

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.07.2017

CORAM

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

H.C.P.No.423 of 2017

B.Kalaiselvi

...Petitioner

Vs

1.The State of Tamil Nadu,
Rep. by its Secretary to Government,
Department of Co-operation, Food,
and Consumer Protection,
Fort St. George, Chennai-9.

2.The District Collector/District Magistrate,
Detaining Authority,
Coimbatore.

3.The Government of India,
Rep. by its Secretary to Government,
Ministry of Consumer Affairs,
Food and Public Distribution,
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 produce the body of detenu by name Balamurugan aged about 50 years before this Hon'ble Court and set him at liberty forthwith, by calling for the records pertaining to the detention order dated 27.02.2017 made in Cr.M.P.No.04/BM/2017 (E1) on the file of the 2nd respondent, quash the same.

For Petitioner : Mr.S.Vinoth Kumar
For Respondents : Mr.V.M.R.Rajentren,
Additional Public Prosecutor
for R1 and R2
Mr.S.Arockiam
Central Govt.Standing Counsel
for R3

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 Cr.M.P.No.04/BM/2017 (E1) dated 27.02.2017 by the Detaining Authority against the detenu by name, Balamurugan, aged 50 years, S/o.Ramasamy Thevar, residing at Door No.4-D, Doomatti Rengasamy Ayyar Street, Kamarajar Road, Maduri District and quash the same.

2. The Inspector of Police, Civil Supplies Criminal Investigation Department, Pollachi Unit, as Sponsoring Authority has submitted an affidavit to the Detaining Authority, wherein, it is averred to the effect that on 31.01.2017, he and others have made a vehicle check up and during that course, they intercepted a TATA lorry and ultimately, found 200 bags of Public Distribution System rice , approximately, weighing 50 kgs each,

without having licence, and consequently, a case has been registered in Crime No.43/2017 under Section 6(4) of TNSC (RDCS) Order 1982 read with 7(1) a(ii) of Essential Commodities Act, 1955 and ultimately, requested the Detaining Authority to invoke Act 14 of 1982 against the detenu.

3. The Detaining Authority after considering the relevant materials available on record and also after considering the gravity of offences alleged to have been committed by the detenu has branded him as Black Marketeer, 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. On the side of the respondents, a counter has been filed, wherein, it has been contended inter alia to the effect that most of the averments made in the petition are false. The Sponsoring Authority has supplied all the relevant materials to the Detaining Authority. The Detaining Authority, after considering all the materials, has arrived at a subjective satisfaction to the effect that the detenu is in the habit of committing crimes and ultimately, branded him as Black Marketeer by way of passing the impugned Detention Order and the same does not require any interference and therefore, the present petition deserves to be dismissed.

5. Learned counsel appearing for the petitioner has contended to the effect that on the side of the detenu, a representation has been submitted to the concerned authorities. But, the same has not been disposed of without delay and therefore, the Detention Order in question is liable to be quashed.

6. Per contra, the learned Additional Public Prosecutor has contended to the effect 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, 4 clear working days are available and with regard to such delay, no explanation has been given on the side of the respondents 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.

8. In fine, this petition is allowed. The Detention Order dated 27.02.2017 passed in Cr.M.P.No.04/BM/2017 (E1) by the Detaining Authority against the detenu by name, Balamurugan, aged 50 years, S/o.Ramasamy Thevar, residing at Door No.4-D, Doomatti Rengasamy Ayyar Street, Kamarajar Road, Maduri District, is quashed and directed to set him at liberty forthwith, unless he is required to be incarcerated in any other case.

[A.S., J.] [P.K., J.]
19.07.2017

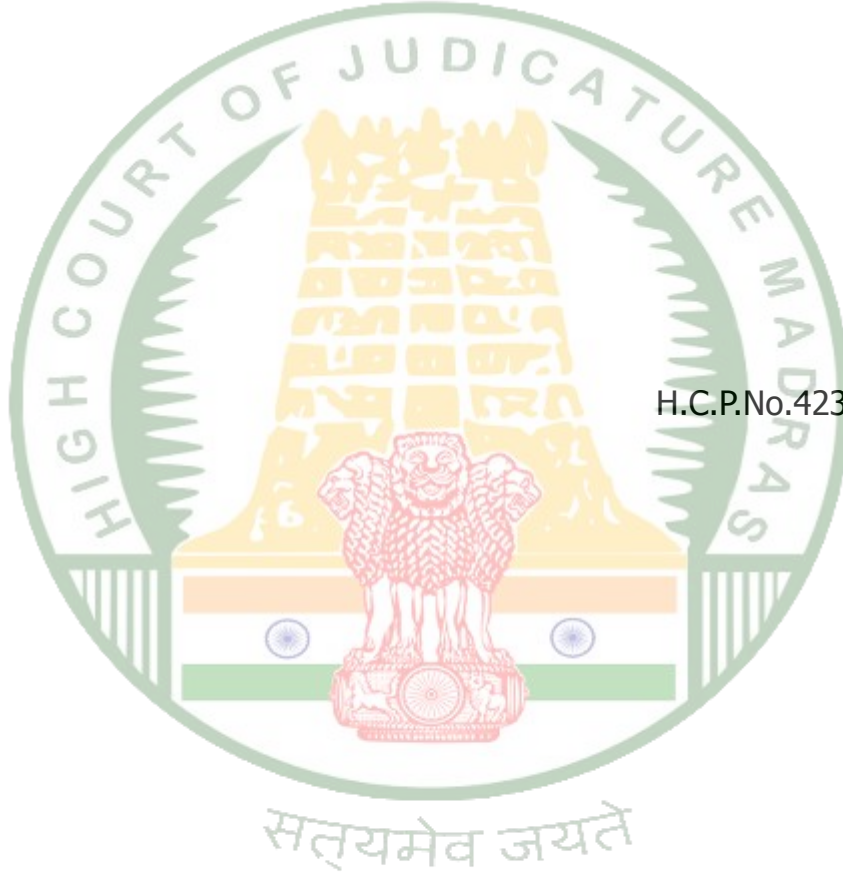
svki

To

- 1.The Secretary to Government,
The State of Tamil Nadu,
Department of Co-operation, Food and Consumer Protection,
Fort St. George, Chennai-9.
- 2.The District Collector/
Detaining Authority, Coimbatore.
- 3.The Secretary to Government,
The Government of India,
Ministry of Consumer Affairs,
Food and Public Distribution,
270, Krishi Bhavan,
New Delhi - 110 001.
- 4.The Public Prosecutor,
High Court, Madras.

and
P.KALAIYARASAN, J.

(svki)



H.C.P.No.423 of 2017

19.07.2017

WEB COPY