mr.S.Arockiam, Advocate sr.55081

HCP No.1061 of 2016

srg 27/09/2016



WEB COPY