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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.06.2019

CORAM

THE HON'BLE MR.JUSTICE M.M.SUNDRESH
AND
THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

H.C.P.NO.356 OF 2019

B.Jaya

... Petitioner

-vs-

1. State rep. By
The Addl. Chief Secretary to Govt,
Home Department,
Prohibition and Excise Wing/Depts,
Secretariat, Chennai - 600 009.

2. The Commissioner of Police,
O/o. Commissioner of Police,
Greater Chennai,
Vepery, Chennai - 600 007

... Respondents

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, to call for the records in connection with the order of detention passed by the second respondent dated 27.11.2018 for Memo No.1080/2018 BCDFGISSSV against the petitioner's son namely Thiru. Ebi @ Ebinezer @ Ebinal, son of Balu, aged about 24 years and he is presently confined at Central Prison, Puzhal, Chennai and set aside the same and direct the respondent to produce the detenu before this Hon'ble Court and set him at liberty.

For Petitioner : Mr.N.Selvarajan

For Respondents : Mr.C.Iyyappa Raj
Addl.Public Prosecutor

ORDER

[Order of the Court was made by M.M.SUNDRESH, J.]

The petitioner is the mother of Ebi @ Ebinezer @ Ebinal, son of Balu, aged about 24 years, who is the detenu. The detenu has been detained by the second respondent by his order in Memo No.1080/2018 BCDFGISSSV, dated 27.11.2018, holding him to be a



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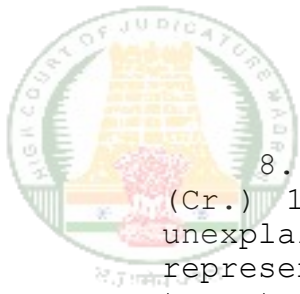
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8. In Sumaiya vs. The Secretary to Government (2007 (2) MWN (Cr.) 145), a Division Bench of this Court has held that the unexplained delay of three days in disposal of the representation made on behalf of the detenu would be sufficient to set aside the order of detention.

9. In Tara Chand vs. State of Rajasthan and others, reported in 1980 (2) SCC 321, the Hon'ble Supreme Court has held that any inordinate and unexplained delay on the part of the Government in considering the representation renders the very detention illegal.

10. In the subject case, admittedly, there is an inordinate and unexplained delay of 43 days in considering the representation by the Hon'ble Minister for Electricity, Prohibition and Excise Department. The impugned detention order is, therefore, liable to be quashed.

11. In the result, the Habeas Corpus Petition is allowed and the order of detention Memo No.1080/2018 BCDFGISSSV, dated 27.11.2018, passed by the second respondent is set aside. The detenu, namely, Ebi @ Ebinezzer @ Ebinal, son of Balu, aged about 24 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

mmi/ssm

To:

1. The Addl. Chief Secretary to Government,
Home, Prohibition and Excise Department,
Chennai - 600 009.
2. The Commissioner of Police,
Vepery, Chennai - 600 007
3. The Superintendent,
Central Prison, Puzhal,
Chennai.
4. The Joint Secretary to Government,
Public (Law & Order), Fort St.George,
Chennai-9.



5. The Public Prosecutor,
High Court, Madras.

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CS/28/08/2019

H.C.P.No.356 of 2019