



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 21.04.2016

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THE HONOURABLE MR.JUSTICE A.SELVAM
and
THE HONOURABLE MR.JUSTICE B.GOKULDAS

H.C.P.(MD)No.138 of 2016

Rebecca

.. Petitioner

Vs.

1. The Secretary to Government,
Department of Co-operation,
Food and Consumer Protection Department,
Secretariat, Chennai - 600 009.
2. The District Collector and District Magistrate,
Thoothukudi District,
Thoothukudi.
3. The Additional Secretary to Government of India,
Department of Consumer Affairs,
Room No.270, Krishi Bhavan,
New Delhi - 110 001.
4. The Superintendent of Central Prison,
Palayamkottai, Tirunelveli District. .. Respondents

Prayer : Habeas Corpus Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus calling for the entire records connected with the detention order passed in H.S.(M).Confdl No.04/2016 dated 22.01.2015 on the file of the 2nd respondent herein and quash the same and direct the respondents to produce the detenu or body of the detenu namely Christopher S/o.Jebadurai Nadar, aged about 35 years, now detained in Central Prison, Palayamkottai before this Court and set him at liberty forthwith.

For Petitioner : Mr.K.Sudalaiyandi

For RR - 1, 2 & 4 : Mr.C.Ramesh
Addl.Public Prosecutor

For R - 3 : No appearance

**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 H.S.(M).Confdl No.04/2016 dated 22.01.2015 by the detaining authority against the detenu by name Christopher S/o.Jebadurai Nadar and quash the same and thereby set him at liberty forthwith.

2.The Inspector of Police, C.S.CID, Thoothukudi 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.

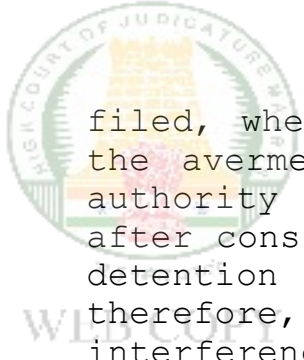
(i)Crime No.129 of 2015, Thoothukudi Civil Supplies CID, registered under Sections 6(4) of Tamil Nadu Scheduled Commodities (Regulation of Distribution by Card System) Order 1982 r/w Section 7(i)(a)(ii) of the Essential Commodities Act, 1955; and

(ii)Crime No.144 of 2015, Thoothukudi C.S.CID, registered under Sections 6(4) of Tamil Nadu Scheduled Commodities (Regulation of Distribution by Card System) Order 1982 r/w Section 7(i)(a)(ii) of the Essential Commodities Act, 1955;

3.Further it is stated in the affidavit that on 09.01.2016, the Inspector of Police and others have made vehicle check up and intercepted a vehicle bearing Registration No.TN-69-AD-6347 and subsequently the detenu and others have been enquired and ultimately found that the detenu and others have smuggled PDS rice without having license and consequently a case has been registered in Crime No.5 of 2016 under sections 6(4) of TNSC (RDCS) Order 7(1)(a)(ii) of the Essential Commodities Act, 1955 and ultimately requested the detaining authority to invoke Prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act, 1980 (Central Act 7 of 1980) against the detenu.

4.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 habitual offender and ultimately branded him as 'black marketer' by way of passing the impugned detention order and in order to quash the same, the present Habeas Corpus Petition has been filed by the wife of the detenu as petitioner.

5.On the side of the second respondent counter has been



filed, wherein it is contended inter alia to the effect that all the averments made in the petition are false and the detaining authority after considering the antecedent of the detenu and also after considering the ground case, has rightly passed the impugned detention order and thereby branded him as 'black marketeer' and therefore, the detention order in question does not call for any interference.

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 contended that the representation submitted on the side of the detenu has been duly disposed of and therefore, the detention order does not call for any interference.

8.On the side of the respondents 1, 2 and 4, a proforma has been submitted, wherein it has been clearly stated that in between column Nos.7 to 9, 30 clear working days are available and no explanation has been given on the side of the respondents with regard to such delay and that itself would affect 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.

9.In fine, this Habeas Corpus Petition is allowed and the detention order dated 22.01.2015 passed in H.S.(M).Confdl No.04/2016 by the detaining authority/second respondent herein is quashed and the detenu by name Christopher S/o.Jebadurai Nadar is ordered to be set at liberty forthwith, unless he is required to be incarcerated in any other case.

Sd/-

Assistant Registrar (T&P)

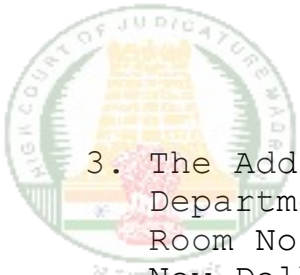
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Sub Assistant Registrar

To

1. The Secretary to Government,
Department of Co-operation,
Food and Consumer Protection Department,
Secretariat, Chennai - 600 009.

<https://hcservices.hcs.court.gov.in/cse/cse/>
2. The District Collector and District Magistrate,
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3. The Additional Secretary to Government of India,
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4. The Superintendent of Central Prison,
Palayamkottai,
Tirunelveli District.

5. The Joint Secretary to Government,
Public (Law and Order), Fort St. George, Chennai - 9.

6. The Inspector of Police, CSCID, Thoothukudi.

7. The Addl. Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1cc to Mr.K.Sudalaiyandi, Advocate, Sr.No.22283

mj

JM/SK-SKN-SAR-I/25.04.2016/4P-9C

H.C.P. (MD) No.138 of 2016
21.04.2016