



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.04.2017

CORAM:

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THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MR.JUSTICE P.VELMURUGAN

H.C.P.(MD) No.1328 of 2016

Meena

... Petitioner

-vs-

1.The Secretary to the Government
Home Prohibition and Excise Department
Secretariat, St.George Fort, Chennai-9

2.The District Collector and District Magistrate
Theni District, Theni

3.The Inspector of Police
Thenkarai Police Station
Theni District

... 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 pertaining to the order of detention passed by the second respondent vide his proceedings in Detention Order No.12/2016, dated 14.09.2016 and quash the same and consequently set the detenu by name, Santhamani, w/o.(Late) Muthiah, (Female, aged 62 years) who is presently confined at Special Prison for Women, Madurai, at liberty.

For Petitioner : Mr.S.Balaji

For Respondents : Mr.T.Mohan
Addl. Public Prosecutor

O R D E R

[Order of the Court by T.S.SIVAGNANAM, J.]

The petitioner is the granddaughter of the detenu - Santhamani, wife of Late.Muthiah, aged about 62 years. The detenu has been detained by the second respondent by his Detention Order No.12/2016, dated 14.09.2016, holding her to be a "Drug Offender", as contemplated under Section 2(e) of Tamil Nadu
<https://hcservices.courts.gov.in/hcservices/> 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.

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3. The first contention raised by the petitioner is that the representation, dated 28.09.2016, given by the detainee against the detention order has not been considered and not even forwarded to the authorities concerned for consideration.

4. On the last occasion, when the matter came up before this Court, we adjourned the matter today (i.e., 10.04.2017) so as to enable the learned Additional Public Prosecutor to get instructions as to what action has been taken on the detainee's representation, which was submitted to the respondents, through the Superintendent, Special Prison for Women, Madurai.

5. Today (i.e., 10.04.2017, when the matter was taken up, the learned Additional Public Prosecutor appearing for the respondents submitted that the detainee's representation, dated 28.09.2016, has been forwarded to the authority concerned for consideration.

6. Thus, we are satisfied that the detainee has been put to prejudice and there is an infringement of her personal rights because of the delay in considering her representation. The impugned detention order is, therefore, liable to be quashed.

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 detainee.

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.

<https://hcservices.ecourts.gov.in/hcservice/> 10. In the result, the Habeas Corpus Petition is allowed and the Detention Order No.12/2016, dated 14.09.2016 passed by the second respondent is set aside. The detainee - Santhamani, wife of



Late.Muthiah, aged about 62 years, is directed to be released forthwith unless her detention is required in connection with any other case.

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/True Copy/

Sd/-

Assistant Registrar(CSII)

Sub-Assistant Registrar

To:

- 1.The Secretary to the Government,
Home Prohibition and Excise Department,
Secretariat, St.George Fort, Chennai-9.
- 2.The District Collector and District Magistrate,
Theni District, Theni.
- 3.The Inspector of Police,
Thenkarai Police Station,
Theni District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- 5.The Superintendent,
Special Prison for Women,
Madurai
- 6.The Joint Secretary to Government,
Public (Law and Order),
Fort Saint George, Chennai-9

krk/skm

RL/7C/3P/MR/10.5.2017

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