



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.07.2018

CORAM:

THE HONOURABLE Mr. JUSTICE C.T.SELVAM

and

THE HONOURABLE Mr. JUSTICE A.M.BASHEER AHAMED

H.C.P.(MD)No.687 of 2018

Vignesh Shanmuga Supriyan

... Petitioner

Vs.

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

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

3. The Superintendent,  
Central Prison,  
Tiruchirappalli.

... Respondents

**PRAYER:** The petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, calling for the entire records in detention order passed in Cr.M.P.No.04/2018, dated 28.04.2018 on the file of the second respondent herein and set aside the same as illegal and direct the respondents to produce the petitioner namely Vignesh Shanmuga Supriyan, S/o.Ganapathi Maharajan, aged 21 years, who is detained in Central Prison, Tiruchirappalli before this Court and set him at liberty.

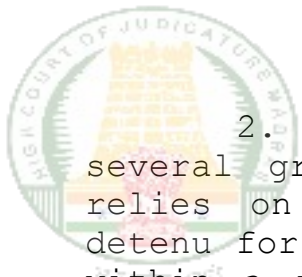
For Petitioner : Mr.K.A.S.Prabhu

For Respondents : Mr.V.Neelakandan, APP

**ORDER**

**(Order of the Court was made by C.T.SELVAM,J.)**

The petitioner is the detenu - Vignesh Shanmuga Supriyan, S/o.Ganapathi Maharajan, aged about 21 years. The detenu has been detained by the second respondent, by his order in Cr.M.P.No.04/2018, dated 28.04.2018, holding him to be a "Goonda", as contemplated under Section of 2(f) of the Tamil Nadu Act 14 of 1982. The said order is under challenge in this Habeas Corpus Petition.



2. Though the order of detention has been assailed on several grounds, the learned counsel for the petitioner mainly relies on the contention that the representation made by the detenu for revocation of the order of detention was not considered within a reasonable time and such enormous delay in considering the representation amounts to denial of reasonable opportunity vitiating the order of detention.

3. The learned counsel for the petitioner further submits that after the detention order is confirmed by the State Government, the Detaining Authority, which is other than the State Government, becomes *functus officio* and the rejection of the representation made by the petitioner should have been made only by the State Government and not by the Detaining Authority. The representation made by the detenu, dated 07.05.2018, came to be rejected not by the State Government, but by the Detaining Authority, on 11.05.2018, after the Government approved the order of detention on 09.05.2018. On that ground, the order of detention stands vitiated.

4. We also heard the submissions made by the learned Additional Public Prosecutor on the above said contentions raised on behalf of the petitioner.

5. As rightly contended by the learned counsel for the petitioner, the Detaining Authority, after the detention order was approved by the Government, ought to have transmitted the representation to the Government for the consideration of the Advisory Board and orders by the Government. The very fact that the Detaining Authority chose to pass an order of rejection after the detention order was approved by the Government, will show exercise of power, which is not conferred on the Detaining Authority. On that score alone, the order of detention is liable to be set aside.

6. In the result, the Detention Order, passed by the second respondent, in his proceedings in Cr.M.P.No.04/2018, dated 28.04.2018, is quashed. The detenu, namely, Vignesh Shanmuga Supriyan, S/o.Ganapathi Maharajan, aged about 21 years, is ordered to be set at liberty forthwith, if his detention is not required in connection with any other case.

7. In the result, we allow the Habeas Corpus Petition.

Sd/-

Assistant Registrar(CO)

/True Copy/



To

1. The Principal Secretary to Government,  
Home, Prohibition and Excise Department,  
Fort St.George, Chennai - 9.
2. The District Magistrate and District Collector,  
O/o.The District Magistrate and District Collector,  
Karur District, Karur.
3. The Superintendent,  
Central Prison,  
Tiruchirappalli.
- 4.The Joint Secretary to Government,  
Public (Law and Order),  
Fort.St.George,  
Chennai - 9.
- 5.The Addl.Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.

NBJ

VB/SKN/SAR4/23.07.2018/3P/6C

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**03.07.2018**