

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED: 27.03.2018****CORAM:****THE HONOURABLE DR. JUSTICE S.VIMALA****AND****THE HONOURABLE MRS. JUSTICE T. KRISHNAVALLI****HCP [MD].No.146 of 2018**

Petchiammal

: Petitioner

Vs.

1.State of Tamil Nadu Represented
by its Secretary to Government,
Home Prohibition and Excise Department,
Fort St.George, Chennai - 9.

2.The District Collector/District Magistrate,
Thoothukudi
Thoothukudi District.

3.The Superintendent,
Central Prison,
Palayamkottai.

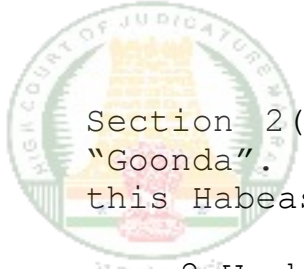
: Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Habeas Corpus, calling for the entire records relating to the Detention Order passed by the second respondent in H.S.(M)Confdl.No.41/2017, dated 15.10.2017 and quash the same and direct the respondents to produce the body or person of the detenu namely Ajay Madasamy, S/o.Shanmugam, aged about 37 years (now detained at Central Prison, Palayamkottai) before this Court and set him at liberty.

For Petitioner : Mr.V.Malaiyendran

For Respondents : Mr.V.Neelakandan,
Additional Public Prosecutor**ORDER**[Order of the Court was made by **S.VIMALA, J**]

The petitioner is the wife of the detenu viz., Ajay Madasamy, S/o.Shanmugam, aged about 37 years. The detenu has been detained, as per the order of the second respondent, dated 15.10.2017, under



Section 2(f) of the Tamil Nadu Act 14 of 1982, branding him as "Goonda". Challenging the same, the petitioner has come up with this Habeas Corpus Petition.

2. We have heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondents. We have also perused the records carefully.

3. Though several grounds have been raised in the Habeas Corpus Petition, the learned counsel for the petitioner would mainly focus his argument on the ground that there is violation of procedural safeguards, which are guaranteed under Articles 21 and 22 of the Constitution of India. The learned counsel would submit that the representation made by the petitioner was not considered on time and there was an inordinate and unexplained delay. The learned counsel has relied on few Judgments of the Hon'ble Supreme Court. Based on the same, the learned counsel would plead for setting aside the detention order.

4. The learned Additional Public Prosecutor would, however, oppose this Habeas Corpus Petition. He would submit that though there was delay in considering the representation, on that score, the impugned detention order need not be interfered with, as on account of the said delay, 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.

5. We have considered the above submissions.

6. In this case, the Detention Order was passed on 15.10.2017. As against the same, the petitioner made a representation dated 03.01.2018. The remarks were called for by the Government from the Detaining Authority on 06.02.2018. The remarks were received on 21.02.2018. Thereafter, the Government considered the issue and passed the order rejecting the representation on 09.03.2018. It is the contention of the petitioner that there was delay of 11 days in submitting the remarks by the detaining authority and there was a delay of 11 days on the part of the Government in considering the same.

7. Now, the question is as to whether on that score, the impugned order can be quashed.

8. In *Rekha Vs. State of Tamil Nadu*, [2011 (5) SCC 244], the Hon'ble Supreme Court has held that the right to life and liberty of a person is protected, under Article 21 of the Constitution of India. The Hon'ble Supreme Court has further 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 of the detenu.



about 37 years, is ordered to be set at liberty forthwith, if he is not required for detention in connection with any other case.

Sd/-

Assistant Registrar (RTI)

/True Copy/

Sub Assistant Registrar

To

- 1.The Secretary to Government,
Home Prohibition and Excise Department,
Fort St.George, Chennai - 9.
 - 2.The District Collector/District Magistrate,
Thoothukudi
Thoothukudi District.
 - 3.The Superintendent,
Central Prison,
Palayamkottai.
(in duplicate for communication to the detenu)
 - 4.The Joint Secretary,
Public (Law and Order) Department,
Fort St. George,
Chennai.
 - 5.The Additional Public Prosecutor
Madurai Bench of Madras High Court,
Madurai.
- +1. C.C. to M/S.V.MALAIYENDRAN, Advocate, SR.No.58226.

ORDER MADE IN
HCP [MD].No.146 of 2018
27.03.2018

Rj2

SDS/MM:PN/SAR.1/27.03.2018/4P/8C