

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 16.04.2019

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE M.NIRMAL KUMAR

HCP.No.2904 of 2018

M.Mano Ranjitham

.. Petitioner

Versus

1.The Secretary to the Government  
Government of Tamil Nadu  
(Home) Prohibition and Excise Department  
Secretariat, Fort St.George,  
Chennai-600 009.

2.The Commissioner of Police,  
Greater Chennai, Chennai.

.. Respondents

Prayer:- 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 order of the 2<sup>nd</sup> respondent herein in Memo No.1030/BCDFGISSSV/2018 dated 12.11.2018 against the petitioner's son detenu namely Rajeswaran @ Raja son of Mariyappan, aged about 34 years, who is confined at Central Prison, Puzhal, Chennai-66 and set aside the same, consequently, directing the respondents herein to produce the body and person of the detenu before this Court and set him at liberty.

For Petitioner : Mr.R.Kishore Kumar

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

ORDER

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

The petitioner is the mother of the detenu, who, vide impugned Order of Detention dated 12.11.2018 passed by the 2<sup>nd</sup> respondent by invoking Section 2(f) of the Tamil Nadu Act 14 of 1982, in branding the detenu as "**Goonda**", 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:

| <i>Sl.No.</i> | <i>Crime No.</i>                                                            | <i>Section of law</i>                       | <i>Date of occurrence</i> |
|---------------|-----------------------------------------------------------------------------|---------------------------------------------|---------------------------|
| 1.            | Thirunelveli District<br>Thevarkulam Police Station<br>Cr.No.228/2014       | 341, 294(b), 506(ii), IPC                   | 25.11.2014                |
| 2.            | Thirunelveli District<br>Maanur Police Station<br>Cr.No.406/2014            | 294(b), 307, 506(ii) IPC                    | 26.11.2014                |
| 3.            | Thirunelveli District<br>Sankarankoil Taluk Police Station<br>Cr.No.76/2016 | 147, 148, 302, 120(B),<br>149, 307, 212 IPC | 17.10.2016                |

| <i>Sl.No.</i> | <i>Crime No.</i>                                       | <i>Section of law</i>                                                | <i>Date of occurrence</i> |
|---------------|--------------------------------------------------------|----------------------------------------------------------------------|---------------------------|
| 4.            | Thirunelveli City<br>Melapalayam P.S<br>Cr.No.420/2017 | 147, 148, 294(b), 364(A),<br>307 IPC r/w Sec.4 of<br>TNPBW Act, 2002 | 14.07.2017                |

It is further averred in the ground of detention that one Thiru.Sendoorpandiyam, resident of Thirusulam, Chennai is employed at Tambaram. His wife was working in a water can company and developed illicit intimacy with the detenu and defacto complainant having aware of the same also advised her and on account of the fact that the wife of the defacto complainant developed a quarrel with him and left the matrimonial home at about 11.10.2018, the defacto complainant was waylaid by the detenu and he was abused by using filthy words and also took out a knife and tried to assault him. When the defacto complainant raised an alarm, the public gathered and they were also threatened with dire consequences and taking advantage of the situation, fled away from the scene of occurrence. The Sub Inspector of Police, S-5 Pallavaram Police Station has registered a case in Cr.No.758/2018 under Sections 341, 294(b), 307, 336 and 506(ii) IPC. The detenu was arrested at about 11.10 hours on 12.10.2018 and upon interrogation, he voluntarily came forward to give a confession statement and based on the admissible

portion of the confession statement, some incriminating articles were seized. The detenu was produced before the Court of Judicial Magistrate, Tambaram, Chennai on 12.10.2018 and was ordered to be remanded to judicial custody till 14.11.2018.

3. The Detaining Authority namely, the 2<sup>nd</sup> respondent, on the basis of materials, formed a subjective satisfaction that the detenu, who has committed the crime, have already come to adverse notice in four cases and his acts are prejudicial to the maintenance of public order and accordingly, clamped the impugned orders 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 petitioner would submit that for revoking the order of detention, passed against the detenu, the post detention representation dated 12.12.2018 was submitted and the Deputy Secretary, Home, Prohibition and Excise (X) Department had dealt with the same on 21.12.2018 and the Hon'ble Minister for Electricity, Prohibition and Excise had dealt with the same on 04.01.2019 and there was a delay of 13 days and even excluding 6 days holidays, still there was a delay of 7 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 and would submit that the delay cannot be construed as fatal and the 2<sup>nd</sup> 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 entire materials placed before it.

7. A perusal of the worksheet as to the disposal of the representation would clearly reveal that the Deputy Secretary, Home, Prohibition and Excise (X) Department had dealt with the same on 21.12.2018 and the Hon'ble Minister for Electricity, Prohibition and Excise had dealt with the same on 04.01.2019 and there was a delay of 13 days and even excluding 6 days holidays, still there was a delay of 7 days in dealing with the said representation 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 representation 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 warrants interference.

8. Accordingly, the Habeas Corpus Petition stands allowed and the Detention Order passed by the second respondent in No.1030/BCDFGISSSV/2018 dated 12.11.2018 is set aside and the detenu namely Rajeswaran @ Raja son of Mariyappan, aged about 34 years, who is confined at Central Prison, Puzhal, Chennai-66 is set at liberty forthwith unless his detention / custody is required in connection with any other case / proceedings.

