



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.03.2018

CORAM:

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

HCP [MD]No.1887 of 2017

Amalorbavasheela : Petitioner

Vs.

1. The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai-600009.
 2. The District Magistrate and District Collector,
Office of the District Magistrate and District Collector,
Dindigul District.
 3. The Superintendent of Prison,
Madurai Central Prison,
Madurai.
- : 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 Detention Order No.95/2017 dated 18.12.2017 and quash the same and direct the respondents to produce the body or person of the detenu by name Velankanni, son of Sundarampillai, aged about 38 years, now detained at Madurai Central Prison before this Court and set him at liberty forthwith.

For Petitioner : Mr.R.Alagumani

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

ORDER

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

The petitioner is wife of the detenu viz., Velankanni, S/o. Sundarampillai, aged about 38 years. The detenu has been detained, as per the order of the second respondent, dated



18.12.2017, 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 18.12.2017. The remarks were called for by the Government from the Detaining Authority on 29.12.2017. The remarks were received on 22.01.2018. Thereafter, the Government considered the issue and passed the order rejecting the representation on 30.01.2018. It is the contention of the petitioner that there was delay of 13 days in submitting the remarks by the detaining authority and there was delay of 4 days on the part of the Government in considering the same.

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 of the detenu.

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about 38 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(CO)

/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-600009.
2. The Joint Secretary,
Public (Law and Order) Department,
Fort St. George, Chennai.
3. The District Magistrate and District Collector,
Office of the District Magistrate and District Collector,
Dindigul District.
4. The Superintendent of Prison,
Madurai Central Prison,
Madurai.
(in duplicate for communication to the detenu)
5. The Additional Public Prosecutor
Madurai Bench of Madras High Court, Madurai.

ORDER MADE IN
HCP [MD].No.1887 of 2017
26.03.2018

das/rmi

MKV-PN-MM-SAR 1/26.3.2018/4P-7C