



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.01.2021

CORAM:

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THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
and
THE HONOURABLE MR.JUSTICE G.ILANGO VAN

H.C.P.(MD) No.410 of 2020

Karuppu @ Nithiyanantham

... Petitioner

-vs-

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

2.The District Collector and District Magistrate,
Office of the District Collector and District Magistrate,
Nagapattinam District,
Nagapattinam.

3.The Superintendent of Prison,
Trichy Central Prison,
Trichy 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 of the Respondent No.2 in C.O.C.No.11 of 2020, dated 10.03.2020 and quash the same and direct the Respondents to produce the body or person of the detenu by name Karupu @ Nithiyanantham, son of Subramaniyan, aged about 38 years, now detained as 'Sexual Offender' at Trichy Central Prison before this Court and set him at liberty forthwith.

For Petitioner :Mr.R.Alagumani

For Respondents :Mr.K.Dinesh Babu
Additional Public Prosecutor

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, Karuppu @ Nithiyanantham, son of Subramaniyan, aged about 38
<https://hcservices.ecourts.gov.in/hcservices/>



years, against the detention order passed by the second respondent, in C.O.C.No.11/2020, dated 10.03.2020, branding him as "Sexual Offender" as contemplated under Section 2(ggg) of Tamil Nadu Act, 14 of 1982.

2. Mr.R.Alagumani, learned counsel appearing for the petitioner would argue that the detention order impugned in this habeas corpus petition is liable to be set aside on the ground that while arriving at subjective satisfaction, the detaining authority has not applied his mind and the representation of the detenu was not disposed of within a reasonable time and there is an inordinate and unexplained delay in disposing of the representation.

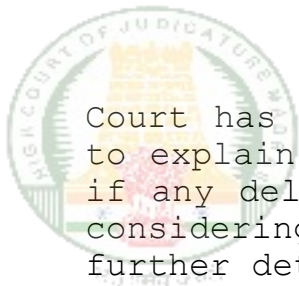
3. Per contra, Mr.K.Dinesh Babu, learned Additional Public Prosecutor, on instructions, submitted that the second respondent, taking note of the gravity of the offence committed by the detenu, has rightly passed the detention order after having satisfied with the relevant materials furnished by the sponsoring authority and there is no illegality or irregularity in the detention order warranting interference by this Court and hence, prayed for dismissal of the habeas corpus petition.

4. We have heard the rival submissions and perused the materials placed on record.

5. A perusal of the grounds of detention would show that the detention order has been passed by the second respondent on 10.03.2020, but in the booklet furnished to the detenu at page No.60, the remand order of the learned Judicial Magistrate, dated 11.03.2020 is found enclosed, By that order, the detenu was remanded on 11.03.2020 upto 24.03.2020. This shows lack of non-application of mind of detaining authority while arriving at subjective satisfaction to pass the detention order and it was passed mechanically.

6. Further, it is seen from the proforma furnished by the learned Additional Public Prosecutor that the representation of the petitioner, dated 24.06.2020, was received on 16.07.2020. Remarks were called for on the same day i.e., on 16.07.2020 and it was received on 03.11.2020. The Deputy Secretary dealt with the matter on 03.11.2020. The concerned Minister dealt with the matter on 04.11.2020 and the representation came to be rejected on 06.11.2020. It is seen that in between 16.07.2020 and 03.11.2020, there was a delay of 109 days, after excluding the Government Holidays of 29 days, there was a delay of 80 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.

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8. In the case on hand, as stated supra, the delay of 80 days has not been properly explained by the respondents. Hence, in our considered view, the detention order is liable to be set aside on the grounds as stated above by following the decisions of the Honourable Apex Court referred supra.

9. In fine, the Habeas Corpus Petition is allowed. The order of detention passed by the second respondent, in C.O.C.No.11/2020, dated 10.03.2020, is set aside. Consequently, the detenu, namely, Karuppu @ Nithiyanantham, son of Subramaniyan, aged about 38 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(AE)

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/ /2021

Sub Assistant Registrar

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 Principal Secretary to Government,
State of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St. George,
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- 2.The District Collector and District Magistrate,
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- 3.The Superintendent of Prison,
Trichy Central Prison,
Trichy District.

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



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

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

Order made in
HCP(MD) No.410 of 2020
19.01.2021

AM
SRS/08.02.2021/4P/6C