

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.08.2020

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
AND

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

H.C.P.No.192 of 2020

Singaravelu

... Petitioner/

Father in law of the Petitioner

Vs

1. The State of Tamil Nadu,
Represented By its Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai - 9.
2. The District Collector and District Magistrate,
Thiruvannamalai District,
Thiruvannamalai.

... Respondents

PRAYER :

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Habeas Corpus, calling for the records of the detention made in D.O.No.101/2019 C-2 dated 17.12.2019 passed by the District Collector and District Magistrate, Thiruvannamalai District, Thiruvannamalai the second respondent herein and set aside the same and direct the respondents to produce the detainee before this Court and set the detainee Thirumathi Parameshwari, wife of Murugan, aged 39 years now confined in Special Prison for Women, Vellore at liberty and set her.

For Petitioner : Mr.R.Balakrishnan.

For Respondents: Mr.R.Prathap Kumar,
Additional Public Prosecutor.

O R D E R

(Order of the court was made by N.KIRUBAKARAN.J.,)

The matter was heard through "Video Conferencing".

2.The Father in law of the detenu has filed this Petition challenging the detention order passed by the Second Respondent

in D.O.No.101/2019 C-2 dated 17.12.2019 under the Tamil Nadu Act 14 of 1982 as she has got 3 adverse cases apart from ground case registered against her.

3.Heard Mr.R.Balakrishnan, learned Counsel appearing for the Petitioner and Mr.R.Prathap Kumar, learned Additional Public Prosecutor appearing for the Respondents.

4. It is seen from the records that the representation sent on behalf of the detainee has not been considered within time frame and there is a delay of 33 days in considering and disposing of the representation.

5.In the decision in "C.Muthuvali Vs. The Principal Secretary to Government, Home Prohibition and Excise Department, Government of Tamil Nadu, Secretariat, Chennai - 600 009" reported in "[(2017) (1) MWN (Cr.) 270 (DB)]" it has been held that an unexplained delay of nine working days on the part of the Government in considering the representation rendered the detention illegal. Another Division Bench of this Court in "Samaiah Vs.The Secretary to Government" reported in "[(2007) (4) MWN (Cr.) 145]" has held that an unexplained delay of three days in disposal of the representation made by the detenu would be sufficient to set aside the detention order.

6.Further, a larger Bench of the Supreme Court in "Rekha Vs. The State of Tamil Nadu" reported in "2011 5 SCC 244" has held that "Preventive detention is by nature repugnant to democratic ideas and an anathema to the rule of law. No such law exists in the USA and in England (except during war time). However, Article 22(3)(b) of the Constitution of India permits preventive detention, we cannot hold it illegal but we must confine the power of preventive detention within very narrow limits, otherwise we will be taking away the great right to liberty guaranteed by Article 21 of the Constitution of India which was won after long, arduous, historic struggles".

7.Since there is an unexplained delay in considering the representation submitted by the detenu, the detention order passed by the second respondent is liable to be set aside.

8.Accordingly, the detention order passed by the Second Respondent in D.O.No.101/2019 C-2 dated 17.12.2019 is quashed and the Habeas Corpus Petition is allowed. The detainee viz.,

Thirumathi Parameshwari, wife of Murugan, aged 39 years now confined in Special Prison for Women, Vellore is directed to be set at liberty forthwith unless her presence is required in connection with any other case.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government,
The State of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St.George,
Chennai - 9.
2. The District Collector and District Magistrate,
Thiruvannamalai District,
Thiruvannamalai.
3. The Superintendent of Prison,
Special Prison for Women,
Vellore.
4. The Joint Secretary
Public (Law and Order) Department
Secretariat Fort St. George
Chennai - 600 009.
5. The Public Prosecutor,
High Court of Madras,
Chennai.

H.C.P.No.192 of 2020

KJ(CO)
CS/18/08/2020

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