

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.07.2018

CORAM

THE HON'BLE DR.JUSTICE S.VIMALA
AND
THE HON'BLE MRS.JUSTICE S.RAMATHILAGAM

H.C.P.NO.532 OF 2018

K.Tamilmathi @ Muneeswari

... Petitioner

Vs

1. The Secretary
Department of Prohibition & Excise
Government of Tamil Nadu, Chennai 600 009.
2. The District Magistrate cum District Collector
Salem District, Salem.

.... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying to issue a writ of Habeas Corpus to call for the records pertaining to the proceedings of the 2nd respondent made in proceedings C.M.P.No.9/Goonda/C2/2018 dated 16.02.2018 and quash the same and set the petitioner's husband / the detenu namely G.Karthikeyan @ Karthik Pandiyan, S/o Gunabalan aged about 35 years who is confined at Central Prison, Vellore.

For Petitioner : Mr.S.Prabhakaran, Senior Counsel
for M/s.V.Janarthanan

For Respondents: Mr.R.Prathap Kumar,
Addl.Public Prosecutor - for R1 and R2

O R D E R

(Order of the Court was made by Dr.S.VIMALA, J.)

This petition is filed seeking production of the detenu Karthikeyan @ Karthik Pandian aged 35 years, after quashing the detention order against him made in C.M.P.No.9/Goonda/C2/2018 dated 16.02.2018. The above detention order is being challenged on two grounds.

2. In the documents supplied to the detenu, there is a document to show that the remand has been extended upto

23.02.2018. The detention order has been passed on 16.02.2018 authorizing further detention of the detenu. It is not known whether there is any order of remand or order of detention in between 16.02.2018 and 23.02.2018. The said document has not been provided to the counsel for the petitioner, thereby violating his right for representation. Representation is a very valuable right that can be exercised by the detenu to challenge the order of detention. The said right is deprived to the detenu, thereby making detention order liable to be quashed.

3. In so far as the second ground is concerned, the representation of the detenu dated 03.03.2018 has been rejected on 16.04.2018. It is claimed that there is a delay of more than 40 days in considering the representation of the petitioner. The delay has not been explained properly by the respondents and the said delay in not considering the representation vitiates the order of detention.

4. Under the above circumstances, we find that the above two grounds are suffice for allowing the petition and the detention order dated 16.02.2018 is hereby quashed. The H.C.P. is allowed. The detenu Karthik @ Karthik Pandian S/o Gunabalan aged 35 years, is ordered to be set at liberty forthwith, unless his custody is otherwise required in any other case.

5. CrI.M.P.No.9843 of 2018 filed to fix an early date for final hearing of H.C.P. No.532 of 2018 is closed.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

KST

To

1. The Secretary
Department of Prohibition & Excise
Government of Tamil Nadu, Chennai 600 009.
2. The District Magistrate cum District Collector
Salem District, Salem.
3. The Superintendent central prison, vellore.
4. The Joint secretary to Government,
Public (Law & Order), Fort St.George, Chennai-9

5.The Public Prpsecutor,
High Court, Madras.

6.The superintendent,
central prison, Salem.

+1cc to Mr.V.Janarthanan, Advocate, S.R.No.51513

H.C.P.No.532 of 2018

PPA (CO)
GSP (11/09/2018)



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