



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.11.2017

CORAM:

WEB COPY

THE HONOURABLE MR. JUSTICE R. SUBBIAH
AND
THE HONOURABLE MR. JUSTICE A.D. JAGADISH CHANDIRA

H.C.P. (MD) No.1229 of 2017

G.Venkatachalapathy @ Kannan : Petitioner

Vs.

1.The District Collector and District Magistrate
Tirunelveli District, Tirunelveli

2.The Secretary to Government
Tamilnadu Cooperation
Food and Consumer Protection Department
Secretariat, Chennai.

3.The State rep. by
Inspector of Police,
Civil Supplies
Criminal Investigation Department
Tirunelveli
Tirunelveli District.

4.The Superintendent of Prison,
Central Prison,
Palayamkottai
Tirunelveli District

: Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Habeas Corpus, to call for the records of the 1st respondent passed in his proceedings in M.H.S.Confdl No.77/2017 dated 24.07.2017 and quash the same and set the detenu namely Vinothkumar S/o.Varathappan aged about 24 years, now confined at Central Prison, Palayamkottai at liberty.

For Petitioner : Mr.B.Prahalad Ravi

For Respondents : Mr.C.Ramesh
Additional Public Prosecutor

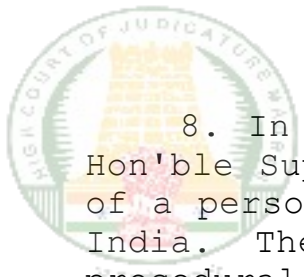


The petitioner is the cousin of the detenu viz., Vinothkumar, S/o.Varathappan, aged about 24 years. The detenu has been detained, as per the order of the 1st respondent, dated 24.07.2017, under Section 3(1) read with 3(2)(a) of the Prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act, 1980 branding him as "BLACK MARKETEER". Challenging the same, she has come up with this Habeas Corpus Petition.

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 that there is violation of procedural safeguards, which are guaranteed under Articles 21 and 22 of the Constitution of India. The learned counsel would submit that the representation made by the petitioner was not considered on time and there was an inordinate and unexplained delay. The learned counsel has relied on few Judgments of the Hon'ble Supreme Court. Based on the same, the learned counsel would plead for setting aside the detention order.

5. We have considered the above submissions.

7. Now, the question is as to whether on that score, the
~~goals of the services~~ can be quashed.



8. In *Rekha Vs. State of Tamil Nadu*, [2011 (5) SCC 244], the Hon'ble Supreme Court has held that the right to life and liberty of a person is protected, under Article 21 of the Constitution of India. The Hon'ble Supreme Court has further 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 of the detenu.

9. 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/detenu would be sufficient to set aside the detention order.

10. 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 detention illegal. This dictum has been followed in several Judgments consistently by the Hon'ble Supreme Court as well as this Court.

11. Applying the said dictum laid down by the Hon'ble Supreme Court, if we look into the facts of the present case, undoubtedly, there is an inordinate and unexplained delay of 9 working days and therefore, the impugned detention order is liable to be quashed.

12. In the result, this Habeas Corpus Petition is allowed and the impugned Detention Order, passed by the 1st respondent, in his proceedings in M.H.S.Confdl No.77/2017 dated 24.07.2017, is quashed. The detenu, namely Vinothkumar, S/o.Varathappan, aged about 24 years, is ordered to be set at liberty forthwith, if he is not required for detention in connection with any other case.

Sd/-

Assistant Registrar(RTI)

/True Copy/

Sub-Assistant Registrar

To

1.The District Collector and District Magistrate
Tirunelveli District, Tirunelveli

2.The Secretary to Government
Tamilnadu Cooperation
Food and Consumer Protection Department
Secy to Govt, Tamil Nadu
Chennai.



3.The Inspector of Police,
Civil Supplies
Criminal Investigation Department
Tirunelveli
Tirunelveli District.

4.The Superintendent of Prison,
Central Prison,
Palayamkottai, Tirunelveli District

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

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

+One cc to M/s.P.Paul Pandi, Advocate, SR.No.85401

RR
RL/8C/4P/KP/SAR1/13/11/2017

Order made in
H.C.P. (MD) No.1229 of 2017

Dated: 03.11.2017