



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: **23.05.2017**

CORAM:

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN
AND

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN
H.C.P (MD) No.317 of 2017

Kavitha

: Petitioner

Vs.

1.The Additional Secretary,
Government of India,
Ministry of Consumer Affairs, Food and
Public Distribution (Department of Consumer Affairs),
Room No.270, Krishi Bhavan,
New Delhi - 110 001.

2.The Secretary to the Government,
Government of Tamil Nadu,
Co-operation, Food and Consumer
Protection Department, Secretariat, Fort St. George,
Chennai - 600 009.

3.The District Collector and District Magistrate,
Dindigul District, Dindigul.

4.The Inspector of Police,
CSCID, Dindigul.

5.The Superintendent of Prison,
Central Prison, Madurai District.

: Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus, to call for records pertaining to the order of detention passed by the third respondent in his proceedings detention order No.10/2017, dated 19.02.2017 and quash the same as illegal and produce the detenu, namely Mari @ Ponnuchamy, son of Thavasi, aged about 43 years, now he is confined in Central Prison, Madurai, before this Court and set him of liberty.

For Petitioner : Mr.T.Lenin Kumar

For Respondent No.1 : Mr.R.Murugappan

Central Government Standing Counsel

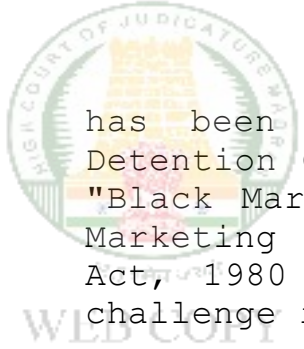
For Respondents No. 2 to 5 : Mr.C.Mayilvahana Rajendran

Additional Public Prosecutor

O R D E R

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

<https://hcservices.ecourts.gov.in/hcservices>
The petitioner is wife of the detenu - by name, namely
Mari @ Ponnuchamy, son of Thavasi, aged about 43 years. The detenu



has been detained by the third respondent by his order in Detention Order No.10/2017, dated 19.02.2017, holding him to be a "Black Marketeer", as contemplated under the prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act, 1980 (Central Act No.7 of 1980). 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 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 for the petitioner would mainly focus his argument on the ground that there is gross violation of procedural safeguards, which would vitiate the detention. The learned counsel, by placing authorities, submitted that the representation made by the petitioner was not considered on time and there was an inordinate and unexplained delay.

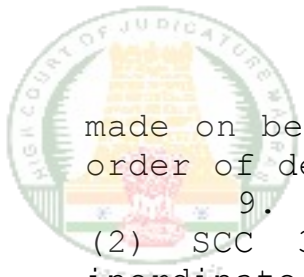
4. The learned Additional Public Prosecutor opposed the Habeas Corpus Petition. He would submit that though there was delay in considering the representation, on that score alone, the impugned detention order cannot be quashed. According to the learned Additional Public Prosecutor, no prejudice has been 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. The Detention Order in question was passed on 19.02.2017. The petitioner made a representation dated 27.02.2017. Thereafter, remarks were called for by the Government from the Detaining Authority on 02.03.2017. The remarks were duly received on 21.03.2017. Thereafter, the Government considered the matter and passed the order rejecting the representation on 28.03.2017.

6. It is the contention of the petitioner that there was a delay of 13 days in submitting the remarks by the Detaining Authority and thereafter, there was again a delay of 5 days in considering the representation.

7. In **Rekha Vs. State of Tamil Nadu**, [2011 (5) SCC 244], the Hon'ble Supreme Court has 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 undertaken by the detenu.

<https://hcservices.ecourts.gov.in/TcsService/maiya> 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 would be sufficient to set aside the order of detention.

9. 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 very detention illegal.

10. In the subject case, admittedly, there is an inordinate and unexplained delay of 13 days in submitting the remarks by the Detaining Authority and 5 days in considering the representation. The impugned detention order is, therefore, liable to be quashed.

11. In the result, the Detention Order, passed by the second respondent, in his proceedings in Detention Order No.10/2017, dated 19.02.2017, is quashed. The detenu, namely, Mari @ Ponnuchamy, son of Thavasi, 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 (P&A)

/TRUE COPY/

SUB ASSISTANT REGISTRAR

To

- 1.The Additional Secretary, Government of India,
Ministry of Consumer Affairs, Food and
Public Distribution (Department of Consumer Affairs),
Room No.270, Krishi Bhavan, New Delhi - 110 001.
- 2.The Secretary to the Government, Government of Tamil Nadu,
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Dindigul District, Dindigul.
- 4.The Inspector of Police, CSCID, Dindigul.
- 5.The Superintendent of Prison,
Central Prison, Madurai District.
- 6.The Joint Secretary to Government, Public (Law & Order) Department
Fort Saint George, Chennai -9.
- 7.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC TO M/S.R.MURUGAPPAN, ADVOCATE, SR NO.57028

+1 CC TO M/S.T.LENIN KUMAR, ADVOCATE, SR NO.57111

CM

MAS/SV/SAR3:30.05.2017:3P-10C