



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.09.2020

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
and
THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

H.C.P. (MD) Nos.140 to 142 and 147 of 2020

Kohila ... Petitioner/wife of the detenu in
H.C.P. (MD) No.140 of 2020

Vaani ... Petitioner/wife of the detenu in
H.C.P. (MD) No.141 of 2020

Rajeshwari ... Petitioner/wife of the detenu in
H.C.P. (MD) No.142 of 2020

B.Saritha ... Petitioner/wife of the detenu in
H.C.P. (MD) No.147 of 2020

-vs-

1.The Additional Chief Secretary to Government,
Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Secretariat, Fort St. George, Chennai - 600 009.

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

3.The Superintendent of Police, Central Prison,
Tiruchirappalli.

... Respondents in all the HCPs

PRAYER IN H.C.P. (MD) No.140 of 2020: Petition filed under Article 226 of the Constitution of India, to issue a writ of habeas corpus calling for the records of the 2nd respondent in detention order in Cr.M.P.No.07/2020 setting aside the order of detention passed by the 2nd respondent herein setting the detenu by name Mohan, aged about 27 years, S/o. Ravi at liberty now detained at Central Prison, Tiruchirappalli.

PRAYER IN H.C.P. (MD) No.141 of 2020: Petition filed under Article 226 of the Constitution of India, to issue a writ of habeas corpus calling for the records of the 2nd respondent in detention order in Cr.M.P.No.06/2020 setting aside the order of detention passed



by the 2nd respondent herein setting the detenu by name Saravanan, aged about 30 years, S/o.Govindasamy at liberty now detained at Central Prison, Tiruchirappalli.

PRAYER IN H.C.P. (MD) No.142 of 2020: Petition filed under Article 226 of the Constitution of India, to issue a writ of habeas corpus calling for the records of the 2nd respondent in detention order in Cr.M.P.No.08/2020 setting aside the order of detention passed by the 2nd respondent herein setting the detenu by name Ramana, aged about 31 years, S/o.Venkatesalu at liberty now detained at Central Prison, Tiruchirappalli.

PRAYER IN H.C.P. (MD) No.147 of 2020: Petition filed under Article 226 of the Constitution of India, to issue a writ of habeas corpus calling for the records of the 2nd respondent in detention order in Cr.M.P.No.09/2020 dated 31.01.2020 setting aside the order of detention passed by the 2nd respondent herein setting the detenu by name Babu, aged about 45 years, S/o.Kumarasamy at liberty now detained at Central Prison, Tiruchirappalli.

For Petitioner in
all the HCPs : Mr.S.Ramasamy

For Respondents in
all the HCPs : Mr.V.Neelakandan
Additional Public Prosecutor

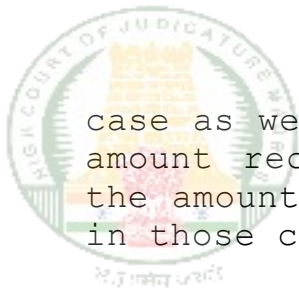
C O M M O N O R D E R

[Order of the Court was made by K.KALYANASUNDARAM, J.]

Wives of the detenues, who have been detained under Act 14 of 1982 branding him as 'Goonda' have filed these Habeas Corpus Petitions to set aside the detention order passed by the second respondent dated 31.01.2020 in Cr.M.P.Nos.07, 06, 08 and 09/2020 respectively.

2.Though the detention orders impugned in these Habeas Corpus Petition are assailed on several grounds, the learned counsel for the petitioners mainly contented that the detention orders are liable to be set aside on the ground of inordinate and unexplained delay in considering the representation of the petitioners. It is the submission of the learned counsel that the procedure of safeguards guaranteed under Article 21 and 22 of the Constitution has been violated and on this sole ground, the detention orders are liable to be quashed.

3.The learned counsel for the petitioners would further submit that the detenues who have been arrayed as accused in the ground



case as well as the adverse case would not make any claim over the amount recovered from them in pursuance of their confession and the amounts can be returned to the respective defacto complainants in those cases.

4.Per contra, Mr.V.Neelakandan, learned Additional Public Prosecutor, while reiterating the counter affidavit filed by the second respondent, submitted that the detention orders came to be passed based on the cogent materials placed by the sponsoring authority and there is no illegality or irregularity in the detention orders warranting interference of this Court. It is further stated that the delay in considering the representations caused no prejudice to the detainees and prayed for dismissal of this Habeas Corpus Petition.

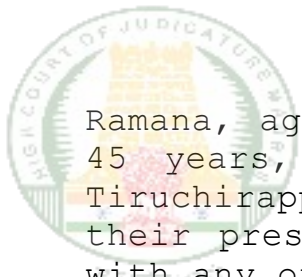
5.We have heard the rival submissions and perused the materials available on records.

6.In the present case, the detainees were detained by the order of the second respondent, dated 31.01.2020. Against the same, representations were given and the same were received by the first respondent on 24.02.2020 and remarks were called for on 25.02.2020 and they were received on 09.03.2020. The Deputy Secretary dealt with the same on 10.03.2020 and by the concerned Minister on 17.03.2020 and they were rejected on 17.03.2020. It is seen that there was delay of 13 days in between 25.02.2020 and 09.03.2020. It is also seen that there are 4 Government holidays and after excluding the same, there is a delay of 9 days in considering the representations of the detainees.

7.In the case of **Rajammal vs. State of Tamil Nadu and another (1999 (1) SCC 417)** the Honourable Apex Court 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 delay will adversely affect further detention of the prisoner.

8. In the case on hand, there is absolutely no explanation for the delay of 9 days in considering the representations of the detainees. Hence, in our considered view, the detention orders are liable to be set aside solely on the ground of delay by following the decision of the Honourable Apex Court referred supra.

9.In fine, the orders of detention passed by the second respondent, dated 31.01.2020 in Cr.M.P.Nos.07, 06, 08 and 09/2020 respectively, are set aside and these Habeas Corpus Petitions are allowed. Consequently, the detainees, namely, Mohan, aged about 27 years, S/o. Ravi; Saravanan, aged about 30 years, S/o.Govindasamy;



Ramana, aged about 31 years, S/o.Venkatesalu and Babu, aged about 45 years, S/o.Kumarasamy, who are detained in Central Prison, Tiruchirappalli, are directed to be released forthwith unless their presence or custody or detention is required in connection with any other case.

WEB COPY

Sd/-

Assistant Registrar(CO)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

rj2

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,
Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Secretariat, Fort St. George, Chennai - 600 009.
- 2.The District Collector and District Magistrate,
Tiruchirappalli District, Tiruchirappalli.
- 3.The Superintendent of Prison, Central Prison,
Tiruchirappalli.
4. The Joint Secretary to Government,
Public (Law & Order), Fort Saint George, Chennai
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

H.C.P. (MD) Nos.140 to 142
and 147 of 2020
25.09.2020

scr(CO)

TR(12.10.2020) 4P 6C