

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.01.2019

CORAM

THE HONOURABLE MR.JUSTICE C.T.SELVAM
and
THE HONOURABLE Mrs.JUSTICE R.HEMALATHA

H.C.P.No.2049 of 2018

Inparasi
W/o.Chandruji

.. Petitioner

Vs.

- 1.The Secretary to Government,
Government of India,
Ministry of Home Affairs,
(Department of Internal Security),
North Block, New Delhi-110 001.
- 2.The Lieutenant Governor,
Rajnivas, Puducherry.
- 3.The District Magistrate-cum-Authorized Officer,
1st Floor, Vazhadhavoor Road,
Kavundanpalayam, Puducherry-605 009.

.. Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Habeas Corpus, to call for the records in No.07/DM/RO/D2/PPASAA/2018 dated, 04.09.2018 on the file of the third respondent herein and quash the same as illegal and consequently direct the respondents to produce the detenu Chandruji, S/O.Rajangam, aged about 28 years, who is now confined in Central Prison, Kalapet, Puducherry before this Hon`ble court and set him at liberty.

For Petitioner :Mr.K.Gandhi Kumar

For Respondents :Mr.S.S.Pajaniradajan CGSC for R1

Mr.D.Bharathachakravathy
Public Prosecutor (Pondicherry) for RR2 & 3

O R D E R

[Order of the Court was made by C.T.SELVAM, J.]

Petitioner is the wife of the detenu detained under order of third respondent challenges the order of detention in No.07/DM/RO/D2/PPASAA/2018 dated 04.09.2018, whereby the detenu, by name, Chandruji, son of Rajangam, was ordered to be detained under Sub Section (2) of Section 3 of the Puducherry Prevention of Anti-Social Activities Act, 2008 (Act No.10 of 2010) branding him as a "DANGEROUS PERSON".

2. The detenu has come to adverse notice in a case registered in Crime No.05/2018 on the file of CBCID Police Station, Puducherry for offence u/s 120(B), 489-A, 489-B, 489-D, 379, 406, 409, 465, 468, 471 of IPC.

3. We have heard learned counsel for petitioner, Mr.S.S.Pajaniradajan, learned Central Government Standing Counsel for first respondent as also learned Public Prosecutor (Pondicherry) for respondents 2 and 3.

4. Learned counsel for petitioner submitted that against the detenu's arrest on 11.07.2018, the order of detention came to be passed on 04.09.2018 and the delay in passing the detention order snapped the live link. A requisite for passing an order of detention while the detenu had been remanded to judicial custody on 11.07.2018 neither the remanded order nor subsequent order of extension thereof has been furnished.

5. Learned counsel appearing for first respondent, who explained the delay in passing the order of detention informing the after filing of charge sheet in this case that the involvement of petitioner in very many offences similar in nature came to light, the failure to provide the order of remand and copy of the order of judgment and subsequent orders of remand, which shall be asked for by respondents.

6. Despite request denied to the detenu, the opportunity of making representation against the order of the detention stands lost. Therefore, the detention order is vitiated and liable to be quashed on this ground alone.

7. Accordingly, the Habeas Corpus Petition is allowed and the impugned detention order in No.07/DM/RO/D2/PPASAA/2018 dated 04.09.2018 passed by the third respondent is set aside. The detenu viz., Chandruji, son of Rajangam, is directed to be released forthwith unless his presence is required in connection with any other case.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

kmi

To

1. The Secretary to Government,
Government of India,
Ministry of Home Affairs,
(Department of Internal Security),
North Block, New Delhi-110 001.
2. The Lieutenant Governor,
Rajnivas, Puducherry.
3. The District Magistrate-cum-Authorized Officer,
1st Floor, Vazhadvavoor Road,
Kavundanpalayam, Puducherry-605 009.
4. The Superintendent
Central Prison, Kalapet,
Puducherry.
5. The Public Prosecutor (Pondicherry),
High Court, Madras.

+1 cc to Mr.K.Gandhi kumar, Advocate, S.R.No.3624

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SSM(13/02/2019)