

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.04.2019

CORAM:

THE HONOURABLE MR.JUSTICE M. SATHYANARAYANAN
AND
THE HONOURABLE MR.JUSTICE M. NIRMAL KUMAR

H.C.P.No.2768 of 2018

Latha

...Petitioner

Vs.

1.The Principal Secretary to Government
Home, prohibition and Excise (IX) Department,
State of Tamil nadu,
Secretariat, Chennai-600 009.

2.The Commissioner of Police,
Office of the Commissioner of Police,
Coimbatore city.

3.The Superintendent of Prison,
Coimbatore Central Prison,
Coimbatore District.

...Respondents

Prayer: Habeas Corpus Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Habeas Corpus to call for the entire records connected with the detention order of the respondent No.2 in C.No.117/G/IS/2018 dated 09.11.2018 and quash the same and direct the respondents to produce the detenu by name K.Ranjith Kumar @ Ranjith, aged 21 years son of Kumaneswaran @ Kumanan detained in Coimbatore Central Prison before this Court and set him at liberty forthwith.

For Petitioner : Mr.R.Alagumani

For Respondents : Mr.C.Iyyappa Raj

Additional Public Prosecutor

O R D E R

(The Order of the Court was made by M. SATHYANARAYANAN, J.,)

The petitioner is the mother of the detenu, and challenging the legality of the impugned Order of Detention dated 09.11.2018 passed by the 2nd respondent in and by which the detenu has been branded as "Goonda" as contemplated under Section Section 2(f)

of the Tamil Nadu Act 14 of 1982, came forward to file this Habeas Corpus petition.

2. A perusal of the grounds of detention would disclose among other things that the detenu came to adverse notice in the following cases:

SL. No.	Crime No.	Section of law	Date of occurrence
1.	Sivagangai District, SIPCOT Police Station Crime No.57/2016	147, 148, 294 (b), 324, 449, 307, 506 (ii), 212 r/w 34 IPC and Section 3 of TNPPDL Act 1992.	11.03.2016
2.	Sivagangai District, SIPCOT Police Station Crime No.58/2016	147, 148, 294 (b), 506 (ii), 212 IPC and Section 3 of TNPPDL Act 1992.	11.03.2016

It is further averred in the grounds of detention that the defacto complainant viz., Mrs.S.Rajeswari, wife of Shanmugasundaram, resident of Door No.34, Udayampalayam, Coimbatore appeared before the Sub-Inspector of Police, Law and Order, E-1 Singanallur Police Station, Coimbatore City and lodged a complaint stating that at about 08.30 hours on 11.08.2018, her son-in-law contacted her and informed about a dead body with certain marks and later on, she became aware that the brother of the defacto complainant came to be murdered in a brutal manner. In this regard, the said Police Station has registered a case in Cr.No.910/2018 under Section 174 Cr.P.C and the Inspector of Police, Law and Order, E-1 Singanallur Police Station, Coimbatore City took up the investigation and during the course of investigation, one Mr.P.Balasubramanian @ Dharma surrendered before Judicial Magistrate No.II, Sivagangai and his custody was took up on 21.08.2018. On further investigation, he revealed the involvement of detenu herein in the crime and subsequently, the sections were altered to 120(b), 147, 148, 302 and 201 IPC and the detenu had surrendered before the Court of Judicial Magistrate, No.II, Sivagangai on 12.09.2018 and ordered to be remanded to judicial custody till 20.09.2018 and subsequently his police custody was taken. During such period, he voluntarily came forward to give a confession statement and on the basis of the admissible portion of the confession statement, some incriminating articles were seized. After the period of police custody, he was produced before the Court of Judicial Magistrate No.III, Coimbatore on 20.09.2018 and was ordered to be remanded to judicial custody till 24.09.2018 and

the remand period was extended till 15.11.2018.

3. The Detaining Authority, on the basis of materials, formed a subjective satisfaction that the detenu, who has committed the crime, has already come to adverse notice in two cases and his acts are prejudicial to the maintenance of public order and accordingly, clamped the impugned order of detention and challenging the legality of the same, the present Habeas Corpus Petition is filed.

4. The learned counsel appearing on behalf of the detenu has drawn attention of this Court to the worksheet and would submit that for revoking the order of detention passed against the detenu, post detention representations dated 24.11.2018 were submitted and the Deputy Secretary, Home, Prohibition and Excise Department had dealt with the same on 20.12.2018 and the Hon'ble Minister for Home, Prohibition and Excise, dealt with the same on 04.01.2019 and there was a delay of 14 days in dealing with the said representation, even by excluding the public holidays of 6 days, still there was a delay of 8 days in dealing with the said representation and in the absence of proper explanation, the said delay is fatal to the impugned order of detention and therefore, prays for appropriate orders.

5. Per contra, Mr.C.Iyyapparaj, learned Additional Public Prosecutor appearing for the State by drawing attention of this Court to the worksheet would submit that the delay cannot be construed as fatal and the 2nd respondent / Detaining Authority, after due and proper application of mind, has rightly clamped the order of detention and hence prays for dismissal of this petition.

6. This Court has considered the rival submissions and also perused the materials placed before it.

7. As rightly pointed out by the learned counsel appearing for the petitioner, the Deputy Secretary, Home, Prohibition and Excise Department had dealt with the same on 20.12.2018 and the Hon'ble Minister for Home, Prohibition and Excise Department has dealt with the same on 04.01.2019 and there was a delay of 14 days in dealing with the said representation and even by excluding the public holidays of 6 days, still there was a delay of 8 days in dealing with the said representations and no plausible or tenable explanation has been offered on behalf of the respondents as to the said delay. In the considered opinion of this Court, the delay in dealing with the representations violates the valuable right guaranteed to the detenu under Article 22 of the Constitution of India and hence on the sole ground, the impugned order of detention warrants interference.

8. Accordingly, the Habeas Corpus Petition stands allowed and the Detention Order passed by the second respondent in proceedings C.No.117/G/IS/2018 dated 09.11.2018 is set aside and the detenu namely K.Ranjith Kumar @ Ranjith, aged 21 years, son of Kumaneswaran @ Kumanan now detained in Coimbatore Central Prison, is set at liberty forthwith, unless his detention / custody is required in connection with any other case / proceedings.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To:

- 1.1.The Principal Secretary to Government
Home, Prohibition and Excise (IX) Department,
State of Tamil nadu,
Secretariat, Chennai-600 009.
- 2.The Commissioner of Police,
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Coimbatore city.
- 3.The Superintendent of Prison,
Coimbatore Central Prison, Coimbatore District.
4. The Public Prosecutor
High Court, Madras.

H.C.P.No.2768 of 2018

NA(CO)
CSL/29.05.2019

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