



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **31.08.2020**

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

and

THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

H.C.P. (MD) No.326 of 2020

Pandeeswaran

... Petitioner

vs.

1.The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Fort St.George, Chennai - 600 009.

2.The District Collector and the District Magistrate,
Theni District.

3.The Inspector of Police,
Cumbum North Police Station,
Theni District.

4.The Superintendent,
Special Prison for Women,
Madurai.

... Respondents

PRAYER: The Habeas Corpus Petition is filed under Article 226 of the Constitution of India, to issue a writ of habeas corpus calling for the entire records pertaining to the detention order No.10 of 2020 dated 19.03.2020 passed by the second respondent and quash the same and consequently, set the detenu by name Tmt. Sivanammal, W/o. Muniyandi @ Ettu Idly Muniyandi (Female aged 52 years) (TPDA No.37) who is confined at the Special Prison for Women, Madurai at liberty.

For Petitioner : Mr.K.Mahendran

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 son of the detenu, namely, Tmt.Sivanammal, W/o. Muniyandi @ Ettu Idly Muniyandi, aged about 52 years, who has been branded as "Drug Offender" by the second respondent in Detention Order No.10/2020, dated 19.03.2020 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 19.03.2020, Mr.K.Mahendran, 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.

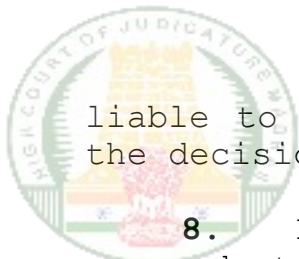
3. Per contra, Mr.V.Neelakandan, learned Additional Public Prosecutor appearing for the respondents would argue that the detaining authority, namely, the second respondent herein, after being satisfied with the materials produced by the sponsoring authority, has passed the detention order only to prevent 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 19.03.2020. Aggrieved over the same, a representation dated 04.05.2020 has been sent to the first respondent and the same was received on 11.05.2020 and on the same day, remarks were called for and the remarks were received on 24.06.2020. The Deputy Secretary dealt with the matter on 29.06.2020. The concerned Minister dealt with the matter on 22.07.2020 and thereafter, the detenu's representation was rejected on 23.07.2020. It is seen that there was delay of 18 days between 29.06.2020 and 22.07.2020. It is also seen that there are 6 Government holidays and after excluding the same, there is a delay of 12 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 any 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 12 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 No.10/2020 dated 19.03.2020, is set aside and the Habeas Corpus Petition is allowed. Consequently, the detenu, namely, Tmt. Sivanammal, W/o. Muniyandi @ Ettu Idly Muniyandi, aged about 52 years, now detained at Special Prison for Women, Madurai is directed to be released forthwith unless her presence or custody or detention is required in connection with any other case.

Sd/-

Assistant Registrar (CS-II)

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/ /2020

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 Principal Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Fort St.George, Chennai - 600 009.
- 2.The District Collector and the District Magistrate,
Theni District.
- 3.The Inspector of Police,
Cumbum North Police Station, Theni District.
- 4.The Superintendent,
Special Prison for Women, Madurai.
- 5.The Joint Secretary to Government,
Public(Law & Order) Department,
Secretariat, Chennai - 600 009.
- 6.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

H.C.P. (MD) No.326 of 2020

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AP(15/09/2020) 3P 7C

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