



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

and

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

H.C.P. (MD) No.981 of 2021

Ravichandiran

... Petitioner /

Brother-in-law of the Detenu

Vs.

1.The State of Tamilnadu,
represented by its Additional Chief Secretary to Government,
Home Prohibition and Excise Department,
Secretariat, Chennai-9.

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

3.The Superintendent,
Central Prison,
Coimbatore.

4.The Inspector of Police,
SIPCOT Police Station,
Thoothukudi District.

... Respondents

PRAYER: Habeas Corpus Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, to call for the records of the detention made in H.S(M)Confdl.No.73/2021 dated 25.05.2021 passed by the District Collector and District Magistrate, Thoothukudi District, Thoothukudi the second respondent herein and set aside the same and direct the respondents to produce the body or person of the detainee before this Court and set the detainee Thiru.Ponmariyappan, Son of Murugesan, aged 39 years, now confined and now kept in Central Prison, Coimbatore at liberty and set him.

For Petitioner : Mr.N.Mohideen Basha

For Respondents : Mr.S.Ravi

Additional Public Prosecutor

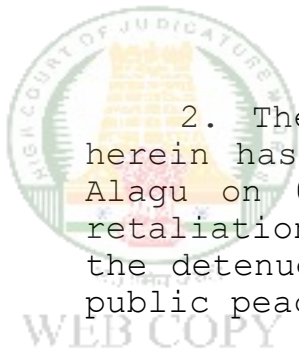
O R D E R

S.VAIDYANATHAN, J.

And

DR.G.JAYACHANDRAN, J.

This Habeas Corpus Petition is filed on behalf of the detainee, Ponmariyappan, Son of Murugesan, aged 39 years, who is facing the ground case in Crime No.208 of 2021, SIPCOT Police Station for the offence under Section 302 IPC, it is under investigation.



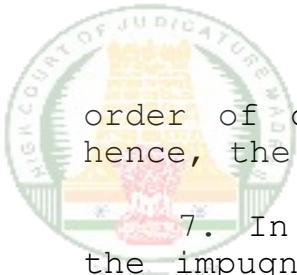
2. The detaining authority, being satisfied that the detenu herein has involved in the retaliatory murder of one Arikrishnan @ Alagu on 09.05.2021 arrested him. The murder was committed as a retaliation and therefore the detaining authority has satisfied that the detenu has acted in the manner prejudicial of public order and public peace.

3. Against this detention, a representation, dated 15.06.2021 was made, which was not considered favourably and rejected vide a communication, dated 30.06.2021. In this petition seeking for quash of the detention order, it is stated that the grounds of detention does not satisfy the ingredient required the term of person as GOONDA. The detaining authority has not considered the material placed before him by the sponsoring authority properly. There is no material to show the confinement of the detenu preventively is necessary to maintain public order and public peace. When there is no compelling necessity to detain a person preventively, Act 14, 1982 cannot be invoked. Since the detention order is passed without adhering the procedure and the representation not considered within the reasonable time, it is pleaded that the detention order has to be quashed.

4. But, the learned Additional Public Prosecutor would, however, oppose this Habeas Corpus Petition. He would submit that though there was delay in considering the representation, on that score, the impugned detention order need not be interfered with, as on account of the said delay, no prejudice has been caused to the detenu and thus, there is no violation of the fundamental rights guaranteed under Articles 21 and 22 of the Constitution of India.

5. In this case, the Detention Order was passed on 25.05.2021. As against the same, the petitioner made a representation on 15.06.2021. The remarks were called for by the Government from the Detaining Authority on 21.06.2021. The remarks were received on 29.06.2021. Thereafter, the Government considered the issue and passed the order rejecting the representation on 09.08.2021. It is the contention of the petitioner that there was delay of 40 days on the part of the Government in considering the same.

6. On perusal of the records and the counter filed by the State, this Court finds that the solitary case of a murder alleged to have been committed as a retaliation to a murder occurred in the year 1998. The motive itself is very remote, even if it is so, on considering and testing the facts of the case, whether it is necessary to detain the accused preventively to maintain public order and public peace, this Court finds there is no enough material to arrive at such a conclusion even the detention order does not specifically mentioning why the detention is necessary to maintain public order and public peace, when there is no other adverse case against the detenu and even according to the prosecution the offence has been committed due to personal motive to wreak vengeance. It is clear that the petitioner is not a member of rowdy gang or a habitual offender and the unexplained delay of 28 working days of his representation prompt this Court to hold the



order of detention passed without proper application of mind and hence, the detention order is liable to be quashed.

7. In the result, this Habeas Corpus Petition is allowed and the impugned Detention Order, passed by the second respondent, in his proceedings in H.S(M)Confdl.No.73/2021 dated 25.05.2021, is quashed. The detenu, by name, Mr.Ponmariyappan, S/o.Murugesan, aged about 39 years, is ordered to be set at liberty forthwith, if he is not required for detention in connection with any other case.

Sd/-

Assistant Registrar (AD-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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,
State of Tamilnadu,
Home Prohibition and Excise Department,
Secretariat, Chennai-9.

2.The Joint Secretary to Government State of Tamil Nadu,
Public(Law & Order), Fort st.George, chennai-600 009.

3.The District Collector and District Magistrate,
Thoothukudi District,Thoothukudi.

4.The Superintendent,
Central Prison,Coimbatore.

5.The Inspector of Police,
SIPCOT Police Station,Thoothukudi District.

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

H.C.P. (MD)No.981 of 2021

Date:03.12.2021

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