

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 06.09.2017

CORAM

THE HON'BLE Mr.JUSTICE A.SELVAM
and
THE HON'BLE Mr.JUSTICE P.KALAIYARASAN

H.C.P.No.1009 of 2017

G.Janaki

.. Petitioner

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 Collector and
District Magistrate
Cuddalore District
Cuddalore

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

Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS, to call for the records in Detention order in No.C3/D.O/30/2017 dated 23.05.2017 on the file of the 2nd respondent and quash the same and direct the respondents herein to produce the body of the petitioner's husband R.Govindarajulu, aged 39 years, son of Ramu, the detenu herein, now confined in Central Prison, Cuddalore before this Court and set him at liberty.

For Petitioner : Mrs.R.Subhadra Devi

For Respondents : Mr.S.Arockiam
Central Govt. Standing
Counsel for R3

Mr.V.M.R.Rajentren
Addl. Public Prosecutor
for R1 and R2

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 the records relating to the detention order passed in C3/D.O/30/2017 dated 23.05.2017, against the detenu by name, R.Govindarajalu, aged 39 years, S/o.Ramu, Residing at NO.132, SPR Nagar, Madukarai Village, Pudhucherry and quash the same.

2. The Inspector of Police, Civil Supply CID, Cuddalore Unit, as Sponsoring Authority, has submitted an affidavit to the Detaining Authority, wherein it is averred that on 12.05.2017 at about 21.15 hours, one Saravanan, the Inspector of Police, Civil Supplies CID and others have conducted vehicle check up. At that time near Unnamalai Chetty Chavadi Check Post they found a lorry bearing registration No.TN30-BD-5709. The same has been driven in a rash and negligent manner. The Inspector of Police and others have intercepted the same and ultimately found that the said lorry has carried 176 bags of PDS rice, each weighing 50 kgs and after observing all formalities, a case has been registered in Crime No.51 of 2017 under Sections 6(4) of TNSC (RDCS) Order 1982 r/w.7(1)(a)(ii) of Essential Commodities Act, 1955 and ultimately requested the Detaining Authority to invoke the Prevention of Blackmarketing and Maintenance of Supplies of Essential Commodities Act, 1980 (Act No.7 of 1980) and also under Section 3(2)(a) r/w. 3(1) of the Act against the detenu.

3. The Detaining Authority, after considering the averments made in the affidavit and other connected materials, has derived a subjective satisfaction to the effect that the detenu is a habitual offender and ultimately, branded her as "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 wife of the detenu, as petitioner.

4. In the counter filed on the side of the respondents, it is averred that most of the averments made in the petition are false. The Sponsoring Authority has submitted all the relevant materials to the Detaining Authority and the Detaining Authority, after considering the materials supplied to him and other connected materials, has derived a subjective satisfaction to the effect that the detenu is habitual offender and has rightly branded him as "Black Marketer" by way of passing the impugned Detention Order and the same need not be quashed and therefore, the present petition deserves to be dismissed.

5. The learned counsel appearing for the petitioner has contended to the effect that on the side of the detenu, a representation has been given, but the same has not been disposed of without delay and therefore, the Detention Order in question is liable to be quashed.

6. The learned Additional Public Prosecutor has contended that the representation submitted on the side of the detenu has been duly disposed of without delay and therefore, the contention urged on the side of the petitioner is liable to be rejected.

7. On the side of the respondents, a proforma has been submitted, wherein, it has been clearly stated that in between column Nos.7 and 9, 6 clear working days are available and no explanation has been given on the side of the respondents with regard to such delay and that 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.

8. In fine, this Habeas Corpus Petition is allowed and the Detention Order dated 23.05.2017 passed in Detention Order No. C3/D.O/30/2017 by the second respondent against the detenu by name, R.Govindarajalu, aged 39 years, S/o.Ramu, is quashed and directed to set him at liberty forthwith unless he is required to be incarcerated in any other case.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

gpa

To

- 1.The Joint Secretary to Government of Tamil Nadu,
Public [Law and Order] Department,
Secretariat, Chennai-9.
- 2.The Secretary to Government
Co-operation, Food and Consumer
Protection Department
Fort St. George
Chennai - 600 009
- 3.The District Collector and
District Magistrate
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- 5.The Superintendent of Police
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- 6.The Public Prosecutor,
High Court, Madras.

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