



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.01.2018

CORAM:

WEB COPY

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

HCP [MD].No.1465 of 2017

Vandimalayan @ Periyavandi : Petitioner
Vs.

- 1.State of Tamil Nadu
Rep. by the Principal Secretary to Government,
Home, Prohibition & Excise Department,
Fort St George, Chennai-600 009.
- 2.The District Collector and District Magistrate,
Thoothukudi District,
Thoothukudi.
- 3.The Superintendent of Prison,
Central Prison,
Palayamkottai,
Tirunelveli. : Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Habeas Corpus, to call for the entire records connected with the detention order passed in H.S.(M) Confdl.No.39/2017 dated 20.09.2017 on the file of the second respondent herein and quash the same and direct the respondents to produce the detenu or body of the detenu namely Vandimalayan @ Periyavandi, aged about 23 years, S/o.Chellapandi Thevar, now detained at Central Prison, Palayamkottai, before this Court and set him at liberty forthwith.

For Petitioner : Mr.S.Sundara Pandian
For Respondents : Mr.C.Ramesh,
Additional Public Prosecutor

ORDER

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

<https://hcservices.ecourts.gov.in/hcservices/>
The petitioner is the detenu viz., Vandimalayan @ Periyavandi
S/o.Chellapandi Thevar, aged about 23 years. The detenu has been



detained, as per the order of the second respondent, dated 20.09.2017, 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 20.09.2017. As against the same, the petitioner made a representation on 28.09.2017. The remarks were called for by the Government from the Detaining Authority on 04.10.2017. The remarks were received on 23.10.2017. Thereafter, the Government considered the issue and passed the order rejecting the representation on 27.10.2017. It is the contention of the petitioner that there was delay of 13 days in submitting the remarks by the detaining authority.

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



S/o.Chellapandi Thevar, aged about 23 years, is ordered to be set at liberty forthwith, if he is not required for detention in connection with any other case.

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Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

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

ORDER MADE IN
HCP [MD].No.1465 of 2017
23.01.2018

rmi/RR

MS/PM-PN/SAR.2/23.01.2018/4P.7C