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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.04.2017

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

AND

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

H.C.P (MD) No.1459 of 2016

Sankarammal

: Petitioner

Vs.

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

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

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

: Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus, to call for the entire records, connected with the detention order of the second respondent in M.H.S.Confdl.No.150 of 2016, dated 27.10.2016 and quash the same and direct the respondents to produce the body or person of the detenu, namely Karthick, son of Kaliyugaperumal, aged about 25 years, detained at Palayamkottai Central Prison, before this Court and set him at liberty forthwith.

For Petitioner : Mr.R.Vinoth Bharathi

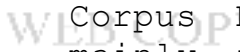
For Respondents : Mr.C.Ramesh

Additional Public Prosecutor.

O R D E R

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

The petitioner is the mother of the detenu - Karthick, son of Kaliyugaperumal, aged about 25 years. The detenu has been detained by the second respondent by his order in M.H.S.Confdl.No.150 of 2016, dated 27.10.2016, holding him to be a "Goonda", as contemplated under Section 2(f) of Tamil Nadu Act 14 of 1992. The said order is under challenge in this Habeas Corpus Petition.

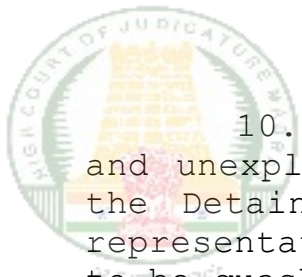


4. The learned Additional Public Prosecutor opposed the Habeas Corpus Petition. He would submit that though there was delay in considering the representation, on that score alone, the impugned detention order cannot be quashed. According to the learned Additional Public Prosecutor, no prejudice has been 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.

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

8. In **Sumaiya Vs. The Secretary to Government, [2007 (2) MNW (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 eight days in submitting the remarks by the Detaining Authority and twenty two 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 M.H.S.Confdl.No.150 of 2016, dated 27.10.2016 is quashed. The detenu, namely, Karthick, son of Kaliyugaperumal, aged about 25 years, 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(CO)

/True Copy/

Sub Assistant Registrar

TO

1. The Principal Secretary to Government,
Home, Prohibition and Excise Department,
State of Tamil Nadu,
Fort.St.George, Chennai - 600 009.
2. The District Collector and District Magistrate,
Tirunelveli District,
3. The Superintendent of Prison
Palayamkottai Central Prison, Tirunelveli.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.
5. The Joint Secretary to Government,
Public (Law & Order),
Fort St.George, Chennai-9.

ORDER MADE IN
H.C.P (MD) No.1459 of 2016
Dated:11.04.2017

akv/dsk

MKV-JC-SAR 4/20.4.2017/3P-6C