



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.01.2018

CORAM:

THE HONOURABLE DR.JUSTICE S.VIMALA

AND

THE HONOURABLE MRS. JUSTICE T.KRISHNAVALLI

H.C.P.(MD)No.1569 of 2017

Geetha : Petitioner

Vs.

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

2.The District Collector and District Magistrate
Office of the District Collector and District Magistrate
Kanyakumari District at Nagercoil.

3.The Superintendent of prison,
Special Prison for Women
Madurai 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 P.D.No.69/2017 dated 11.10.2017 and quash the same and direct the respondents to produce the body or person of the detenu by name Geetha, daughter of Velappan, aged about 56 years, now detained at Special Prison for women, Madurai before this Court and set her at liberty forthwith.

For Petitioner : Mr.R.Alagumani

For Respondents : Mr.C.Ramesh

Additional Public Prosecutor

ORDER

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

The petitioner is the detenu viz. Geetha, daughter of Velappan, aged about 56 years. The detenu has been detained, as per the order of the second respondent, dated 11.10.2017, under Section 2(g) of the Tamil Nadu Act 14 of 1982, branding him as "Immoral Traffic Offender". Challenging the same, the petitioner

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2. We have heard the learned counsel for the petitioner and



the learned Additional Public Prosecutor appearing for the respondents. We have also perused the records carefully.

3. The main submission of the learned counsel for the petitioner is that the detenu has sent a representation to the District Collector on 16.10.2017 and within a period of 12 days, the same has to be considered by the District Collector and accordingly, the District Collector has considered the said representation and passed an order of rejection on 27.10.2017. However, the rejection order has been communicated to the detenu only on 07.11.2017. Thus, this inordinate delay in communicating the rejection order would vitiate the order of detention and hence, the same is liable to be set aside.

4. We have heard the learned Additional Public Prosecutor appearing for the State and perused the records carefully.

5. The issue involved in this Habeas Corpus Petition has already been dealt with, elaborately, by this Court reported in 2007(2) MWN (Cr.) 145 (DB), [Sumaiya v. The Secretary to Government, Prohibition & Excise Department, Government of Tamil Nadu, Fort St. George, Chennai and another], wherein, this Court, after having considered various Judgments of the Hon'ble Supreme Court, in Paragraph No.6, has held as follows:-

"6..... the delay in serving the rejection letter, viz., between 2.5.2007 and 7.5.2007 - a period of five days, was highlighted by the learned counsel for the petitioner. Even though 5.5.2007 and 6.5.2007 happened to be the public holidays, there is no convincing reply on behalf of the State for the delay in serving the rejection order on the detenu. We find some force as well as substance in this contention. We fail to understand as to why the matter was delayed for three days (excluding Saturday and Sunday) between 2.5.2007 and 7.5.2007. There is absolutely no explanation for this delay."

6. Following the said decision, this Habeas Corpus Petition is allowed and the impugned Detention Order, passed by the second respondent, in his proceedings in P.D.No.69/2017 dated 11.10.2017 is quashed. The detenu, namely Geetha, daughter of Velappan, aged about 56 years, is ordered to be set at liberty forthwith, if she is not required for detention in connection with any other case.

Sd/-

Assistant Registrar (T&P)

/True copy/

Sub Assistant Registrar



To

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

2.The District Collector and District Magistrate
Office of the District Collector and District Magistrate
Kanyakumari District at Nagercoil.

3.The Superintendent of prison,
Special Prison for Women
Madurai District.
(in duplicate for communication to the detenue)

4.The Joint Secretary to Government Public (Law and order)
Fort St.George, Chennai.

5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.R.ALAGUMANI,Advocate,SR. 42770

H.C.P. (MD) No.1569 of 2017
Dated: 18.01.2018

RR

KK/PM PN/SAR 1/18.01.2018/ 3P- 8C/