



WEB COPY

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.2530 of 2019

Vimala

... Petitioner

Vs

1. State of Tamil Nadu,
Rep. by its Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.
2. The District Collector and District Magistrate
of Cuddalore District,
Cuddalore.

... 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, relating to petitioner's husband detention under Tamil Nadu Act 14 of 1982 vide detention order, dated 15.10.2019 on the file of the second respondent herein made in proceedings C3/D.O./84/2019 and quash the same as illegal and consequently direct the respondents herein to produce the said petitioner's husband namely Katta Ramalingam @ Ramalingam, son of Masilamani, aged 29 years before this Hon'ble High Court and set the petitioner's husband at liberty from detention, now petitioner's husband detained at Central Prison, Cuddalore.

For Petitioner : Mr.C.C.Chellappan.

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

O R D E R

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

This petition has been filed by the wife of the detenu challenging the detention order passed against her husband,



viz., Katta Ramalingam @ Ramalingam, under the Goondas Act treating him as bootlegger vide detention order dated 15.10.2019.

2. Heard the learned Counsel for the Petitioner and the Learned Additional Public Prosecutor for the Respondents.

3. It is seen from the records that the husband of the Petitioner has got 6 adverse cases. Out of the 6 cases, in 4 cases he had pleaded guilty and paid fine and 2 other cases are pending trial. The ground case has been filed under Sections 4 (1)(aaa) & 4 (1-A) of Tamil Nadu Prohibition Act, 1937, in Crime No. 247 of 2019 on the file of the Annamalai Nagar Police Station, Chidambaram.

4. Learned Counsel for the Petitioner would submit that documents served on the husband of the Petitioner are illegible and there is a delay in considering the representation. However, this Court would like to consider the issue with regard to delay in considering the representation. The proforma filed by the First Respondent would show that the Petitioner gave representations on 20.11.2019 as well as on 07.11.2019. Remarks were called from the Detention Authority by the Home Secretary on 20.11.2019 and on 07.11.2019. However, remarks were received only on 29.11.2019 and on 03.01.2020 respectively.

5. It is evident from the records that though the representation was received on 07.11.2019 and remarks were also called on 07.11.2019 by the Home Secretary, remarks were given only on 29.11.2019 and on 03.01.2020 respectively and the order of rejection was passed on 16.12.2019 and on 07.01.2020. Further, it is seen that the file passed from the Deputy Secretary to the higher authority was on 03.01.2020 and the order was passed on 07.01.2020. In the said period, 2 days were holidays and therefore, there was a delay of 1 day. Therefore, there is a huge delay in considering the representations.

6. It is a well settled law that delay in considering the representation vitiates the detention order. Therefore, the detention order is set aside and the Detenue is set at liberty. However, this HCP is kept pending with regard to the difficulties of the District Collector in performing his duties as the District Collector is entrusted with so many responsibilities by different Statutes, apart from being District Magistrate. He is not only responsible for revenue administration, but also for the day to day affairs of the District. Even if 48 hours is available for a District Collector, it may be not be sufficient for him to discharge his duties as well as his day to day administration.



WEB COPY

7. Though the prayer of the HCP is answered, this matter is kept pending for passing further orders in general issue.

-s/d-

Assistant Registrar (CS-IX)

True Copy

Sub-Assistant Registrar

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,
Villupuram.
3. The Superintendent
Central Prison, Cuddalore
4. The Joint Secretary to Government
Public (Law and order)
Fort. St. George
Chennai 9.
5. The Public Prosecutor
High Court, Madras 104.

H.C.P.No.2530 of 2019

MG (CO)
SP (14/07/2020)