



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.10.2020

CORAM:

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

H.C.P. (MD) No.276 of 2020

P.Mari Selvam

... Petitioner

-vs-

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

2.The District Magistrate and District Collector,
Office of the District Magistrate and District Collector,
Thoothukudi District,
Thoothukudi.

3.The Superintendent of Prison,
Palayamkottai Central Prison,
Tirunelveli.

4.The Inspector of Police,
All Women Police Station,
Kovilpatti,
Thoothukudi District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of habeas corpus to call for the entire records connected with the detention order in H.S.(M) Confdl No.12/2020 dated 11.02.2020 on the file of the respondent No.2 and quash the same as illegal and direct the respondents to produce the body or person of the petitioner's father namely, Parmeswaran, son of Arumugam Pillai aged about 63 years now confined at Central Prison, Palayamkottai before this Court and set him at liberty forthwith.

For Petitioner : Mr.A.Syed Abdul Kather

For Respondents : Mr.K.Dinesh Babu
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 son of the detenu, namely, Parmeswaran, son of Arumuga Pillai, Male aged about 63 years, who has been branded as "Sexual Offender" by the second respondent in Detention Order in H.S.(M) Confdl No.12/2020 dated 11.02.2020, as contemplated under Section 2(ggg) of the Tamil Nadu Act 14 of 1982.

2.Mr.Syed Abdul Kather, learned counsel for the petitioner would argue that though several grounds have been raised in the habeas corpus petition to assail the impugned detention order, it is liable to be quashed only on the ground of non-furnishing of the remand order. According to the learned counsel, the remand order relied on by the detaining authority has to be furnished to the petitioner. He would further submit that the subjective satisfaction has been reached by the second respondent without any material and hence, the impugned detention order is liable to be quashed solely on the ground of non-furnishing of the remand order.

3.Per contra, Mr.K.Dinesh Babu, 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 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 case on hand, the second respondent to reach the subjective satisfaction to clam the order of detention, in para 6, has stated that the detenu was arrested on 16.01.2020 and he was remanded to judicial custody upto 30.01.2020 by the Mahila Court, Thoothukudi and subsequently, the remand was extended upto 13.02.2020. But, a perusal of the booklet would show that the remand order and the remand extension order are not available, which shows non application of mind on the part of the detaining authority at the time of reaching the subjective satisfaction. Hence, the detention order impugned in this habeas corpus petition is liable to be set aside.



6. In fine, the order of detention passed by the second respondent, in H.S(M) Confdl No.12/2020 dated 11.02.2020 is set aside and the Habeas Corpus Petition is allowed. Consequently, the detenu, namely, Parmeswaran, son of Arumuga Pillai, Male aged about 63 years, now detained at Central Prison, Palayamkottai 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 //

/ /2020

Sub Assistant Registrar(CS)

skn

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 Magistrate and District Collector,
Office of the District Magistrate and District Collector,
Thoothukudi District,
Thoothukudi.
- 3.The Superintendent of Prison,
Palayamkottai Central Prison,
Tirunelveli.
- 4.The Joint Secretary to Government,
Public(Law and Order),
Fort.St.George,
Chennai-9.

<https://hcservices.ecourts.gov.in/hcservices/>



5.The Inspector of Police,
All Women Police Station,
Kovilpatti,
Thoothukudi District.

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

H.C.P. (MD) No.276 of 2020
16.10.2020

SMV (CO)
KM (21.12.2020) 4P 7C