



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 12.04.2017
CORAM:

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

H.C.P(MD)No.1525 of 2016

M.Dhivya Durga

... Petitioner

Vs.

1.Government of Tamilnadu, represented by its
Principal Secretary, Home, Prohibition
and Excise (XVI) Department,
Fort St.George, Chennai-600 009.

2.The District Collector and
District Magistrate,
Tirunelveli, Tirunelveli 9.

3.The Superintendent,
Central Prison,
Palayamkottai.

... Respondents

PRAYER: Habeas Corpus Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Habeas Corpus to call for the records in M.H.S.Confdl.No.153/2016 dated 28.10.2016 on the file of the second respondent herein and quash the same and direct the respondents herein to produce the person or body of the petitioner's husband Manikandan, son of Murugesan, aged 32 years now confined in Central Prison, Palayamkottai before this Court and set him at liberty.

For Petitioner : M/s.A.Devaki

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 wife of the detenu Manikandan, aged about 32 years. The detenu has been detained by the second respondent by his order in M.H.S.Confdl.No.153/2016, dated 28.10.2016, holding him to be a "Goonda", as contemplated under Section 14 of Tamil Nadu Act 14 of 1982. The said order is under challenge in this Habeas Corpus Petition.



9. In Tara Chand Vs. State of Rajasthan and others, [1980 (2) SCC 321], the Hon'ble Supreme Court has held that any 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 6 days in submitting the remarks by the Detaining Authority and 21 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 M.H.S.Confdl.No.153/2016 dated 28.10.2016 is quashed. The detenu, namely, Manikandan 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(C.O)

/True Copy/

Sub-Assistant Registrar

To

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

+One cc to Mr.P.Prabhakaran, Advocate, SR.No.51604

akv

RL/7C/3P/MR/SAR4/27.4.2017

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