



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.06.2021

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

and

THE HONOURABLE MR.JUSTICE G.ILANGOVAN

H.C.P. (MD) No.412 of 2021

WEB COPY

Immanuvel Raja, S/o.David

... Petitioner

-vs-

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

2.The District Collector and District Magistrate,
Thoothkudi District,
Thoothukudi.

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

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus calling for the entire records relating to the detention of Immanuvel Raja, aged about 43 years, son of David, under Section 2(f) of the Tamil Nadu Act 14 of 1982, vide Detention Order dated 02.11.2020, made in Detention Order in H.S.(M).Confdl.No.100 of 2020, passed by the second respondent herein, quash the same and consequently, direct the respondents herein to produce the body or person of the detenu, now confined at Central Prison, Palayamkottai, Tirunelveli, before this Court and thereafter, set him at liberty.

For Petitioner : Mr.M.Siva Sankar

For Respondents : Mr.S.Ravi

Standing Counsel for Tamil Nadu 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 detenu, namely, Immanuvel Raja, son of David, aged about 43 years, who has been branded as ''Goonda'' by the second respondent in H.S.(M) Confdl.No.100/2020, dated 02.11.2020, 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 02.11.2020, Mr.M,Siva Sankar, learned counsel appearing 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.

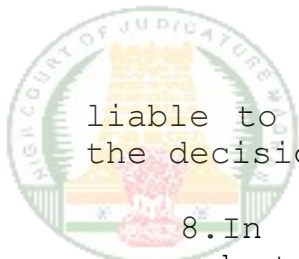
3.Per contra, Mr.S.Ravi, learned Standing Counsel appearing for the State would argue that the detaining authority, namely, the second respondent herein, after being satisfied with the materials produced by the sponsoring authority, has passed the detention order only to prevent the detenu from indulging 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 detenu 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 record.

5.In the instant case, it is not in dispute that the petitioner/detenu was detained by the order of the second respondent dated 02.11.2020. Aggrieved over the same, a representation dated 18.11.2020, has been sent and the same was received on 20.11.2020 and on the same day, remarks were called for and remarks were received on 14.12.2020. The Deputy Secretary dealt with the matter on 14.12.2020. The concerned Minister dealt with the matter on 09.01.2021 and thereafter, the detenu's representation was rejected on 11.01.2021. It is seen that there was delay of 24 days between 20.11.2020 and 14.12.2020. It is also seen that there are 7 Government holidays and after excluding the same, there is a delay of 17 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 any 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 17 days in considering the representation of the detenu. 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 H.S.(M) Confdl.No.100/2020 dated 02.11.2020 is set aside and the Habeas Corpus Petition is allowed. Consequently, the detenu, namely, Immanuvel Raja, son of David, aged about 43 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

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

smn2

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 Tamil Nadu,
Home, Prohibition and Excise Department,
Fort, St. George, Chennai - 600 009.

2.The District Collector and District Magistrate,
Thoothkudi District,
Thoothukudi.

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

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

+1 CC to M/s.M.SIVASANKAR, Advocate (SR-18882[F] dated 07/06/2021)

H.C.P. (MD) No.412 of 2021

04.06.2021

KK(22.06.2021) 3P 6C

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