



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.376 of 2017

Chithra Devi

... Petitioner

-vs-

1.State of Tamil Nadu, Rep. by its
Secretary to Govt.,
Home, Prohibition & Excise Department,
Fort St.George, Chennai-600 009.

2.The District Collector/District Magistrate,
Velu Nachiyar Valagam,
Dindigul-624 004, Dindigul District.

3.The Junior/Superintendent of Prison,
Central Prison, Madurai,
Madurai District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus, calling for the records pertaining to the detention order dated 30.12.2016 in D.O.No.57/2016 passed by the 2nd respondent and quash the same as illegal and further direct the respondents to produce the body of the detenu, namely, Chandra Bose @ Manikandan, S/o.Kanagasundaram, aged about 30 years detained at Central Prison, Madurai before this Court and set him at liberty.

For Petitioner

: Mr.S.J.Chakkravarthy

For Respondents

: Mr.C.Ramesh

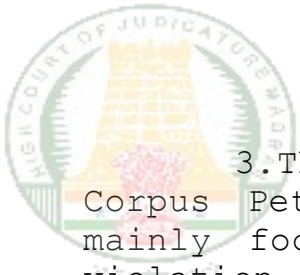
Addl. Public Prosecutor

O R D E R

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

The petitioner is the wife of the detenu Chandra Bose @ Manikandan. The detenu has been detained by the 2nd respondent by order in D.O.No.57/2016 dated 30.12.2016, holding the detenu 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 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 30.12.2016. The petitioner made a representation on 12.01.2017. Thereafter, remarks were called for by the Government from the Detaining Authority on 23.01.2017. The remarks were duly received on 03.02.2017. Thereafter, the Government considered the matter and passed the order rejecting the representation on 13.03.2017.

6. It is the contention of the petitioner that there was a delay of 24 days in considering the representation of the petitioner.

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.

8. 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 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 24 days in considering the representation of the petitioner and therefore, the impugned detention order is liable to be quashed.



11. In the result, the Detention Order, passed by the second respondent, in his proceedings in D.O.No.57/2016 dated 30.12.2016 is quashed. The detenu, namely, Chandra Bose @ Manikandan, S/o.Kanagasundaram, 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(RTI)

/True Copy/

Sub-Assistant Registrar

To:

- 1.The Secretary to Government,
Tamil Nadu,
Home, Prohibition & Excise Department,
Fort St.George, Chennai-600 009.
- 2.The District Collector/District Magistrate,
Velu Nachiyar Valagam,
Dindigul-624 004, Dindigul District.
- 3.The Superintendent ,
Central Prison, Madurai,
- 4.The Joint Secretary to Government of Tamil Nadu,
Public (Law and Order) Fort Saint George, Chennai-9
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
.

+One cc to Mr.S.J.Chakkaravarthy, Advocate, SR.No.57037

ar/er
RL/7C/3P/RR/SAR1/2.6.2017

H.C.P.(MD) No.376 of 2017
23.05.2017