

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.03.2020

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
AND
THE HONOURABLE MRS.JUSTICE R.HEMALATHA
H.C.P.No.2499 of 2019

Neela ... Petitioner/Wife of the Detenue

Vs

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

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

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Habeas Corpus, calling for the entire records connected with the Order of the second respondent herein in R.C.No.C2/30918/2019 dated 03.11.2019 passed against the petitioner's husband, the detenue viz., Annamalai, son of Munnaiyan, aged about 41 years, who is confined at Central Prison, Cuddalore and set aside the same and consequently set him at liberty.

For Petitioner : Mr.A.Murugavel

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

O R D E R
(Order of the court was made by MRS.R.HEMALATHA.J.,)

Challenge is made to the Order of detention passed by the second respondent viz., the District Collector and District Magistrate, Villupuram District vide Order dated 03.11.2019 in R.C.No.C2/30918/2019 whereby the husband of the petitioner who is the detenu viz., Annamalai was ordered to be detained under the Provisions of 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 14/1982).

2.As per the grounds of Order of detention dated 03.11.2019 passed by the second respondent, the detenu was detained under the aforesaid Act since criminal prosecution was initiated against him in Cr.No.387 of 2019 under Sections 4 (1)(aaa), 4 (1-A), 4 (1)(i) of Tamil Nadu Prohibition Act, 1937. As per the FIR, the detenu was found to be in possession of poisonous arrack and he was arrested by the police on 08.10.2019 and was remanded to judicial custody.

3.Mr.A.Murugavel, learned Counsel appearing for the petitioner among other grounds mainly relayed on the delay in considering the representations filed by the detenu before the concerned authorities. According to him, there is an abnormal delay in considering the representations presented by detenu.

4.The learned Government Advocate (criminal side) submitted a proforma from which it is seen that two representations one dated 06.11.2019 and another dated nil were submitted by the detenu. The representations were dismissed on 02.12.2019 and 08.01.2020. Therefore, there is a delay of more than ten days in considering each of the representation submitted by the detenu.

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 decision illegal. Another Division Bench Judgment 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. Applying the said principles as laid down by the Division Bench of this Court, an unexplained delay in considering the representations would definitely affect the order of detention passed by the second respondent. Therefore, on this ground, the Order of detention is liable to be set aside.

7. Accordingly, this petition is allowed by setting aside the order of detention passed by the second respondent in R.C.No.C2/30918/2019 dated 03.11.2019. One detainee is directed to be set at liberty forthwith, unless his detention is required in connection with any other case. It is also made clear that this order will not affect the criminal case pending against the detainee.

Sd/-
Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

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To

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

2.The District Collector and
District Magistrate,
Villupuram District, सत्यमेव जयते
Villupuram.

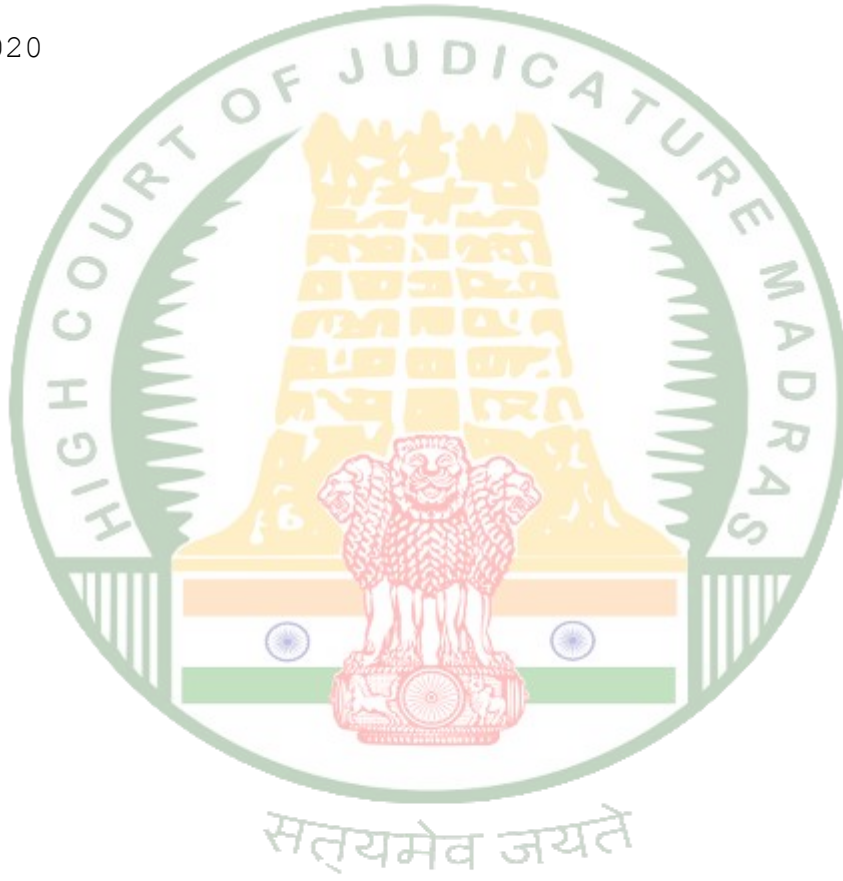
3.The Superintendent Central Prison
Cuddalore

4.The Joint Secretary to Government
Public Law & order Fort St.George
Chennai-9

5.The Public Prosecutor
High Court, Madras-104

H.C.P.No.2499 of 2020

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