

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED : 20.09.2017

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CORAM:

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

H.C.P. (MD) No.684 of 2017

Siva @ Nari Siva

... Petitioner

-vs-

1. The Principal Secretary to Government,
State of Tamil Nadu,
Home, (Prohibition and Excise Department),
Fort St.George,
Chennai - 600 009.

2. The District Collector and District Magistrate,
Kanniyakumari District,
Nagercoil.

3. The Superintendent of Prison,
Central Prison,
Palayamkottai,
Tirunelveli.

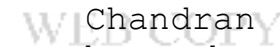
... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, calling for the entire records connected with the detention order passed in P.D.No.34/2017 dated 27.04.2017 on the file of the 2nd respondent herein and quash the same and direct the respondents to produce the detenu or body of the detenu namely Siva @ Nari Siva, aged about 24 years, S/o.Chandran @ Jeyachandran, now detained at Central Prison, before this Court and set him at liberty forthwith.

For Petitioner : Mr.N.Pragalathan

For Respondents : Mr.C.Ramesh

Additional Public Prosecutor



<https://hcservices.accounts.dovain/hcservices/>

6. It is the contention of the petitioner that there was a delay of 13 days in submitting the remarks by the Detaining Authority, of which 4 days were Government Holidays and hence there was an inordinate delay of 9 days in submitting the remarks. Thereafter, there was another delay of 23 days in considering the ~~representations~~ ^{representations/} of which 6 days were Government Holidays, hence, there was another inordinate delay of 17 days in considering the representation.



7. In *Rekha vs. State of Tamil Nadu*, reported in 2011 (5) SCC 244, the Honourable 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*, reported in 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*, reported in 1980 (2) SCC 321, the Honourable 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 9 days in submitting the remarks by the Detaining Authority and 17 days in considering the representation. The impugned detention order is, therefore, liable to be quashed.

11. In the result, the Habeas Corpus Petition is allowed and the order of detention in Detention Order No.P.D.No.34/2017, dated 27.04.2017, passed by the second respondent is set aside. The detenu, namely, Siva @ Nari Siva, son of Chandran @ Jeyachandran, Male, aged about 24 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar

To:

1. The Principal Secretary to Government,
State of Tamil Nadu,
Home, (Prohibition and Excise Department),
Fort St.George,
Chennai - 600 009.

2. The District Collector and District Magistrate,
Nagercoil.



3. The Superintendent of Prison,
Central Prison,
Palayamkottai,
Tirunelveli.

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4. The Joint Secretary to Government,
Public (Law & Order),
Fort St.George, Chennai-09.

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

H.C.P. (MD) No.684 of 2017
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PJL/SSS
SDS/SV:MMS/SAR 3/04.10.2017/4P/6C