



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.02.2021

CORAM:

WEB COPY

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

H.C.P. (MD) No.703 of 2020

Chinnammal

... Petitioner/Mother of Detenue

-vs-

1.The State of Tamil Nadu,
Rep. by the Principal Secretary to Government,
Home, Prohibition and Excise Department,
Fort, St. George,
Chennai - 9.

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

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

4.The Inspector of Police,
All Women Police Station,
Keeranur,
Pudukkottai 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 relating to the detention order passed by the 2nd respondent in Detention Order PDO No.70/2020 dated 29.08.2020 and to quash the same and direct the respondents to produce the body or person of the detenu, Murugan, S/o Chinnathambi, aged about 26 years, before this Court and set him at liberty, now detained at Central Prison, Trichy.

For Petitioner :Mr.D.Rameshkumar

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



O R D E R

[Order of the Court was made by K.KALYANASUNDARAM, J.]

The Habeas Corpus Petition has been filed by the mother of the detenu, namely, Murugan, S/o Chinnathambi, aged about 26 years, who has been branded as "Sexual Offender" by the second respondent in Detention Order PDO No.70/2020 dated 29.08.2020, as contemplated under Section 2(ggg) of the Tamil Nadu Act 14 of 1982.

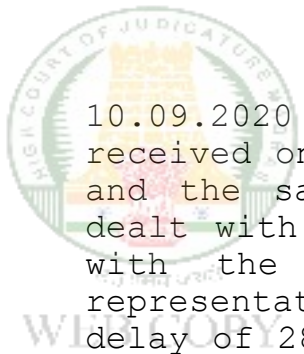
2.The learned counsel for the petitioner would submit that though several grounds have been raised to assail the detention order impugned in this habeas corpus petition, he confines his arguments on the grounds of delay in disposal of the representation and non-application of mind on the part of the detaining authority in passing the impugned order.

3.Per contra, Mr.K.Dinesh Babu, learned Additional Public Prosecutor appearing for the respondents 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 records.

5.The detenu in this case was detained for his alleged involvement in Crime No.6 of 2020 on the file of the Keeranur All Women Police Station and he was arrested on 02.08.2020. While reaching the subjective satisfaction, the detaining authority has stated in paragraph 5 of grounds of detention that his bail application in Cr.M.P.No.224/2020 dated 13.08.2020 was pending before the Mahila Court, Pudukkottai, but the order copy produced by the learned counsel for the petitioner would show that the bail application in Cr.M.P.No.224/2020 came to be dismissed by the Mahila Court, Pudukkottai on 26.08.2020 itself. In this case, the detention order was passed on 29.08.2020 and on the date of detention order, the bail application was not pending which shows non application of mind on the part of the detaining authority.

6.Further, in the instant case, it is not in dispute that the detenu was detained by the order of the second respondent dated 29.08.2020. Aggrieved over the same, a representation dated



10.09.2020 has been sent to the first respondent and the same was received on 14.09.2020 and on the same day, remarks were called for and the same were received on 05.10.2020. The Deputy Secretary dealt with the matter on 06.10.2020. The concerned Minister dealt with the matter on 04.11.2020 and thereafter, the detenu's representation was rejected on 07.11.2020. It is seen that there was delay of 28 days between 06.10.2020 and 04.11.2020. It is also seen that there are 6 Government holidays and after excluding the same, there is a delay of 22 days in considering the representation of the detenu.

7. 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.

8. In the case on hand, there is absolutely no explanation for the delay of 22 days in considering the representation of the detenu. Hence, in our considered view, the detention order is liable to be set aside on the ground of delay also by following the decision of the Honourable Apex Court referred supra.

9. In fine, the order of detention passed by the second respondent, in Detention Order PDO No.70/2020 dated 29.08.2020 is set aside and the Habeas Corpus Petition is allowed. Consequently, the detenu, namely, Murugan, S/o Chinnathambi, aged about 26 years, now detained at Trichy Central Prison 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)

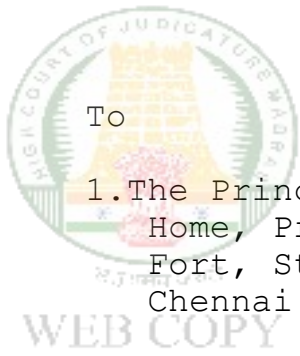
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Sub Assistant Registrar(CS)

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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,
Home, Prohibition and Excise Department,
Fort, St. George,
Chennai - 9.
- 2.The District Magistrate and District Collector,
Pudukkottai District,
Pudukkottai.
- 3.The Superintendent of Prison,
Central Prison,
Trichy.
- 4.The Joint Secretary to Government,
Public (Law & Order) Fort St. George,
Chennai-9
- 5.The Inspector of Police,
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- 6.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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VB (19.03.2021) 4P 7C