



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.02.2020

CORAM:

THE HONOURABLE MR.JUSTICE **T.RAJA**

and

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

H.C.P. (MD) No.878 of 2019

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Vimala

... Petitioner

versus

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

2. The District Magistrate and
District Collector,
Pudukkottai.

3. The Superintendent,
Central Prison,
Trichy.

... Respondents

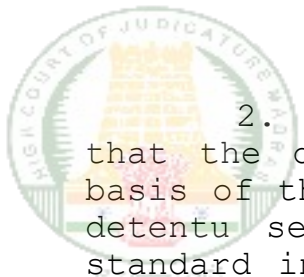
Habeas Corpus Petition filed under Article 226 of the Constitution of India, for the issuance of writ of Habeas Corpus, to call for the records relating to the detention order passed by the 2nd respondent in P.D.O.No.25/2019 dated 29.07.2019 under Tamil Nadu Act 14/82, detaining Thirunavukkarasu, Son of Chinnasamy in the Central Prison, Trichy and quash the same and direct the respondents to produce the body of the detenu, Thirunavukkarasu, S/o.Chinnasamy, aged about 40 years, before this Court and set him at liberty.

For Petitioner	:	M/s.P.Ganapathi Subramanian
For Respondents	:	Mr.K.Dinesh Babu, Additional Public Prosecutor

ORDER

[Order of the Court was delivered by **T.RAJA, J.**]

The petitioner is the wife of the detenu viz., Thirunavukkarasu, S/o.Chinnasamy, aged about 40 years. The detenu has been detained, as per the order of the second respondent, dated 29.07.2019, under Section 2(ggg) of the Tamil Nadu Act 14 of 1982, branding him as "SEXUAL OFFENDER". Challenging the same, the petitioner is before this Court in this Habeas Corpus Petition.



2. Learned counsel appearing for the petitioner would submit that the detenu was arrested on 25.05.2019 at 15.00 hrs. on the basis of the complaint given by parents of victim, stating that the detenu sexually assaulted the victim, who had studied upto 8th standard in the Special School for Mentally Challenged Children at Usilaoorani and on the same day, he was remanded to judicial custody before the learned Judicial Magistrate, Keeranur and the remand order was extended upto 29.05.2019. But, neither the remand order has been obtained by the respondent on 25.05.2019 nor the remand extension till 29.05.2019 has been furnished either to the detenu or any one of his family members and the same has not been placed before the detaining authority/second respondent herein. It is further submitted by the learned counsel for the petitioner that one of the grounds of detention shows that the detenu moved a bail petition, whereas, in the booklet furnished by the second respondent, a copy of the bail application has not been enclosed, which shows that the impugned detention passed by the second respondent is based on mere ipse dixit statement. Therefore, the impugned detention order cannot be sustained in the eye of law and the same is liable to be set aside.

3. Learned Additional Public Prosecutor appearing for the respondents fairly admitted that neither the remand order dated 25.05.2019 nor the remand extension order granted till 29.05.2019 was furnished to the detaining authority. The learned Additional Public Prosecutor further submitted that it is an admitted case of the petitioner that the detenu, while he was in remand, filed a bail application, before the Mahila Court, Pudukkottai, vide Cr.M.P.No.343 of 2019 and the same was dismissed on 11.07.2019. Thereafter, the detenu filed another bail application before this Court in CrI.O.P.(MD)No.10132 of 2019 dated 22.07.2019 and the same is also pending. Therefore, it is not correct to say that the respondent failed to furnish a copy of the bail application and hence, the non-furnishing of particulars of the bail application will not vitiate the impugned detention order.

4. Although we agree on the submission with regard to the non-furnishing of the remand order dated 25.05.2019 and also the remand extension order that was granted till 29.05.2019 by the sponsoring authority before the detaining authority, we are unable to sustain the impugned detention order except even these two orders have not been enclosed along with the booklet and they are not found in the booklet also, which reflects want of subjective satisfaction. Therefore, the impugned detention order is liable to be quashed.

5. In the result, the Habeas Corpus Petition is allowed and the order of detention passed in P.D.O.No.25/2019 dated 29.07.2019 by the second respondent is set aside. The detenu, namely, Thirunavukkarasu, S/o.Chinnasamy, aged about 40 years,



is directed to be released forthwith, unless his detention is not required in connection with any other case.

Sd/-

Assistant Registrar (ADII)

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Sub Assistant Registrar(CS)

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To

1. The Additional Chief Secretary to
Government,
Home, Prohibition and Excise (XVI)
Department,
Secretariat,
Fort St. George,
Chennai - 600 009.
2. The District Magistrate and
District Collector,
Pudukkottai.
3. The Superintendent,
Central Prison,
Trichy.
4. The Joint Secretary to Government Public(L&O)
Fort St.George,
Chennai-9.
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

H.C.P. (MD) No.878 of 2019
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KB(20.07.2020) 3P 6C