



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.08.2020

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

and

THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

H.C.P. (MD) No.213 of 2020

G.Leena Rose

... Petitioner/ wife of the detenu
-vs-

1.The Additional Chief Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.

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

3.The Inspector of Police,
Tiruverumpur Police Station,
Trichy District.

4.The Superintendent of Prison,
Central Prison, Tiruchirappalli.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of habeas corpus directing the respondents to produce the person or body of detenu namely Loose @ Kalaiselvan, aged about 30 years, son of Subramani, before this court, who is now detained in the Central Prison, Tiruchirappalli in pursuant to the detention order passed by the 2nd respondent in Cr.M.P.No.20/2020, dated 15.02.2020 and to call for the records and quash the same and release the detenu at liberty forthwith.

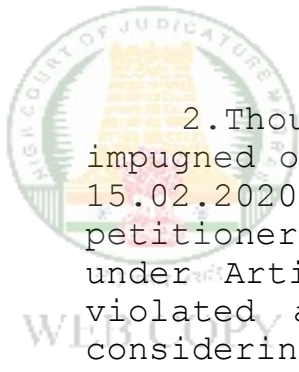
For Petitioner : Mr.N.Mohideen Basha

For Respondents : Mr.V.Neelakandan
Additional Public Prosecutor

O R D E R

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

The Habeas Corpus Petition has been filed by the wife of the detenu, namely, Loose @ Kalaiselvan, aged about 30 years, son of Subramani, who has been branded as "Goonda" by the second respondent in Cr.M.P.No.20/2020, dated 15.02.2020 as contemplated under Section 2(f) of the Tamil Nadu Act 14 of 1982.



2.Though several grounds have been raised challenging the impugned order of detention passed by the second respondent, dated 15.02.2020, Mr. N.Mohideen Basha, learned counsel for the petitioner would contend that the procedural safeguards guaranteed under Article 21 and 22 of the Constitution of India has been violated and there is an inordinate and unexplained delay in considering the representation of the petitioner and on this sole ground, the detention order is liable to be set aside.

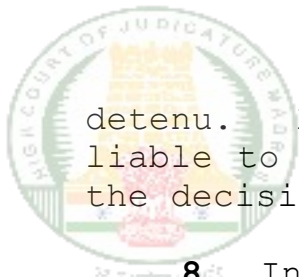
3.Per contra, Mr.V.Neelakandan, learned Additional Public Prosecutor appearing for the respondents would argue that the detaining authority, namely, the second respondent herein, after being satisfied with the materials produced by the sponsoring authority, has passed the detention order only to prevent the detenu from indulging in similar offence in future, which would prejudice to the maintenance of the public order. He would further state that the delay, if any, in considering the representation would not cause any prejudice to the detenu and there is no infirmity or irregularity in the order of detention passed by the second respondent. Hence, he prayed for dismissal of the Habeas Corpus Petition.

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

5.In the instant case, it is not in dispute that the detenu was detained by the order of the second respondent dated 15.02.2020. Aggrieved over the same, a representation dated 11.02.2020 has been sent to the first respondent and the same was received on 26.02.2020 and on the same day, remarks were called for and the remarks were received on 27.02.2020. The Deputy Secretary dealt with the matter on 19.05.2020. The concerned Minister dealt with the matter on 25.05.2020 and thereafter, the detenu's representation was rejected on 26.05.2020. It is seen that there was delay of 82 days between 27.02.2020 and 19.05.2020. It is also seen that there are 29 Government holidays and after excluding the same, there is a delay of 53 days in considering the representation of the detenu.

6.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.

7. In the case on hand, there is absolutely no explanation for the delay of 53 days in considering the representation of the



detenu. 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 order of detention passed by the second respondent, in Detention order in Cr.M.P.No.20/2020, dated 15.02.2020, is set aside and the Habeas Corpus Petition is allowed. Consequently, the detenu, namely, Loose @ Kalaiselvan, aged about 30 years, son of Subramani, now detained at Central Prison, Trichirappalli, is directed to be released forthwith unless his presence or custody or detention is required in connection with any other case.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

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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 the Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.

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

3.The Inspector of Police,
Tiruverumpur Police Station,
Trichy District.



- 4.The Superintendent of Prison,
Central Prison, Tiruchirappalli.
- 5.The Joint Secretary to Government,
Public(Law and Order)
Fort.Saint.George, Chennai-9.
- 6.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

H.C.P. (MD) No.213 of 2020
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