



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED :06.10.2021**

**CORAM:**

**THE HONOURABLE MR.JUSTICE V. BHARATHIDASAN**

**and**

**THE HONOURABLE MRS.JUSTICE J.NISHA BANU**

**H.C.P. (MD) No.136 of 2021**

**WEB COPY**

Tamilmani ... Petitioner/Wife of the detenu  
-vs-

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

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

3.The Superintendent of Prison,  
Central Prison, Palayamkottai,  
Tirunelveli. ... Respondents

**PRAYER :** Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Habeas Corpus, to call for records pertaining to the proceedings of the second respondent made in his proceedings in Detention Order M.H.S.Confdl No.103/2020 dated 19.11.2020 and quash the same and set petitioner's husband by name Subramanian @ Karadiramar, S/o.Chellappa, aged about 40 years, at liberty from Central Prison, Palayamkottai, Tirunelveli/third respondent.

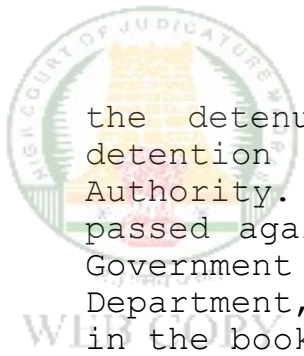
For Petitioner :Mr.V.M.Jegadeesha Pandian  
For Respondents :Mr.S.Ravi  
Additional Public Prosecutor

**O R D E R**

**(Order of the Court was made by V. BHARATHIDASAN, J.)**

This habeas corpus petition has been filed by the wife of the detenu, namely, Subramanian @ Karadiramar, S/o.Chellappa, aged about 40 years, challenging the detention order in M.H.S.Confdl No.103/2020 dated 19.11.2020, passed by the second respondent, branding him as "Goonda" as contemplated under Section 2(f) of Tamil Nadu Act 14 of 1982.

2. Mr.V.M.Jegadeesha Pandian, learned counsel appearing for the petitioner, would submit that the detenu was arrested on 21.10.2020, but the Detaining Authority has passed the detention order against



the detenu only on 19.11.2020 and the delay for passing the detention order was not properly explained by the Detaining Authority. He would further submit that the detention order was passed against the detenu on the basis of the G.O. issued by the Government in G.O.(D).No.270, Home, Prohibition and Excise (XVI) Department, dated 15.10.2020. But, the said G.O., was not annexed in the booklet.

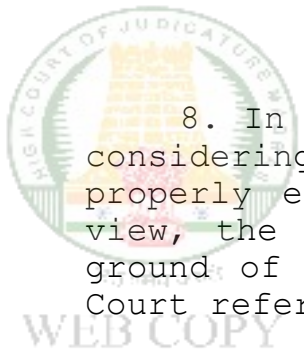
3. Mr.S.Ravi, learned Additional Public Prosecutor appearing for the State, on instructions, submitted that after satisfying with the materials placed by the Sponsoring Authority, the Detaining Authority has passed the detention order and there is no illegality or infirmity in the detention order. It 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 the learned counsel appearing on either side and perused the materials available on record.

5. Even though the learned counsel for 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.

6. 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 on 04.12.2020 and it was received on 23.12.2020. Remarks were called for on the same day ie., on 23.12.2020 and it was received on 30.12.2020. The Deputy Secretary dealt with the matter on 30.12.2020. The concerned Minister dealt with the matter on 09.01.2021 and the representation came to be rejected on 11.01.2021. It is seen that in between 23.12.2020 and 30.12.2020, there was a delay of 7 days, after excluding the Government Holidays of 2 days, there was a delay of 5 days in considering the petitioner's representation.

7. 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.



8. In the case on hand, as stated supra, the delay of 5 days in considering the representation of the petitioner has not been properly explained 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.

9. In fine, the Habeas Corpus Petition is allowed. The detention order in M.H.S.Confdl No.103/2020, dated 19.11.2020, passed by the second respondent, is set aside. Consequently, the detenu, Subramanian @ Karadiramar, S/o.Chellappa, aged about 40 years, who is now detained at Central Prison, Palayamkottai, Tirunelveli, 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-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

akv

**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 Cheif Secretary to Government,  
State of Tamil Nadu,  
Home, Prohibition and Excise Department,  
Government of Tamil Nadu,  
Fort St.George,  
Chennai-600 009.
- 2.The District Collector and District Magistrate,  
Tirunelveli District,  
Tirunelveli.
- 3.The Superintendent of Prison,  
Central Prison, Palayamkottai,  
Tirunelveli.



4.The Joint Secretary to Government,  
Public (Law and Order),  
Fort. St.George,  
Chennai-9

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

**ORDER MADE IN**  
**H.C.P.(MD) No.136 of 2021**  
**DATED : 06.10.2021**

AC (CO)  
GC/JGB(18.11.2021) 4P 6C