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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.03.2018

CORAM:

THE HONOURABLE DR. JUSTICE S.VIMALA
AND
THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

HCP [MD].No.252 of 2018

T.Lakshmi : Petitioner
Vs.

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

2.The District Collector and District Magistrate,
O/o.The District Collector and District Magistrate,
Krishnagiri District.

3.The Superintendent,
Borstal School,
Pudhukottai District.

: 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 connected with the detention order of the Respondent No.2 in S.C.No.33/2017 dated 10.06.2017 and quash the same as illegal and direct the respondents to produce the body or the person of the detenu by name Sathish @ Sathishkumar, Son of Arumugam, aged about 19 years, now detained in Respondent No.3 before this Court and set him at liberty forthwith.

For Petitioner : Mrs.P.Krishnaveni

For Respondents : Mr.V.Neelakandan,
Additional Public Prosecutor

ORDER

[Order of the Court was made by S.VIMALA, J]

The petitioner is the mother of the detenu viz., Sathish @ Sathishkumar, Son of Arumugam, aged about 19 years. The detenu has been detained, as per the order of the second respondent, dated 10.06.2017, under Section 2(f) of the Tamil Nadu Act 1982, branding him as "Goonda". Challenging the same, the mother of the detenu 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, though has not filed any counter as well as proforma, 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.

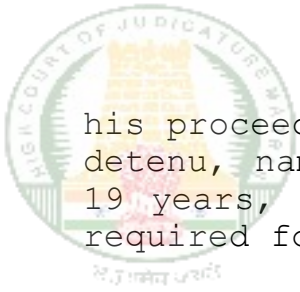
6. In this case, the Detention Order was passed on 10.06.2017. As against the same, the petitioner made a representation on 24.02.2018. According to the learned counsel for the petitioner, there was a delay in 28 days on the part of the detaining authority in submitting the remarks. She would further submit that the detenu has been in jail for past 10 months.

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

8. Even though the respondents neither filed counter affidavit nor proforma, perusal of the records would show that against the detention order, the mother of the detenu has made representation on 24.02.2018 and the same is enclosed in the typed set of papers. However, till now, no order has been passed on the same. Further perusal of the record would show that the detenu has been in incarceration for the past 10 months.

9. Considering the facts and circumstances of the case, I find considerable force in the submission made on the learned counsel for the petitioner and therefore, the impugned detention order is liable to be quashed.

10. In the result, this Habeas Corpus Petition is allowed and the impugned Detention Order, passed by the second respondent, in



his proceedings in S.C.No.33/2017 dated 10.06.2017 , is quashed. The detenu, namely Sathish @ Sathishkumar, Son of Arumugam, aged about 19 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 (AD-II)

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/True copy/

Sub Assistant Registrar

To

- 1.The Secretary to Government,
State of Tamil Nadu,
Home, Prohibition & Excise Department,
Fort St. George, Chennai-600 009.
- 2.The District Collector and District Magistrate,
O/o.The District Collector and District Magistrate,
Krishnagiri District.
- 3.The Superintendent,
Borstal School,
Pudhukottai District.
(In duplicate for Communication to detenu)
- 4.The Joint Secretary to Government,
Public(Law and Order),
Fort St.George, Chennai-9.
- 5.The Additional Public Prosecutor
Madurai Bench of Madras High Court,
Madurai.

HCP [MD].No.252 of 2018
28.03.2018

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