



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.06.2019

CORAM:

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN
and

THE HONOURABLE MR. JUSTICE B. PUGALENDHI

H.C.P. (MD) No. 1766 of 2018

Arumugam

.. Petitioner

Vs.

1.State of Tamil Nadu, rep, by
The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Fort.St.George, Chennai-600 009.

2.The District Collector and
District Magistrate,
Tirunelvlei District, Tirunelveli.

3.The Superintendent of Prison,
Central Prison,
Palayamkottai,
Tirunelveli.

.. Respondents

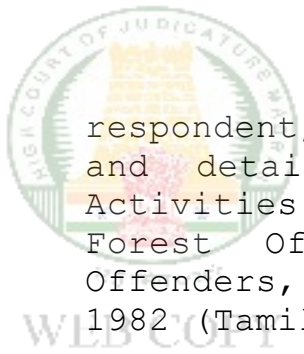
PRAYER:- Habeas Corpus Petition is filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus praying to call for the entire records connected with the detention order passed in M.H.S.Confdl.No.145 of 2018 dated 04.12.2018 on the file of the second respondent herein and quash the same and direct the respondents to produce the detenu or body of the detenu namely Arumugam, aged about 55 years, S/o, Madasamy, now detained at Central Prison, Palayamkottai, before this Court and set him at liberty forthwith.

For Petitioner : Mr.N.Pragalathan

For Respondents : Mr.K.Dinesh Babu
Additional Public Prosecutor

ORDER

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



respondent, under which, the detenu has been branded as "Goonda" and detained under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Cyber Law Offenders, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Sexual Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982).

2. As per the grounds of detention passed by the second respondent, the detenu came to adverse notice in the following cases:

(i) Crime No.233 of 2018 on the file of Pappakudi Police Station under Sections 294(b), 307 and 506(ii) IPC.

(ii) Crime No.192 of 2018 on the file of Seethaparanallur Police Station under Sections 294 (b), 387 and 506(ii) IPC.

3. The grounds of detention further read that on 22.11.2018 at 07.00 hours, the defacto complainant, namely, Balasubramanian and his friend Rajapandi were drinking tea in front of Thavasi hotel and at that time, one Arumugal came and scolded the defacto complainant in filthy language and threatened the defacto complainant by brandishing Aruval. Hence, the defacto complainant made alarm and the public nearby gathered and they were threatened with dire consequences and taking advantage of the situation, the detenu fled away from the scene of occurrence. Based on the complaint given by the defacto complainant, the respondent police registered the case in Crime No.683 of 2018 under Sections 294(b), 506(ii) IPC. The detenu was arrested on 23.11.2018 and produced before the Court Judicial Magistrate, Alangulam and was remanded to Judicial custody till 10.12.2018.

4. The detaining authority being satisfied with the materials placed by the sponsoring authority that the activities of the detenu are prejudicial to the maintenance of public order, clamped the order of detention.

5. The learned Counsel for the petitioner would submit that for revoking the order of detention passed by the second respondent, a post-dated representation, dated 11.12.2019 was submitted. Remarks were called on 13.03.2019 and the same was received on 21.03.2019. The Under Secretary to Government, Home Prohibition and Excise Department, dealt with the same on 21.03.2019. The Joint Secretary to Government, Home Prohibition and Excise Department, dealt with the same on 25.03.2019. The Hon'ble Minister for Electricity, Prohibition and Excise dealt with the same on 30.04.2019 and there was a delay of 35 days in dealing with the said representation. Even by excluding 13 days, still there was a delay of 22 days in dealing with the said representation and in the absence of any proper and tenable explanation to the said delay, it is fatal to the impugned



order and prays for quashment of the said detention order.

6. Per contra, the learned Additional Public Prosecutor has drawn the attention of this Court to the counter affidavit filed by the second respondent/detaining authority. He would submit that the representation dated 11.12.2018 was received on 12.12.2019 and remarks were sent to the Government on 15.12.2019. Therefore, the delay cannot be considered as abnormal or huge and therefore, prays for dismissal of this petition.

7. This Court has carefully considered the rival submissions made on either side and perused the materials available on record.

8. As rightly pointed out by the learned counsel for the petitioner, the Joint Secretary to Government dealt with the said representation on 25.03.2019. The Hon'ble Minister for Electricity, Prohibition and Excise dealt with the same on 30.04.2019 and there was a delay of 35 days in dealing with the said representation. Even by excluding 13 Government holidays, still there was a delay of 22 days in dealing with the said representation and in the absence of any proper and tenable explanation to the said delay, it is fatal to the impugned order. The counter affidavit filed on behalf of the second respondent has failed to offer any plausible and tenable explanation for such a huge delay. In the absence of any such explanation for the said delay, the impugned order of detention is liable to be quashed.

9. Accordingly, the habeas corpus petition is allowed and the impugned order of detention in M.H.S.Confdl.No.145 of 2018 dated 04.12.2018, passed by the second respondent is quashed. The detenu Arumugam, son of Madasamy, is directed to be set at liberty forthwith, unless his detention / remand is required in connection with any other case / proceedings.

Sd/-

Assistant Registrar (co)

// True Copy //

Sub Assistant Registrar (CS)

To

1.The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Fort.St.George, Chennai-600 009.

2.The District Collector and
District Magistrate,
Tirunelveli District, Tirunelveli.



3.The Superintendent of Prison,
Central Prison,
Palayamkottai,
Tirunelveli.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

5.The Joint Director Public (Law & Order)
Fort.St.George, Chennai-9

ta/dsk

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