



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.07.2020

WEB COPY

CORAM:

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

H.C.P. (MD) No.1148 of 2019

Veerasamy

... Petitioner

-vs-

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

2.The District Magistrate and District Collector
Office of the District Magistrate and District Collector
Ariyalur District, Ariylur

3.The Superintendent of Prison
Trichy Central Prison,
Trichy District

... 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 entire records, connected with the detention order of the Respondent No.2 in Cr.M.P.No.31/2019, dated 09.10.2019 and quash the same and direct the respondents to produce the body or person of the detenu by name Veerasamy, son of Chellamuthu, aged about 31 years, now detained as "Goonda" at Trichy Central Prison, before this Court and set him at liberty forthwith.

For Petitioner : Mr.R.Alagumani

For Respondents : Mr.V.Neelakandan
Additional Public Prosecutor



O R D E R

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

Assailing the detention order passed by the second respondent in Cr.M.P.No.31 of 2019, dated 09.10.2019, branding the detenu, namely, Veerasamy, son of Chellamuthu, aged about 31 years, as Goonda, as contemplated under Section 2(f) of the Tamil Nadu Act 14 of 1982, the detenu himself has filed the habeas corpus petition.

2. Though several grounds have been raised in this habeas corpus petition to assail the impugned detention order, the learned counsel for the petitioner mainly contended that there is a violation of procedural safeguards guaranteed under Articles 21 and 22 of the Constitution of India.

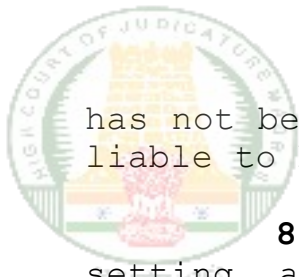
3. According to the learned counsel for the petitioner, the representation submitted by the petitioner was not considered in time and there is inordinate and unexplained delay, which deprived the rights of the petitioner to make his case before the Authorities.

4. The learned Additional Public Prosecutor opposing the habeas corpus petition submitted that the delay said to have been caused in the disposal of the representation would not cause any prejudice to the petitioner and there is no violation of the fundamental rights guaranteed in the Constitution of India.

5. In the case on hand, the detention order was passed on 09.10.2019. As against the same, the petitioner made a representation on 22.10.2019 and the same was received by the Detaining Authority on 30.10.2019. The Parawar remarks were called for by the Detaining Authority from the Sponsoring Authority on 18.11.2019. The remarks were received on 18.11.2019 and the report was sent to the Government on 21.11.2019. It is the contention of the petitioner that there was a delay of thirteen days in calling for the remarks from the Sponsoring Authority by the Detaining Authority and it was not properly explained.

6. The Division Bench of this Court in ***Sumaiya vs. The Secretary to Government, [2007 (2) MWN (Cr.) 145]***, has held that the unexplained delay of three days in disposal of the representation made on behalf of the detenu/detenu would vitiate the order of detention.

7. In the case on hand, as stated supra, there was a delay of thirteen days in calling for the remarks from the Sponsoring Authority by the Detaining Authority and the said delay



has not been properly explained. Hence, the order of detention is liable to be set aside.

8. In fine, the Habeas Corpus Petition is allowed by setting aside the order of detention passed by the second respondent, in Cr.M.P.No.31/2019, dated 09.10.2019. Consequently, the detenu, namely, Veerasamy, son of Chellamuthu, aged about 31 years, who is now detained at Trichy Central Prison, is directed to be released forthwith unless his presence or custody or detention is required in connection with any other case / proceedings.

Sd/-

Assistant Registrar(CS)

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/ /2020

Sub Assistant Registrar(CS)

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.

krk / skn

To:

- 1.The Additional Chief Secretary to Government,
State of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St.George,Chennai-600 009.
- 2.The District Magistrate and District Collector,
Office of the District Magistrate and District Collector,
Ariyalur District, Ariyalur.
- 3.The Superintendent of Prison,
Trichy Central Prison,
Trichy District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.