

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.10.2017

CORAM:

THE HONOURABLE MR.JUSTICE RAJIV SHAKDHER
and
THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

H.C.P. No.1274 of 2017

T.Baby

... Petitioner

-vs-

1. The District Collector Cum District Magistrate
Collectorate Office at Kaaraikaal
Kaaraikaal.
2. The Principal Secretary to Government
Government of India
Home Prohibition and Excise Department
New Delhi
3. The Additional Principal Secretary to Government
Secretariat, Kuber Salai,
Puducherry - 605 001.
4. The Superintendent of Police (Central Prison)
Kuber Salai,
Puducherry - 605 001.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, calling for the records in connection with the order of detention passed by the 1st respondent in D.O.No.6051/DM/RO/D2/PPASAA/2017 dated 06.07.2017 against the detainee Mrs.R.Ezhilarasi @ Meera, wife of Mr.Ramu @ Radhakrishnan confined at Central Prison, Kalapet, Puduchery and set aside the same, consequently direct the respondents to produce the body of the detainee before this Court and set her at liberty and pass such further or other orders.

For Petitioner : Mr.R.Vivekananthan
For Respondents : Mr. V.Balamurugan
Additional Public Prosecutor R1, R3 & R4
Mr.S.Arockiam, CGSC for R2

O R D E R

[Order of the Court was made by N.SATHISH KUMAR, J.]

The petitioner is the mother of the detenu, namely, R.Ezhilarasi @ Meera, W/o.Ramu @ Radhakrishnan, female, aged about 36 years. The detenu has been detained by the 1st respondent by his order in D.O.No.6051/DM/RO/D2/PPASAA/2017 dated 06.07.2017, holding her to be a " Dangerous Person", as contemplated under sub Section (2) of Section 3 of the Puducherry Prevention of Anti-social Activities Act 2008 (Act No.10 of 2010) read with the order issued by the Government Puducherry in G.O.Ms.No.15, dated 31st March, 2017 of the Home Department, Puducherry. The said order is under challenge in this Habeas Corpus Petition.

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

3. The learned counsel appearing for the petitioner has contended to the effect that as per the Detention Order, the detenu has been arrested in connection with Crime No.1 of 2017, registered under Sections 148, 332, 395, 307, 448, 302, 120(b), 427 IPC r/w 149 ICP and Section 3 & 4 of Explosive Substances Act, 1908, on 23.01.2017, whereas after a lapse of nearly four (6) months, the Detention Order in question has been passed on 06.07.2017 and no proper explanation has been given on the side of the respondents with regard to such huge delay. Under the said circumstances, the Detention Order in question is liable to be quashed.

4. On the side of the respondents, no counter affidavit has been filed. The learned Additional Public Prosecutor submitted that the Sponsoring Authority has submitted all the relevant materials to the Detaining Authority. The Detaining Authority, after considering all the relevant materials, has derived a subjective satisfaction to the effect that the detenu is a dangerous person and passed the impugned Detention Order and altogether, the present petition deserves to be dismissed.

5. On a perusal of the impugned order of detention, we find that in the ground case registered in No.1 of 2017, under Sections 148, 332, 395, 307, 448, 302, 120(b), 427 IPC r/w 149 ICP and Section 3 & 4 of Explosive Substances Act, 1908, the detenu has been arrested on 23.01.2017, whereas the Detention Order in question has been passed on 06.07.2017. As rightly pointed out on the side of the petitioner/detenu, there is a delay of nearly four (6) months in passing the Detention Order and no explanation has been given on the side of the

respondents. Under such circumstances, this Court is of the view that the grounds urged on the side of the petitioner/detenué are sufficient to quash the Detention Order in question.

6. In the result, the Habeas Corpus Petition is allowed and the order of detention in D.O.No.6051/DM/RO/D2/PPASAA/2017 dated 06.07.2017, passed by the first respondent is set aside. The detenué, namely, R.Ezhilarasi @ Meera, W/o.Ramu @ Radhakrishnan, female, aged about 36 years, is directed to be released forthwith unless her detention is required in connection with any other case. Given the nature of the case, this order will be communicated to the concerned Jail Superintendent by the Registrar General of this Court via Fax.

Sd/-
Assistant Registrar

/TRUE COPY/

Sub Assistant Registrar

vsm/ga

To:

1. The District Collector Cum District Magistrate
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Kaaraikaal-609 602.
2. The Principal Secretary to Government
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Home Prohibition and Excise Department,
New Delhi
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4. The Superintendent of Police (Central Prison)
Kuber Salai, Puducherry - 605 001.
5. The Superintendent,
Central Prison, Kalapet, Puducherry.
6. The Public Prosecutor,
Madras High Court, Madras

+1cc to Mr.R.Vivekanantham, Advocate, SR.NO..73763

H.C.P.No. 1274 of 2017

CS/14/10/17