[M.S.N., J] [M.N.K., J]

16.04.2019

Internet : Yes/No  
Index : Yes/No

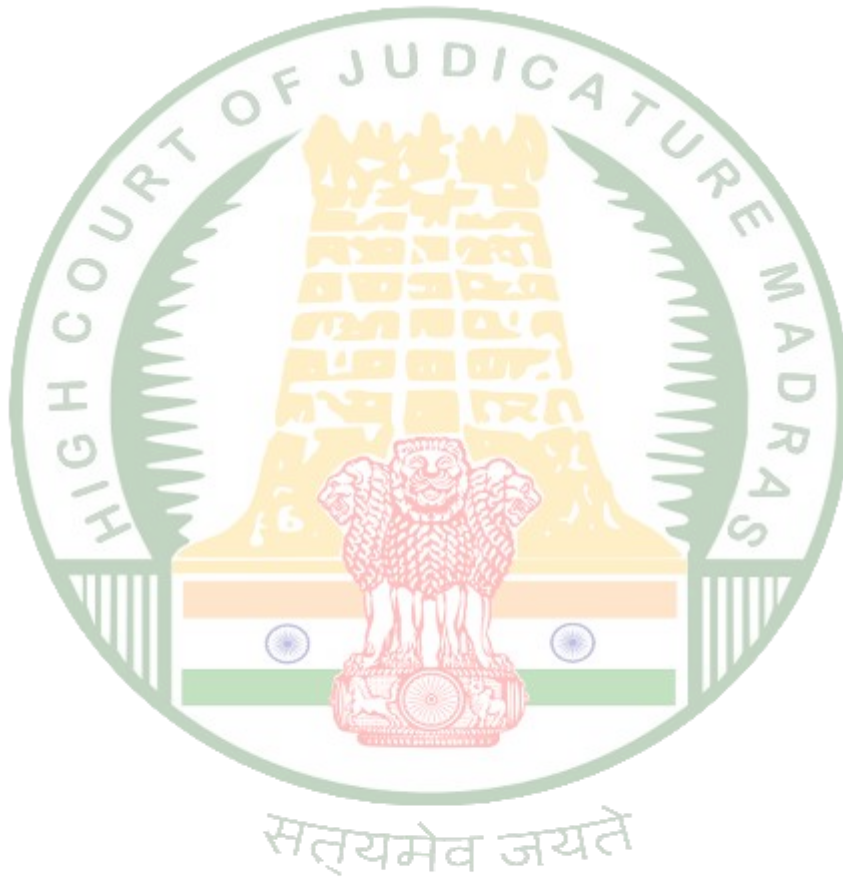
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To

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Government of Tamil Nadu  
(Home) Prohibition and Excise Department  
Secretariat, Fort St. George, Chennai-600 009.

2.The Commissioner of Police,  
Greater Chennai, Chennai.

3.The Public Prosecutor  
High Court, Madras.



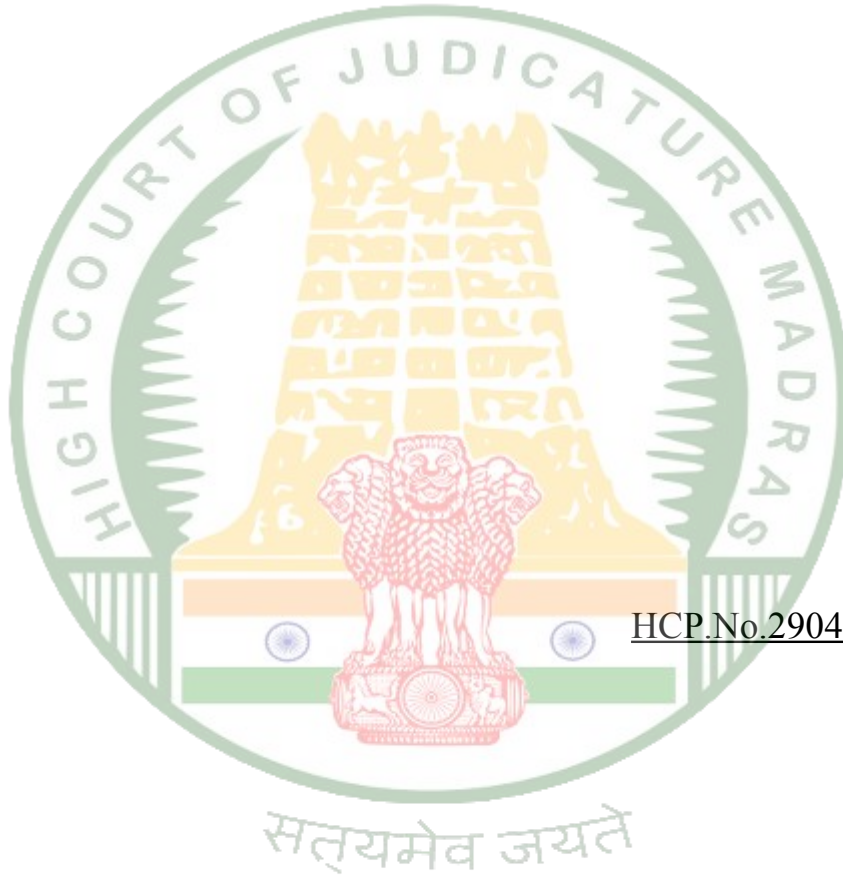
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M.SATHYANARAYANAN, J.,

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M.NIRMAL KUMAR, J.,

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