



WEB COPY

H.C.P.(MD) No.294 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.11.2020

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

and

THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

H.C.P. (MD) No.294 of 2020

Adhistalakshmi

... Petitioner

-vs-

1.The State of Tamil Nadu,
represented by the Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George,Chennai-9.

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

3.The Inspector of Police,
All Women Police Station,
Lalgudi, Trichirappalli District.

4.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 records relating to the Detention Order in Cr.M.P.No.33 of 2020, dated 10.3.2020 and to quash the same and direct the respondents to produce the person or body of the detenu Poondiyan @ Sudhakar, aged about 25 years, before this Court and set him at liberty, now detained at Central Prison, Trichirappalli.

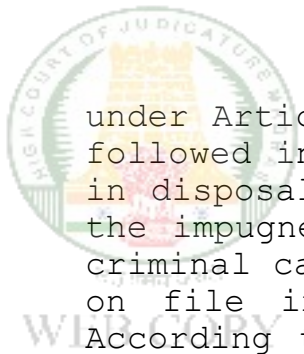
For Petitioner	:	Mr.A.V.Rajasekaran
For Respondents	:	Mr.R.Anandharaj, Additional Public Prosecutor

O R D E R

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

This habeas corpus petition has been filed challenging the Detention Order in Cr.M.P.No.33 of 2020, dated 10.3.2020, wherein, the Petitioner's husband Poondiyan @ Sudhakar, aged 25 years has been detained branding him as Sexual Offender as contemplated under Section 2(ggg) of the Tamil Nadu Act 14 of 1982.

2.Mr.A.V.Rajasekaran, 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. It is also submitted that in the criminal case, charge-sheet has been laid and the same is also taken on file in S.C.No.34 of 2020 and the case is ripe for trial. According to the learned counsel, even before this Detention Order being passed, the detenu was granted bail by the Criminal Court on 22.5.2020.

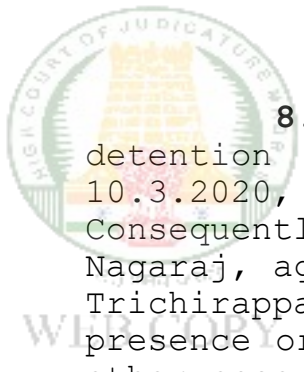
3. Mr.R.Anandharaj, learned Additional Public Prosecutor, on instructions, submitted that after satisfying with the materials placed by the Sponsoring Authority, the Detaining Authority has passed the detention order and there is no illegality or infirmity in the detention order. It is also stated that 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 dated Nil and it was received on 23.04.2020. Remarks were called for on the same day i.e. 23.04.2020 and it was received on 21.05.2020. The Deputy Secretary dealt with the matter on 21.05.2020. The concerned Minister dealt with the matter on 01.06.2020 and the representation came to be rejected on 01.06.2020. It is seen that in between 24.04.2020 and 21.05.2020, there was a delay of 27 days, after excluding the Government Holidays of 9 days, there was a delay of 18 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 delay will adversely affect further detention of the prisoner.

7. In the case on hand, as stated supra, the delay of 18 days in considering the representation of the petitioner remains unexplained 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 Detention Orderin Cr.M.P.No.33 of 2020, dated 10.3.2020, passed by the second respondent, is set aside. Consequently, the detenu, namely, Poondiyan @ Sudhakar, son of Nagaraj, aged about 25 years, who is 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-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

vsn

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,
Fort St.George,Chennai-9.
- 2.The District Collector and District Magistrate,
Trichirappalli District,Trichirappalli.
- 3.The Inspector of Police,All Women Police Station,
Lalgudi, Trichirappalli District.
- 4.The Superintendent,
Central Prison,Trichirappalli.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,Madurai.
- 6.The Joint Secretary to Government,
Public(Law & Order),
Fort St.George,Chennai-9.

ORDER MADE IN

H.C.P. (MD) No.294 of 2020

27.11.2020

AC(CO)

AP(07/12/2020) 3P 7C

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