



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.08.2020

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

and

THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

H.C.P. (MD) No.145 of 2020

Mariyayee

... Petitioner/Wife of Detenue
-vs-

1.The State of Tamil Nadu

rep.by Additional Chief Secretary to Government
Home, Prohibition and Exercise (XVI) Department
Secretariat
Fort St.George
Chennai-600 009

2.The District Magistrate and

The District Collector
Pudukkottai District
Pudukkottai

3.The Superintendent

Central Prison
Trichirappalli

... Respondents

PRAYER : Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Habeas Corpus calling for the entire records connected with the detention order of the second respondent in P.D.O.No.04/2020, dated 05.02.2020 and quash the same as illegal and direct the respondents to produce the body and person of my husband / detenue by name Sathasivam, son of Kumarasamy, aged about 54 years, residing at Therkkur Theru, Vathanakottai, Kulathur Taluk, Pudukkottai District, was detained as a "Goonda" at Trichirappalli Central Prison, before this Court and set him as liberty.

For Petitioner : Mr.P.Ganapathi Subramanian

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 wife of the detenu, namely, Sathasivam, son of Kumarasamy, aged about 54 years, challenging the detention order in P.D.O.No.04/2020, dated 05.02.2020, passed by the second respondent, branding him as "Goonda" as contemplated under Section 2(f) of Tamil Nadu Act 14 of 1982.



2. Mr.P.Ganapathi Subramanian, 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.

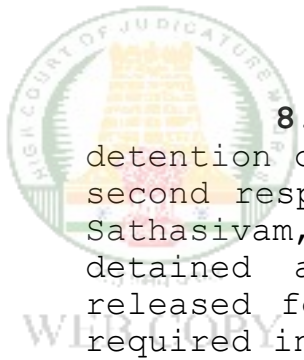
3. Mr.V.Neelakandan, learned Additional Public Prosecutor, on instructions, submitted that after satisfying with the materials placed by the Sponsoring Authority, the Detaining Authority has passed the detention order and there is no illegality or infirmity in the detention order. It is also stated that 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 17.02.2020 and it was received on 19.02.2020. Remarks were called for on the same day i.e.19.02.2020 and it was received on 19.03.2020. The Deputy Secretary dealt with the matter on 20.03.2020. The concerned Minister dealt with the matter on 24.03.2020 and the representation came to be rejected on 26.03.2020. It is seen that in between 19.02.2020 and 19.03.2020, there was a delay of 21 days, after excluding the Government Holidays of 08 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 it is held as follows:

"7. It is a Constitutional obligation of the Government to consider the representation forwarded by the detenu without any delay. Though no period is prescribed by Article 22 of the consideration for the decision to be taken on the representation, the words as soon as may be" in Clause (5) of Article 22 convey the message that the representation should be considered and disposed of at the earliest. But that does not mean that the authority is preempted from explaining the delay which would have occasioned in the disposal of the representation. The Court can certainly consider



8. In fine, the Habeas Corpus Petition is allowed. The detention order in P.D.O.No.04/2020, dated 05.02.2020, passed by the second respondent, is set aside. Consequently, the detenu, namely, Sathasivam, son of Kumarasamy, aged about 54 years, who is now detained at Trichirappalli Central Prison, is directed to be released forthwith unless his presence or custody or detention is required in connection with any other case.

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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.

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To:

- 1.The Additional Chief Secretary to Government,
Home, Prohibition and Exercise (XVI) Department,
State of Tamil Nadu,
Secretariat,
Fort St.George,
Chennai-600 009.
- 2.The District Magistrate and
The District Collector,
Pudukkottai District,
Pudukkottai.
- 3.The Superintendent,
Central Prison,
Trichirappalli.
- 4.The Joint Secretary to Government of Tamil Nadu,
Public (Law and Order),
Chennai-9.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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