



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.06.2021

CORAM:

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THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
and
THE HONOURABLE MR.JUSTICE G.ILANGOVAN
H.C.P. (MD) No.194 of 2021

Sasikala, W/o.Ayyappan

... Petitioner/Wife of Detenue

-vs-

- 1.The Additional Chief Secretary to Government of India,
Department of Consumer Affairs,
Room No.270, Krishi Bhavan,
New Delhi - 110 001.
 - 2.The Secretary to Government,
Co-operation, Food and Consumer Protection Department,
Namakkal Kavignar Maaligai,
2nd Floor,
Secretariat, Chennai - 600 009.
 - 3.The District Collector and District Magistrate,
Collector's Office,
Kanniyakumari District at Nagercoil.
 - 4.The Superintendent,
Central Prison,
Palayamkottai,
Tirunelveli.
 - 5.The Inspector of Police,
Civil Supplies CID,
Kuzhithurai Unit,
Kanniyakumari District.
- ... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus calling for the entire records connected with the detention order in P.D.No.49/2020, dated 17.12.2020, on the file of the third respondent, quash the same as illegal and direct the respondents to produce the body or person of the petitioner's husband, namely, Ayyppan, aged about 47 years, S/o.Nadarajan, now confined at Central Prison, Palayamkottai, before this Court and set him at liberty forthwith.



For Petitioner : Mr.Niranjan.S.Kumar

For R1 : Mr.S.Jeyasingh
Senior Panel Counsel

For R2 to R5 : Mr.S.Ravi
Standing Counsel for Tamil Nadu Government

O R D E R

[Order of the Court was made by K.KALYANASUNDARAM, J.]

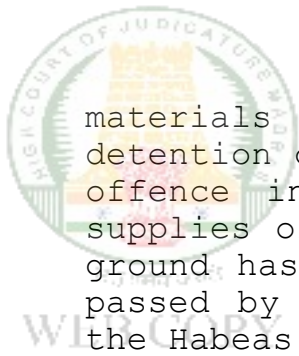
Heard Mr.Niranjan.S.Kumar, learned counsel appearing for the petitioner, Mr.S.Jeyasingh, Senior Panel Counsel appearing for the first respondent and Mr.S.Ravi, learned Standing Counsel appearing for the respondents 2 to 5 and perused the materials available on record.

2.This Habeas Corpus Petition has been filed by the wife of the detenu, namely, Ayyappan, son of Nadarajan, aged about 47 years, who has been branded as ''Black Marketer'' by the third respondent in P.D.No.49/2020, dated 17.12.2020, as contemplated under the provisions of Prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act, 1980.

3.It is submitted by the learned counsel appearing for the petitioner that on 22.12.2020, a representation has been made by the petitioner to revoke the detention order impugned in this Habeas Corpus Petition. Even though the said representation has been received by the respondents 2 and 3 on 30.12.2020, they have not at all been considered the same till date. According to the petitioner, the inaction on the part of the respondents 2 and 3, is violation of Article 22 of the Constitution of India.

4.While reiterating the averments made in the counter affidavit filed by the first respondent, Mr.S.Jeyasingh, learned Senior Panel Counsel appearing for the first respondent submitted that the detenu in this case, is acted against the interest of general Public and has also engaged in the offensive activities of purchasing the PDS Rice, which is meant to supply the poor people, at a very low price, smuggling it to other States and selling it in the black market at a higher price for pecuniary gains. Hence, he prayed for dismissal of the Habeas Corpus Petition.

5.Mr.S.Ravi, learned Standing Counsel appearing for the respondents 2 to 5 by referring the counter affidavit filed by the third respondent, submitted that the detenu is a habitual offender and he has involved in a heinous crime. The third respondent/detaining authority 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 supplies of essential commodities to the community in future and no ground has been made out to interfere with the order of detention passed by the third respondent. Hence, he prayed for dismissal of the Habeas Corpus Petition.

6.It is settled law that the authorities are bound to consider the representation of the detenu without causing any delay, which is the mandate of Article 22 of the Constitution of India. Any violation would infringe the valuable right, which is guaranteed in Article 22 of the Constitution of India.

7.In the instant case, it is not in dispute that a representation has been made by the petitioner on behalf of the detenu on 22.12.2020, to revoke the detention order on various grounds. Though the said representation was received by the second respondent herein on 30.12.2020, it was not at all been considered and disposed of till date and no material is placed on record by the respondents to show that the representation made by the petitioner on behalf of the detenu, was considered. Hence, on this sole ground alone, the impugned detention order passed by the third respondent, is liable to be set aside.

8.Accordingly, the order of detention passed by the third respondent, in P.D.No.49/2020, dated 17.12.2020, is set aside and the Habeas Corpus Petition is allowed. Consequently, the detenu, namely, Ayyappan son of Nadarajan, aged about 47 years, now detained at Central Prison, Palayamkottai, 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-II)

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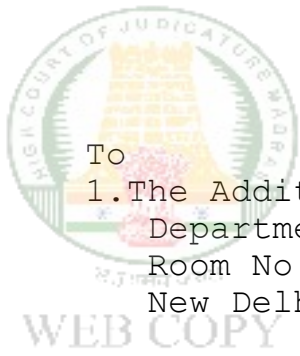
/ /2021

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

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- 5.The Inspector of Police,
Civil Supplies CID,
Kuzhithurai Unit,
Kanniyakumari District.
6. The Joint Secretary to Government,
Public (Law & Order), Fort Saint George, Chennai
- 7.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.NIRANJAN S. KUMAR, Advocate (SR-18756[F] dated 04/06/2021)

+1 CC to M/s.S.JEYASINGH, Advocate (SR-18890[F] dated 07/06/2021)

H.C.P. (MD) No.194 of 2021

04.06.2021

SGS(CO)

TR(18.06.2021) 4P 10C