



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

HCP [MD].No.1691 of 2017

Kanniyammal

: Petitioner

Vs.

1. The State of Tamil Nadu,
represented by its
Secretary to Government,
Home Prohibition and Excise Department,
Fort St. George, Chennai-600 009.
2. The District Collector/
District Magistrate,
Tirunelveli District, Tirunelveli.
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 records relating to the detention order passed by the 2nd respondent in M.H.S.Confdl.No.79/2017 dated 31.07.2017 and quash the same and direct the respondents to produce the detenu Vijay Kadiravan son of Subramanian, male, aged 24 years who is detained at Central Prison, Palayamkottai, before this Court and set him at liberty.

For Petitioner : Mr.M.Saravanan

For Respondents : Mr.C.Ramesh,
Additional Public Prosecutor

ORDER

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

<https://hcservices.courts.gov.in/hcservices/>
The petitioner is the wife of the detenu viz., Vijay Kadiravan son of Subramanian, male, aged 24 years. The detenu



has been detained, as per the order of the second respondent, dated 31.07.2017, under Section 2(f) of the Tamil Nadu Act 14 of 1982, branding him as "Goonda". Challenging the same, the petitioner/wife 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 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 31.07.2017. As against the same, the petitioner made a representation dated Nil. The remarks were called for by the Government from the Detaining Authority on 23.09.2017. The remarks were received on 05.10.2017. Thereafter, the Government considered the issue and passed the order rejecting the representation on 10.10.2017. It is the contention of the petitioner that there was delay of 7 days on the part of the detaining authority in submitting the representation.

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



male, aged 24 years, is ordered to be set at liberty forthwith, if he is not required for detention in connection with any other case.

WEB COPY

/True copy/

Sd/-

Assistant Registrar (RTI)

Sub Assistant Registrar

To

1. The Secretary to Government,
Home Prohibition and Excise Department,
Fort St. George, Chennai-600 009.
2. The District Collector/
District Magistrate,
Tirunelveli District, Tirunelveli.
3. The Superintendent of Prison,
Central Prison,
Palayamkottai, Tirunelveli.
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.

+1cc to Mr.M.Saravanan, Advocate, in SR No.42711

**ORDER MADE IN
HCP [MD].No.1691 of 2017
18.01.2018**

dss/rr

MKV-PM-PN-SAR 1/18.1.2018/4P-8C