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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.07.2019

Coram

The Hon'ble Mr. Justice M.M.SUNDRESH
and
The Hon'ble Mr. Justice M. NIRMAL KUMAR

H.C.P. No.1005 of 2019

Poongothai

... Petitioner/Aunty of Detenue

-vs-.

1. The State of Tamil Nadu
Rep. By its Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009
2. The District Collector and District Magistrate,
of Cuddalore District,
Cuddalore District. ... Respondents

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus to call for the entire records, relating to petitioner's sister son detention under Tamil Nadu Act 14 of 1982 vide detention order, dated 30.11.2018 on the file of the second respondent herein made in proceedings C3/D.O./74/2018 and quash the same as illegal and consequently direct the respondents herein to produce the said petitioner's sister son namely Suresh, Son of Chandhirakasan, aged 32 years before this Court and set the petitioner's sister son at liberty from detention, now petitioner's sister son detained at Central Prison, Cuddalore.

For Petitioner : Mr.C.C.Chellappan

For Respondents : Mr.R.Prathap Kumar
Addl.Public Prosecutor

ORDER

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

The petitioner is the aunt of the detenu, Suresh, Son of Chandhirakasan, aged 32 years. The detenu has been detained by the second respondent by his order in C3/D.O./74/2018 dated



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7. In *Rekha vs. State of Tamil Nadu* (2011 (5) SCC 244), the Hon'ble Supreme Court has 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 undertaken by the detenu.

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 12 days in submitting the remarks and 20 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 in C3/D.O./74/2018 dated 30.11.2018 passed by the second respondent is set aside. The detenu, Suresh, Son of Chandhirakasan, aged 32 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

Assistant Registrar (CO)

//True Copy//

Sub Assistant Registrar

mmi/ssm

To

1. The Secretary to Government,
The State of Tamil Nadu
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009



2.The District Collectorate and District Magistrate,
of Cuddalore District, Cuddalore District.

3.The Superintendent,
Central Prison,Cuddalore.

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4. The Joint Secretary to Government,
Public (law & Order),
Fort Saint George, chennai 9

5.The Public Prosecutor,
High Court, Madras.

H.C.P. No. 1005 of 2019

NRJK(CO)
GN(21/08/2019)