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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 06.07.2017
CORAM:

THE HONOURABLE MR.JUSTICE **M.M.SUNDRESH**
and
THE HONOURABLE MR.JUSTICE **N.SATHISH KUMAR**

H.C.P. (MD) No.249 of 2017

E.Reka : Petitioner
Vs.

- 1.State of Tamil Nadu, rep. by
The Principal Secretary to the Government,
Home, Prohibition and Excise Department,
Fort. St. George, Chennai - 9.
- 2.The District Collector and
District Magistrate,
O/o. The District Collector and District Magistrate,
Nagapattinam District, Nagapattinam.
- 3.The Superintendent,
Central Prison,
Tiruchirappalli. : Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus, calling for the entire records in detention order passed in C.O.C.No.09/2017 dated 15.02.2017 on the file of the second respondent herein and set aside the same as illegal and direct the respondents to produce the body or person of the petitioner's husband namely Elangovan, S/o.Chandrababu, male, aged 30 years who is detained in Central Prison, Tiruchirappalli before this Honourable Court and set him at liberty.

For Petitioner : Mr.K.A.S.Prabhu
For Respondents : Mr.C.Ramesh
Additional Public Prosecutor.

O R D E R

[Order of the Court was made by **M.M.SUNDRESH, J.**]

The petitioner is the wife of the detenu - Elangovan, aged about 30 years. The detenu has been detained by the second respondent by his order in C.O.C.No.09/2017 dated 15.02.2017 holding him to be a "Boot-Legger", as contemplated under Section 2 (b) of the Tamil Nadu Act 14 of 1982. The said order is under challenge in this Habeas Corpus Petition.



9. In Tara Chand Vs. State of Rajasthan and others, [1980 (2) SCC 321], the Hon'ble Supreme Court has held that any unexplained delay on the part of the Government in considering the representation renders the very detention illegal.



10. In the subject case, admittedly, there is an inordinate and unexplained delay of 9 days in submitting the remarks by the Detaining Authority and 6 days in considering the representation. The impugned detention order is, therefore, liable to be quashed.

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11. In the result, the Detention Order, passed by the second respondent, in his proceedings in C.O.C.No.09/2017 dated 15.02.2017, is quashed. The detenu, namely, Elangovan is ordered to be set at liberty forthwith, if he is not required for detention in connection with any other case.

12. In the upshot, we allow the Habeas Corpus Petition.

Sd/-

Assistant Registrar(Writs)

/True Copy/

Sub Assistant Registrar

To

1.The Principal Secretary to the Government,
The State of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort. St. George, Chennai - 9.

2.The District Collector and
District Magistrate,
O/o. The District Collector and District Magistrate,
Nagapattinam District, Nagapattinam.

3.The Superintendent,
Central Prison,
Tiruchirappalli.

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

ORDER MADE IN
H.C.P (MD) No.249 of 2017
06.07.2017

cp/am

JM/SKN RSK/SAR 2/13.07.2017/3P/5C