



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.05.2017

CORAM:

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN
and
THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

H.C.P. (MD) No.149 of 2017

Karpagam

... Petitioner/Wife of Detenue

-vs-

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

2.The Commissioner of Police
Madurai City, Madurai

3.The Superintendent of Prison
Central Prison, Madurai

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus to call for the entire records, connected with the detention order of the second respondent, in No.86/BCDFGISSSV/2016, dated 25.11.2016, in detaining the detenue under the Tamilnadu Act 14 of 1982 as a Goonda and quash the same and direct the respondents to produce the detenue, namely, Manikandan, son of Gurusamy, male, aged about 41 years, who is detained in Central Prison, Madurai, before this Court and set him at liberty.

For Petitioner : Mr.A.Joseph Jerry

For Respondents : Mr.C.Ramesh
Addl. Public Prosecutor

O R D E R

[Order of the Court by M.V.MURALIDARAN, J.]

The petitioner is the wife of the detenu - Manikandan, aged about 41 years. The detenu has been detained by the second respondent by his order No.86/BCDFGISSSV/2016, dated 25.11.2016, holding him to be a "Goonda", as contemplated under Section 2(f)



of Tamil Nadu Act 14 of 1982. 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. Though several grounds have been raised in the Habeas Corpus Petition, the learned counsel appearing for the petitioner would mainly focus his argument on the ground that there is gross violation of procedural safeguards, which would vitiate the detention. According to the learned counsel for the petitioner, there is a delay of 85 days in passing the detention order and remand extension order has also not been enclosed in the booklet.

4. The learned Additional Public Prosecutor opposed the Habeas Corpus Petition. He would submit that though there was delay in passing the detention order, on that score alone, the impugned detention order cannot be quashed. According to the learned Additional Public Prosecutor, no prejudice has been caused to the detenu and thus, there is no violation of the fundamental rights guaranteed under Articles 21 and 22 of the Constitution of India.

5. On perusal of the materials placed, it is seen that the detenu was arrested on 01.09.2016 and the detention order in question was passed on 25.11.2016 and hence, there was a delay of 85 days in passing the detention order. Apart from that, the remand extension order has not been enclosed in the booklet, which would vitiate the impugned detention order and on that score, the impugned detention order is liable to be quashed.

6. In the result, the Habeas Corpus Petition is allowed and the order of detention No.86/BCDFGISSSV/2016, dated 25.11.2016, passed by the second respondent is set aside. The detenu, namely, Manikandan, son of Gurusamy, male, aged about 41 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

Assistant Registrar(C)

/True Copy/

Sub Assistant Registrar

To:

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



2.The Commissioner of Police,
Madurai City, Madurai.

3.The Superintendent of Prison,
Central Prison, Madurai.

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

5.The Joint Secretary to Government,
Public (Law & Order) Department,
Fort St.George, Chennai.

+1cc to M/s. A.JOSEPH JERRY Advocate in SR. No.56526

KRK

JS/JC/SAR.1/24.05.2017/3P-7C

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