

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.No.2515 of 2019

Mahalakshmi

... Petitioner

Vs

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

2.The Commissioner of Police/detaining authority,
City Police Office, Huzur Road,
Coimbatore City,
Coimbatore – 18.

... 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 the Petitioner's son detention order under Tamil Nadu Act 14 of 1982

vide detention order, dated 26.09.2019 on the file of the second respondent herein made in proceedings Memo C.No.73/G/IS/2019, quash the same as illegal and consequently direct the respondents herein to produce the petitioner's son namely S.Senthilprabhu, S/o.Sampathkumar, aged 38 years before this Court and set the Petitioner's son at liberty from detention, now the petitioner's son detained at Central Prison, Coimbatore.

For Petitioner : Mr.W.Camyles Gandhi.

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

ORDER

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

The matter was heard through "Video Conference".

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2.The mother of the detenu has challenged the detention order passed against her son in proceedings Memo C.No.73/G/IS/2019 by the second respondent dated

26.09.2019 branding him as 'Sexual Offender' under Section 3(1) of Tamil Nadu Act 14 of 1982.

3.The detenu has got a solitary case in Crime No. 7 of 2019 under Sections 5(m) read with Section 6 of Protection of Children from Sexual Offences Act, 2012, and Sections 376-A, B and 306 of the Indian Penal Code, 1860. The said case has been registered based on the complaint given by the mother of the minor child aged about 7 years who has alleged that the detenu who is staying on the rear side of her house used to quarrel with her in inebriated condition. On 30.08.2019, after returning from the Corporation toilet, she found her daughter crying and on verification, it was found that her inner wears were found to be wet. The child told her mother that the detenu took her to his house and physically misbehaved with her in the name of giving her articles and threatened her not to reveal it to anybody. Therefore, complaint has been registered and the detenu was arrested on

31.08.2019 and remanded to judicial custody and the detention order was passed against him on 26.09.2019 and the said order is challenged before this Court.

4. Heard Mr. W. Camyles Gandhi, learned Counsel appearing for the Petitioner and Mr. R. Prathap Kumar, learned Additional Public Prosecutor appearing for the Respondents.

5. The learned Counsel for the Petitioner would submit that there is a delay in disposing of the representation sent on behalf of the detenu dated 08.11.2019 and the similar case referred in the detention order in which bail has been granted, is not similar in nature and he has not filed any bail application so far and sought for allowing this petition.

6. However, the learned Additional Public Prosecutor submitted that though there is a delay of ten days in disposing of the representation, he opposed the allowing of this Petition stating that delay is due to administrative reasons and the

same could be explained. The delay is neither wilful nor wanton and therefore, he seeks for dismissal of this Petition as the detenu is a Sexual Offender.

7.Considering the above facts and circumstances, though there is a delay in disposing of the representation, it is seen that there is no deliberate delay on the part of the detaining authority and hence, the delay is justified and prayer sought for in this petition is rejected. Hence, this petition is dismissed.

8.Though the prayer has been rejected and the present petition is dismissed, the Petition is kept pending for larger issues.

8.Post the matter under the caption “For Orders”.

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(N.K.K.,J.)

(V.M.V.,J.)

24.08.2020

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Index: Yes/No

Internet: Yes/No

To

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Fort St.George,
Chennai 600 009.
- 2.The Commissioner of Police/detaining authority,
City Police Office, Huzur Road,
Coimbatore City,
Coimbatore – 18.
- 3.The Public Prosecutor,
High Court of Madras,
Chennai.



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N.KIRUBAKARAN, J.
AND
V.M.VELUMANI, J.

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