



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.06.2021

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

and

THE HONOURABLE MR.JUSTICE G.ILANGO VAN

H.C.P.(MD) No.182 of 2021

K.Rajam

... Petitioner

-vs-

1.State of Tamil Nadu. Rep. by

The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai-600 009.

2.The District Collector and the District Magistrate,
O/o.The District Collector and the District Magistrate,
Nagapattinam District,
Nagapattinam.

3.The Superintendent of Prison,
Central Prison,
Tiruchirappalli.

... 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 in detention order passed in C.O.C.No.01/2021 dated 09.01.2021 on the file of the 2nd respondent herein and set aside the same as illegal and direct the respondents to produce the body or person of the petitioner's husband namely, KD Kannan @ Kannan, S/o.Muthupillai, male aged 55 years, who is detained in Central Prison, Tiruchirappalli, before this Court and set him at liberty.

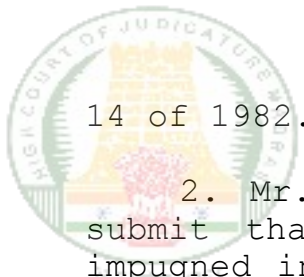
For Petitioner : Mr.K.A.S.Prabhu

For Respondents : Mr.S.Ravi
Standing counsel for Government

O R D E R

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

This habeas corpus petition has been filed by the wife of the detenu, namely, KD Kannan @ Kannan , S/o.Muthupillai, male aged about 55 years, challenging the detention order in C.O.C.No.01 of 2021, dated 09.01.2021 passed by the second respondent, branding him as "Bootlegger" as contemplated under Section 2(b) of Tamil Nadu Act



14 of 1982.

2. Mr.K.A.S.Prabhu, learned counsel for the petitioner, would submit that though several grounds have been raised, the order impugned in this Habeas Corpus Petition is liable to be quashed on the sole ground of non compliance of Section 8 of the Act 14 of 1982.

3. Mr.S.Ravi, learned standing counsel for the Government, 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 and hence, prayed for dismissal of the habeas corpus petition.

4. Heard both sides and perused the materials available on record.

5. A perusal of the relevant provision shows that the relevant materials have to be served on the detenu within a period of 5 days from the date of detention. However, in the case on hand, admittedly the booklet and the other material papers have been served on the detenu, only on 05.02.2021, ie., after a lapse of 27 days from the date of detention and hence, on the sole ground, the detention order is vitiated.

6. In fine, the Habeas Corpus Petition is allowed. The detention order in C.O.C..No.01 of 2021, dated 09.01.2021, passed by the second respondent, is set aside. Consequently, the detenu, namely, KD Kannan @ Kannan, S/o.Muthupillai, aged about 55 years, who is now detained at Central Prison, Tiruchirappalli, is directed to be released forthwith unless his presence or custody or detention is required in connection with any other case.

Sd/-

Assistant Registrar

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

RR

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 Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai-600 009.
- 2.The District Collector and the District Magistrate,
O/o.The District Collector and the District Magistrate,
Nagapattinam District,
Nagapattinam.
- 3.The Superintendent of Prison,
Central Prison,
Tiruchirappalli.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

H.C.P. (MD) No.182 of 2021
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