



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 15.09.2020**

**CORAM:**

**THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM**

**and**

**THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI**

**H.C.P. (MD) No.61 of 2020**

Syed Sulthan Ibrahim

... Petitioner/Detenu

-vs-

1.The State of Tamil Nadu

Rep.by the Additional Chief Secretary to Government  
Home, Prohibition & Excise Department  
Secretariat, Chennai-9

2.The District Collector and District Magistrate  
Ramanathapuram District

3.The Superintendent of Police  
O/o.Superintendent of Police  
Ramanathapuram District

4.The Superintendent  
Central Prison  
Madurai, Madurai District

... Respondents

**PRAYER** : Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Habeas Corpus by calling for the records relating to the impugned order of detention made in TN.P.D.A.B.C.D.F.G.I.S.S.S.V.No.18/S.O./2019, dated 16.12.2019, on the file of the District Collector and District Magistrate, Ramanathapuram, the second respondent herein, branding the detenu by name Syed Sulthan Ibrahim, son of Syed Ishak, aged about 18 years, as Goonda, who is now confined in Central Prison, Madurai, Madurai District and quash the impugned order of detention and set him at liberty by producing him before this Court.

For Petitioner : Mr.R.Senthil Kumar

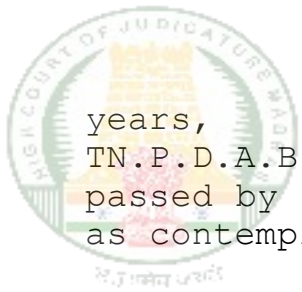
For Respondents : Mr.V.Neelakandan  
Additional Public Prosecutor

**O R D E R**

**(Order of the Court was made by K.KALYANASUNDARAM, J.)**

This habeas corpus petition has been filed by the detenu, namely, Syed Sulthan Ibrahim, son of Syed Ishak, aged about 18

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years, challenging the detention order in TN.P.D.A.B.C.D.F.G.I.S.S.S.V.No.18/S.O./2019, dated 16.12.2019, passed by the second respondent, branding him as "Sexual Offender" as contemplated under Section 2(ggg) of Tamil Nadu Act 14 of 1982.

2. Mr.R.Senthil Kumar, learned counsel for the petitioner, would argue that even though the petitioner has raised several grounds, he has confined his arguments only to the delay in disposal of the petitioner's representation. It is submitted by the learned counsel for the petitioner that the procedural safeguards guaranteed under Articles 21 and 22 of the Constitution of India have not been followed in this case and there is unexplained and inordinate delay in disposal of the petitioner's representation, which would vitiate the impugned order of detention.

3. Mr.V.Neelakandan, learned Additional Public Prosecutor, on instructions, submitted that after satisfying with the materials placed by the Sponsoring Authority, the Detaining Authority has passed the detention order and there is no illegality or infirmity in the detention order. It is also stated that even if there is any delay in disposal of the representation, it has not caused any prejudice to the rights of the detenu and hence, prayed for dismissal of the habeas corpus petition.

4. Heard both sides and perused the materials available on record.

5. In the instant case, the proforma furnished by the learned Additional Public Prosecutor would indicate that as against the impugned detention order, the petitioner made a representation to the first respondent on 03.01.2020 and it was received on 03.02.2020. Remarks were called for on the same day i.e.03.02.2020 and it was received on 18.02.2020. The Deputy Secretary dealt with the matter on the same day i.e.18.02.2020. The concerned Minister dealt with the matter on 20.02.2020 and the representation came to be rejected on the same day i.e.20.02.2020. It is seen that in between 03.02.2020 and 18.02.2020, there was a delay of eleven days, after excluding the Government Holidays of four days, in considering the petitioner's representation.

6. At this juncture, it is useful to refer the decision of the Honourable Apex Court in the case of **Rajammal vs. State of Tamil Nadu and another**, reported in **1999 (1) SCC 417**, wherein the Apex Court has observed and held that it is for the Authority concerned to explain the delay, if any, in disposal of the representation and if any delay was caused on account of nay indifference or lapse in considering the representation, such



7. In the case on hand, as stated supra, the delay of eleven days in considering the representation of the petitioner has not been properly explained by the respondents. Hence, in our considered view, the detention order is liable to be set aside solely on the ground of delay by following the decision of the Honourable Apex Court referred supra.

8. In fine, the Habeas Corpus Petition is allowed. The detention order in TN.P.D.A.B.C.D.F.G.I.S.S.S.V.No.18/S.O./2019, dated 16.12.2019, passed by the second respondent, is set aside. Consequently, the detenu, namely, Syed Sulthan Ibrahim, son of Syed Ishak, aged about 18 years, who is now detained at Central Prison, Madurai, is directed to be released forthwith unless his presence or custody or detention is required in connection with any other case.

Sd/-

Assistant Registrar (W)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)

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**Note :**

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To:

- 1.The Additional Chief Secretary to Government,  
Home, Prohibition & Excise Department,  
Secretariat, Chennai-9.
- 2.The District Collector and District Magistrate,  
Ramanathapuram District.
- 3.The Superintendent of Police,  
O/o.Superintendent of Police,  
Ramanathapuram District.

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4.The Superintendent,  
Central Prison,  
Madurai, Madurai District.

5.The Joint Secretary to Government,  
Public(Law and Order), Chennai-9.

6.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.

+1 CC to MR.R.SENTHILKUMAR, Advocate ( SR-17189[F] dated  
16/09/2020 )

**H.C.P. (MD) No.61 of 2020**  
**15.09.2020**

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