



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :24.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE V. BHARATHIDASAN

and

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

H.C.P. (MD) No.320 of 2021

Tharani

... Petitioner

-vs-

1. State of Tamil Nadu,
represented by its
The Secretary to Government,
Home, Prohibition & Excise Department,
Fort St. George, Chennai - 600 009.

2. The District Collector/ District Magistrate,
Ramanathapuram District, Ramanathapuram.

3. The Superintendent of Prison,
Central Prison,
Madurai, Madurai 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 records relating to the Detention Order passed by the second respondent in TN.P.D.A.B.C.D.F.G.I.S.S.S.V. No. 16 / 2020/Goonda/2020, dated 10.12.2020 and quash the same and direct the respondents to produce the body or person of the Detenu namely Ranjith @ Ranjithkumar, Son of Palanikumar aged about 26 years (now detained at Central Prison, Madurai) before this Hon'ble Court and set him at liberty.

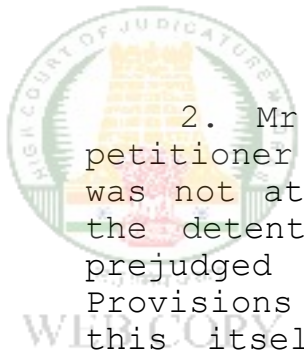
For Petitioner : Mr.G.Anto Prince

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

O R D E R

(Order of the Court was made by J.NISHA BANU, J.)

This habeas corpus petition has been filed by the Wife of the detenu, namely, Ranjith @ Ranjithkumar, S/o.Palanikumar, aged about 26 years, challenging the detention order in TN.P.D.A.B.C.D.F.G.I.S.S.S.V. No. 16 / 2020 / Goonda / 2020, dated 10.12.2020, passed by the second respondent, branding him as "Goonda" as contemplated under Section 2(f) of the Tamil Nadu Act 14 of 1982.



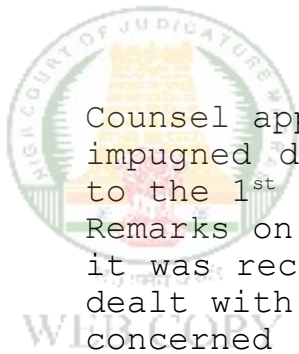
2. Mr.G.Anto Prince, the learned counsel appearing for the petitioner would state that the order of approval of detention order was not at all served to the detenu and it creates doubts whether the detention is approved or not. The detaining authority had prejudged to the maintenance of the Public Order under the Provisions of 2(f) of the Tamil Nadu Act 14 of 1982 as a "Goonda" and this itself shows non-application of mind on the part of the detaining authority. The Tamil and English version of the grounds of detention differs, which shows that the detaining authority had mechanically passed the detention order, without getting any clarification from the sponsoring authority. The family members of the Detenu were not intimated either by the detaining authority or by the sponsoring authority, which itself against the Constitution of India and will vitiate the detention order. The order of the Detention is passed belatedly and there is no circumstance to pass the detention order against the detenu as a compelling necessity to detain him, it is pertinent to mention that the detenu is in remand from 25.10.2020 onwards in connection with the ground case and whereas the detention order passed only on 10.12.2020. The booklets are illegible and therefore, the detenu cannot understand the said pages and prefer effective representation. The detaining authority mechanically arrived the subjective satisfaction relating to the possibility of the detenu for coming out on bail in the ground case and there is an inordinate delay in considering the petitioner's representation.

3. Even though the petitioner has raised the above grounds to quash the impugned detention order, the learned counsel for the petitioner would mainly place arguments on the ground of delay in disposal of the petitioner's representation. In this regard, the learned counsel for the petitioner would state 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. Thus, he would pray to quash the impugned order of detention.

4. The learned Standing Counsel appearing for the respondents would state that after satisfying with the materials placed by the sponsoring authority, the detaining authority has passed the impugned detention order and therefore, there is no infirmity or illegality in the same. He would produce the proforma regarding the disposal of the petitioner's representation and would state that even if there is any delay in disposal of the petitioner's representation, it has not caused any prejudice to the rights of the detenu. Thus, he would pray for dismissal of this petition.

5. Heard the learned counsel for the petitioner as well as the respondents.

<https://hcservices.courts.madras.gov.in/> of the proforma produced by the learned Standing



Counsel appearing for the respondents would show that as against the impugned detention order, the petitioner has made a representation to the 1st respondent on 22.12.2020 which was received on 24.12.2020. Remarks on the said representation were called for on 24.12.2020 and it was received on 31.12.2020. The Deputy Secretary concerned has dealt with the representation on 31.12.2020 and the Hon'ble Minister concerned has dealt with the representation on 09.01.2021 and finally, the representation came to be rejected on 11.01.2021. It is seen that in between 24.12.2020 and 31.12.2020, there was a delay of 6 days and after excluding 2 Government Holidays, there was a delay of 4 days in the first part and in between 31.12.2020 and 09.01.2021, there was a delay of 8 days and after excluding 3 Government holidays, there was a delay of 5 days in the second part, in total, there was a delay of 9 days in considering the petitioner's consideration.

7. At this juncture, it is useful to refer to the decision of the Hon'ble Supreme Court in the case of **Rajammal vs. State of Tamil Nadu and another** reported in **1999 (1) CC 417**, wherein, the Apex Court has held that it is for the authority concerned to explain the delay, if any, in disposal of the representation of the detenu and if any delay was caused on account of any 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 **9** days in considering the representation of the petitioner remains unexplained by the respondents. Hence, in our considered view, the impugned detention order is liable to be set aside solely on the ground of delay by following the above decision of the Apex Court.

9. In fine, the Habeas Corpus Petition is allowed. The detention order in TN.P.D.A.B.C.D.F.G.I.S.S.S.V/Goonda/2020, No.16/2020 / Goonda/2020, dated 10.12.2020, passed by the second respondent, is set aside. Consequently, the detenu, namely, Ranjith @ Ranjithkumar, S/o.Palanikumar, aged about 26 years, who is now detained at Central Prison, Madurai, is directed to be released forthwith unless his presence or custody or detention is required in connection with any other case.

Sd/-

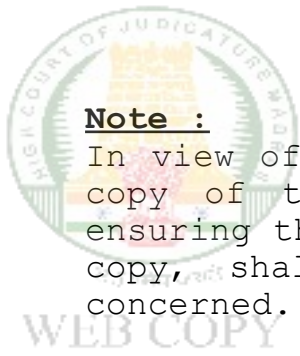
Assistant Registrar (CS-II)

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Sub Assistant Registrar(CS)

mpk



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 Secretary to Government,
State of Tamil Nadu,
Home, Prohibition & Excise Department,
Fort St.George,
Chennai - 600 009.
2. The District Collector/ District Magistrate,
Ramanathapuram District,
Ramanathapuram.
3. The Superintendent of Prison,
Central Prison,
Madurai, Madurai District.
4. The Joint Secretary to Government,
Public (Law & Order),
Fort saint George,
Chennai-600 009.
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.G.ANTO PRINCE, Advocate (SR-27133[F] dated 24/08/2021)

H.C.P.(MD) No.320 of 2021
DATED : 24.08.2021

_RD(15.09.2021) 4P 7C