



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.09.2020

CORAM:

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

H.C.P. (MD) No.1220 of 2019

R.Muthuraman

... Petitioner/Son-in-law

-vs-

1.State of Tamil Nadu rep. by
The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai - 9.

2.The Commissioner of Police,
O/o The Commissioner of Police,
Tiruchirappalli City,
Tiruchirappalli.

3.The Superintendent,
Special Prison for Women
Tiruchirappalli.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of habeas corpus calling for the entire records in detention order passed in C.No.26/Detention/C.P.O/T.C/2019 dated 06.11.2019 on the file of the second respondent herein and set aside the same as illegal and direct the respondents to produce the body or person of the petitioner's Aunty namely, Kanagavalli, W/o Pannneerselvam, Female, aged 57 years, who is detained in Special Prison for Women, Tiruchirappalli before this Court and set her at liberty.

For Petitioner : Mr.SMA.Jinnah

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-in-law of the detainee, namely, Kanagavalli, W/o Pannneerselvam, Female, aged about 57 years, who has been branded as "Goonda" by the second respondent in Detention Order C.No.26/Detention/C.P.O/T.C/2019, dated 06.11.2019, 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 06.11.2019, Mr.SMA.Jinnah, learned counsel for the petitioner would contend that the procedural safeguards guaranteed under Articles 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 detainee 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 detainee 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 detainee was detained by the order of the second respondent dated 06.11.2019. Aggrieved over the same, a representation dated 14.11.2019 has been sent to the first respondent and the same was received on 18.11.2019 and on 19.11.2019 remarks were called for and the same were received on 16.12.2019. The Deputy Secretary dealt with the matter on 17.12.2019. The concerned Minister dealt with the matter on 07.01.2020 and thereafter, the detenu's representation was rejected on 08.01.2020. It is seen that there was delay of 21 days between 17.12.2019 and 07.01.2020. It is also seen that there are 8 Government holidays and after excluding the same, there is a delay of 13 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 nay 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 13 days in considering the representation of the detainee. 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 C.No.26/Detention/C.P.O/T.C/2019 dated 06.11.2019, is set aside and the Habeas Corpus Petition is allowed. Consequently, the detainee, namely, Kanagavalli, W/o Pannneerselvam, Female, aged about 57 years, now detained at Special Prison for Women, Tiruchirappalli is directed to be released forthwith unless her presence or custody or detention is required in connection with any other case.

Sd/-

Assistant Registrar (CO)

// 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 Principal Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai - 9.

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



2.The Joint Secretary,
Public (Law & Order) Department,
Fort St.George,
Chennai-9

3.The Commissioner of Police,
O/o The Commissioner of Police,
Tiruchirappalli City,
Tiruchirappalli.

4.The Superintendent,
Special Prison for Women
Tiruchirappalli.

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

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NR (01.10.2020) 4P 6C