

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.6.2016

CORAM

THE HONOURABLE MR.JUSTICE S.NAGAMUTHU
and
THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

H.C.P.No.413 of 2016

Farshana Petitioner/wife 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. Commissioner of Police (detaining authority),
Coimbatore City, Coimbatore.

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

Prayer: Petition filed under Article 226 of the
Constitution of India, praying to issue a WRIT OF HABEAS CORPUS
calling for the records relating to the order of detention
C.NO.01/PBMMSEC ACT/IS/2016 dated 08/02/2016 passed by the 2nd
respondent and to quash the same and also to direct the detenu
S.SHINOY S/O.M.K.SASI who is presently detained in the Central
Prision CENTRAL PRISON, COIMBATORE to be produced before this
Hon`ble court and set at liberty.

For Petitioner : Mr.R.Subhadra Devi

For Respondents 1 & 2 : Mr.A.N.Thambidurai,
Additional Public Prosecutor

***For 3rd Respondent :Mr.S. Arockiam
CGSC**

ORDER

(Order of the Court was made by S.NAGAMUTHU, J.)

The petitioner is the wife of S.Shinoy, who has been detained under Act 14 of 1982 as per the order of the second respondent by his proceedings in C.No.01/PBMMSEC Act/IS/2016. Challenging the said detention order, the petitioner has come up with this Habeas Corpus Petition.

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

3. Though, several grounds have been raised in this Habeas Corpus Petition, the learned counsel appearing for the petitioner, would mainly contend that though a representation made on 25.2.2016 to the Government, the same has not been considered so far.

4. The learned Additional Public Prosecutor, on instructions, would submit that it is true that the said representation was received, but the same has not been considered so far.

5. In a case of preventive detention as mandated by the Constitution of India, if any representation is made, challenging the preventive detention, the same should be considered and orders should be passed by the Detaining Authority. Failure on the part of the authority to consider the representation without any delay and passing an order, is violative of the fundamental right guaranteed to the accused under Article 22 of the Constitution of India. In the instant case, since the representation of the detenu is not considered by the Detaining Authority, on the ground of violation of his fundamental rights, the impugned order is liable to be set aside.

6. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order, dated 08.02.2016, passed by the second respondent is set aside. The detenu is directed to be released, forthwith, unless, his presence is required in connection with any other case.

Sd/-

Assistant Registrar(CS II)

Dated: 19.7.2016

*Corrected as per the letter dated nil and made herein

Sd/

Assistant Registrar (CS II)

Dated: 19.10.2016

//True Copy//

Sub Assistant Registrar

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To

1.The Secretary,
Government of TamilNadu
Co-operation, Food and Consumer
Protection Department,
Fort St.George,
Chennai 600 009.

2.Commissioner of Police (detaining authority),
Coimbatore City,
Coimbatore.

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 Superintendent of Prison,
Central Prison,
Coimbatore.

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

To be
substituted to

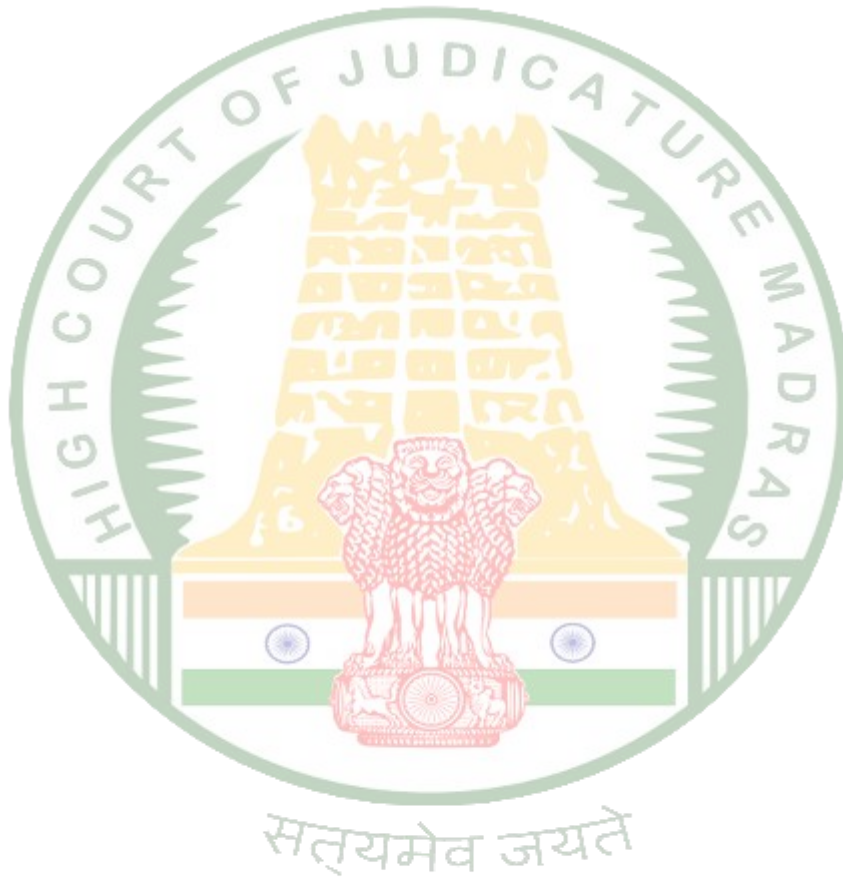
the order
already
despatched on
9.8.2016

6.The Public Prosecutor,
High Court, Madras.

H.C.P.No.413 of 2016

MP[CO]
SRG 22/07/2016

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