



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.06.2016

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE DR.JUSTICE S.VIMALA

H.C.P(MD)No.320 of 2016

Kamala Devi

.. Petitioner

Vs.

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

2.The Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.

3.The Inspector of Police,
Contonment Police Station,
Tiruchirapalli City.

.. Respondents

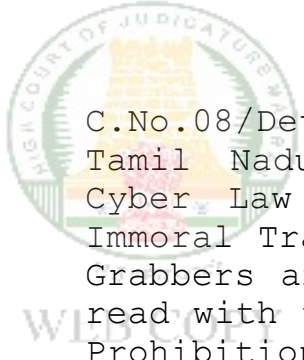
PRAYER: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus, to direct the respondents to produce the person or body of detenu viz., Prasanth aged about 26 years, S/o.Kanagarathinam before this Court, who is now detained in Central prison, Tiruchirapalli, in pursuant to the detention order passed by the 1st respondent in C.No.08/Detention/C.P.O./T.C./2016, dated 17.02.2016 and to call for the records and quash the same and release the detenu at liberty forthwith.

For Petitioner : Mr.N.Mohideen Basha
For Respondents : Mr.C.Ramesh,
Additional Public Prosecutor.

O R D E R

[Order of the Court was made by K.K.SASIDHARAN, J.]

This Habeas Corpus Petition is filed by the mother of the
<https://hcservices.ecourts.gov.in/hcservices/>
detenu - Prasanth, who is under detention, pursuant to the order
passed by the first respondent, dated 17.02.2016, in



C.No.08/Detention/C.P.O./T.C./2016, under Section 2(f) of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Cyber Law Offenders, Drug-offenders, Forest-offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Sexual Offenders, Slum-Grabbers and Video Pirates Act, 1982, (Tamil Nadu Act 14 of 1982), read with the order issued by the Government in G.O.(D).No.8, Home Prohibition and Excise (XVI) Department, dated 18.01.2016, under Sub-Section (2) of Section 3 of the said Act, branding him as "Goonda".

2. We have heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondents. We have also perused the records produced by the Detaining Authority.

3. Though several grounds have been raised in the Habeas Corpus Petition, the learned counsel for the petitioner would mainly focus his argument on the ground of gross violation of procedural safeguards, which would vitiate the detention.

4. The learned Additional Public Prosecutor opposed the Habeas Corpus Petition.

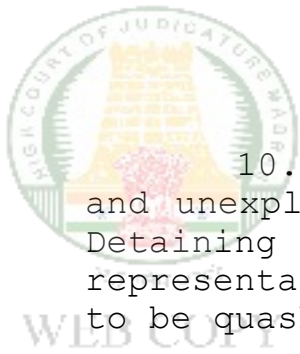
5. The Detention Order in question was passed on 17.02.2016. The petitioner made a representation dated 04.03.2016. Thereafter, remarks were called for by the Government from the Detaining Authority on 09.03.2016. The remarks were duly received on 15.03.2016. The Government considered the matter and passed the order rejecting the representation on 24.03.2016.

6. It is the contention of the petitioner that there was a delay of 4 days in submitting the remarks by the Detaining Authority. Again there was a delay of 6 days in considering the representation.

7. In **Rekha Vs. State of Tamil Nadu**, [2011 (5) SCC 244], the Hon'ble Supreme Court has held that the procedural safeguards are required to be zealously watched and enforced by the Courts of law and their rigour cannot be allowed to be diluted on the basis of the nature of the alleged activities undertaken by the detenu.

8. In **Sumaiya Vs. The Secretary to Government**, [2007 (2) MWN (Cr.) 145], a Division Bench of this Court has held that the unexplained delay of three days in disposal of the representation made on behalf of the detenu would be sufficient to set aside the order of detention.

9. In **Tara Chand Vs. State of Rajasthan and others**, [1980 (2) SCC 321], the Hon'ble Supreme Court has held that any inordinate and unexplained delay on the part of the Government in considering the representation renders the very detention illegal.



10. In the subject case, admittedly, there is an inordinate and unexplained delay of 4 days in submitting the remarks by the Detaining Authority and another 6 days in considering the representation. The impugned detention order is, therefore, liable to be quashed.

11. In the result, the impugned Detention Order, passed by the first respondent, in his proceedings in C.No.08/Detention/C.P.O./T.C./2016, dated 17.02.2016, is quashed. The detenu, namely, Prasanth, S/o.Kanagarathinam, is ordered to be set at liberty forthwith, if he is not required for detention in connection with any other case.

12. In the upshot, we allow the Habeas Corpus Petition.

Sd/-
Assistant Registrar (AS)

/True Copy/

Sub Assistant Registrar

gcg

To

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

2.The Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.

3.The Inspector of Police, Contonment Police Station,
Tiruchirapalli City.

4. The Superintendent, Central Prison, Tiruchirapalli.

5. The Joint Secretary to Government, Public (law and order)
Fort.St. Geroge, Chennai-9.

6.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1CC to Mr.N.Mohideen Basha Advocate Sr.No.28430

GJM/SK/SKN/23.6.16-3p-8c

Order made in
H.C.P(MD)No.320 of 2016
Dated: 07.06.2016