

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.08.2020

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

AND

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

H.C.P.Nos.1969 & 2009 of 2019

H.C.P.No.1969 of 2019

Arun Udhayakumar @ Udhayakumar

... Petitioner

Vs

1.The Secretary to Government,
Home, Prohibition & Excise Department,
Secretariat,
Chennai – 9.

2.District Collector & District Magistrate,
Vellore District,
Vellore - 9.

... 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 in

connection with the Order of Detention passed by the Second Respondent 24.08.2019 in C3/D.O.94/2019 against the Petitioner Arun Udhayakumar @ Udhayakumar, male aged 28 years S/o.Sekar, who is confined at Central Prison, Vellore and set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr.S.Senthilvel.

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

H.C.P.No.2009 of 2019

Vichitra

Vs

... Petitioner

1.The Secretary to Government,
Home, Prohibition & Excise Department,
Secretariat,
Chennai – 9.

2.District Collector and District Magistrate,
Vellore District,
Vellore.

... 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 in connection with the Order of Detention passed by the Second Respondent in dated 24.08.2019 in C3/D.O.95/2019, the detainee the Petitioner Vichitra, Female aged 20 years W/o.Arun, who is confined at Special Prison for Women, Vellore and set aside the same and direct the respondents to produce the detainee before this Court and set her at liberty.

For Petitioner : Mr.S.Senthilvel.

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

COMMON ORDER

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

The matters were heard through "Video Conference".

2.The Petitioners who are detenus themselves have challenged the detention orders passed against them in C3/D.O.95/2019 and C3/D.O.94/2019 on 24.08.2019 by the Second respondent as a case in Cr.No.11 of 2019, has been registered

against the petitioners for the offence under Sections 324, 307 of Indian Penal Code read with Sections 4, 6 of Protection of Children from Sexual Offences Act, 2012 on the file of the All Women Police Station, Vellore based on the complaint given by the District Child Protection Officer on 29.07.2019.

3.The case of the prosecution is that according to the District Child Protection Officer, he had received an information from the Government Vellore Medical College, Adukkamparai, stating that a two year old female child was admitted in hospital with injuries and on enquiry, the mother of the child viz., Vichitra who is the Petitioner in H.C.P.No.2009 of 2019, revealed that her second husband viz., Arun Udhayakumar @ Udhayakumar who is the Petitioner in H.C.P.No.1969 of 2019 committed sexual abuse on the child by biting her genital organs and also inserting small sticks, pen etc., into her genital portion and also kept cigarettes on her body parts, apart from threatening the child. The said Vichitra was also complicit in the offence committed by Udhayakumar and has not revealed the same to anybody.

4. Based on that, the Women Welfare Officer gave a complaint to the All Women Police Station, Vellore and accordingly, the said case has been registered against the Petitioners, viz., Arun Udayakumar @ Udayakumar and Vichitra, in Crime No. 11 of 2019 on 29.07.2019. They were arrested on 01.08.2019 and remanded to judicial custody. Thereafter, detention orders have been passed against them on 24.08.2019 branding them as 'Sexual Offenders' under Section 2(ggg) of the Tamil Nadu Act 14 of 1982. The said detentions are challenged before this Court by them.

5. Heard Mr. S. Senthilvel, learned Counsel for the Petitioners and Mr. R. Prathap Kumar, learned Additional Public Prosecutor for the Respondents.

6. The learned Counsel for the Petitioners submitted that there is a delay in disposing of the representation sent on behalf of the detenus and also similar case, which has been referred in the detention orders, is not similar in nature. Therefore, bail granted in the case referred in the detention orders is not similar to the case

registered against the Petitioners. Therefore, there is non-application of mind on the part of the detaining authority while passing the detention orders and sought for allowing these petitions.

7. However, the learned Additional Public Prosecutor submitted that though the similar case referred is not exactly similar, the said case is connected with the offence under the POCSO Act. Therefore, there is nothing wrong in considering the aforesaid cases as similar cases. Further, there is no representation sent on behalf of the detenus and there is no question of any delay. However, the learned Additional Public Prosecutor submitted that the detention orders have been passed on 24.08.2019 and the prayers have become infructuous.

8. Considering the above facts and circumstances, these petitions are dismissed as infructuous. Though the prayers have become infructuous and the petitions are dismissed as infructuous, these Petitions are kept pending for larger issues.

9.Post these matters under the caption “For Orders”.

(N.K.K.,J.)

(V.M.V.,J.)

24.08.2020

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N.KIRUBAKARAN, J.

AND

V.M.VELUMANI, J.

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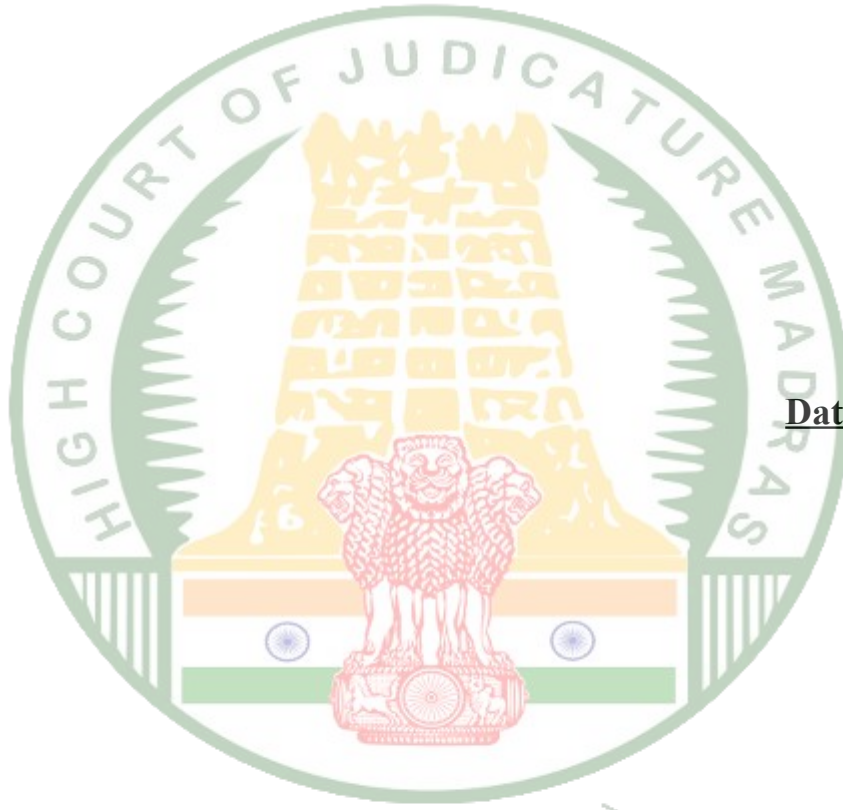
To

1.The Secretary to Government,
Home, Prohibition & Excise Department,
Secretariat,
Chennai – 9.

2.District Collector & District Magistrate,
Vellore District,
Vellore - 9.

3.The Public Prosecutor,
High Court of Madras,
Chennai.

H.C.P.Nos.1969 & 2009 of 2019



Dated:24.08.2020

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