



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.03.2016

CORAM:

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

HABEAS CORPUS PETITION (MD) No.1791 of 2015

S.Krishnan .. Petitioner

Vs.

- 1.The Central Government Rep. By,
The Additional Secretary to Government of India,
Department of Consumer Affairs, Food and
Consumer Affairs Department,
Room No.270,
Krishi Bhavan,
New Delhi - 110 001.
 - 2.The Secretary to the Government,
Food and Consumer Protection Department,
Government of India,
Room No.270,
New Delhi - 110 001.
 - 3.The State rep. By
The Secretary to Government,
Co-operation, Food and Consumer Protection Department,
Namakkal Kavignar Maaligai 2nd Floor,
Secretariat,
Chennai - 600 009.
 - 4.The District Collector and District Magistrate,
Tirunelveli District,
Tirunelveli.
 - 5.The Inspector of Police,
Civil Supplies Criminal Investigation Department,
Tirunelveli Unit,
Tirunelveli.
- .. Respondents

Prayer:- Habeas Corpus Petition is filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus praying to direct the respondents herein to produce the detenu Rajendran, aged 42 years, S/o.Sudalaiyandi, who has been termed as Black Marketeer, who is now detained at Central Prison, Palayamkottai and call for records relating to the detention order in MHS Confdl.No. 121/2015, dated 02.11.2015 passed by the fourth respondent herein and set aside the same and set the detenu at liberty.



For Petitioner : Mr.S.R.Durai Raj
For RR 3 to 5 : Mr.C.Ramesh
Additional Public Prosecutor

WEB COPY

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 detention order passed in MHS Confdl.No.121/2015, dated 02.11.2015 by the detaining authority, who has been arrayed as fourth respondent herein, against the detenu by name Rajendran, Son of Sudalaiyandi and quash the same.

2. On 28.10.2015 at about 05.50 hours, the Inspector of Police, Civil Supplies Criminal Investigation Department, Tirunelveli Unit and the police constables have intercepted vehicles for the purpose of preventing hoarding and smuggling of Essential Commodities near Koodankulam. On the basis of a credible information, they stopped a vehicle bearing Registration No.TN-74-P-8770 and ultimately found 2,000 kgs of PDs rice. On that basis, a case has been registered against the detenu and others in Crime No.185 of 2015 under Section 6(4) of Tamil Nadu Scheduled Commodities (Regulation of Distribution by card system) Order 1982 read with Section 7(1)(a)(ii) of Essential Commodities Act, 1955 and ultimately requested the detaining authority to brand the detenu as Black Marketeer.

3. The detaining authority, after considering the averments made in the affidavit and other connected documents, has derived subjective satisfaction to the effect that the detenu is a Black Marketeer and to that effect passed the impugned detention order and in order to quash the same, the present petition has been filed by the brother of the detenu.

4. On the side of the respondents 3 to 5, a detailed counter has been filed wherein it has been contended inter alia to the effect that the fifth respondent as sponsoring authority has submitted proper records along with his affidavit to the detaining authority. The detaining authority, after considering all the materials placed before him, has rightly branded the detenu as Black Marketeer by way of passing the impugned detention order and the same does not require interference.

5. The learned counsel appearing for the petitioner has contended that a representation has been given on 09.11.2015 and the same has not been disposed of without delay and the same 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.

6. The learned Additional Public Prosecutor appearing for the respondents 3 to 5 has contended that the representation given by the detenu has been duly disposed of without delay and therefore, the detention order in question need not be quashed.

7. On the side of the respondents 3 to 5, a proforma has been submitted wherein, it has been clearly stated that in between column Nos.7 to 9, twenty clear working days are available and no explanation has been given on the side of the respondents 3 to 5 with regard to huge delay and that itself would be sufficient for coming to a conclusion that the order of detention passed by the detaining authority is liable to be quashed.

8. In fine, this Habeas Corpus Petition is allowed and the detention order passed in MHS Confdl.No.121/2015, dated 02.11.2015 by the fourthrespondent/detaining authority is quashed and consequently the respondents are directed to set the detenu viz., Rajendran, Son of Sudalaiyandi at liberty forthwith, unless he is required to be incarcerated in connection with any other case.

Sd/
Assistant Registrar(R)

/True Copy/

Sub Assistant Registrar.

To

- 1.The Additional Secretary to Government of India, The Central Government, Department of Consumer Affairs, Food and Consumer Affairs Department, Room No.270, Krishi Bhavan, New Delhi - 110 001.
- 2.The Secretary to the Government, Food and Consumer Protection Department,Government of India,Room No.270, New Delhi - 110 001.
3. The Secretary to Government, Co-operation, Food and Consumer Protection Department, Namakkal Kavignar Maaligai 2nd Floor, Secretariat,Chennai - 600 009.
- 4.The District Collector and District Magistrate, Tirunelveli District, Tirunelveli.
- 5.The Inspector of Police, Civil Supplies Criminal Investigation Department,Tirunelveli Unit, Tirunelveli.
- 6.The Additional Public Prosecutor, Madurai Bench of Madras High Court, Madurai.
7. The Superintendent, Central Prison, Palayamkottai.
(In duplicate to communicate to detenu)

+1CC to Mr.P.Palpandi,Advocate, SR.No.2999
+1CC to Mr.M.S.Jeyakarthik, Advocate, SR.No. 3031

ORDER MADE IN
H.C.P (MD) No.1791 of 2015
10.03.2016