



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.01.2021

CORAM:

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

**H.C.P. (MD) No.900 of 2020
and
Cr1.M.P(MD)No.258 of 2021**

Sarala

... Petitioner/Wife of the detenue

-vs-

1.The State of Tamil Nadu,
rep. by Additional Chief Secretary to Government,
Home Prohibition and Excise Department,
Fort St. George,
Chennai-9.

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

3.The Inspector of Police,
Uthamapalayam Police Station,
Theni District.

4.The Superintendent,
Central Prison,
Madurai.

... 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 Detention Order dated 14.10.2020 in Detention Order No.57 of 2020 and to quash the same and direct the respondents to produce the person or body of the detenu, Chokkar, S/o.Chetti Chinna Karuthakannuthevar @ Chetti Veeratthevar, aged about 63 years, now detained as "GOONDA" at Madurai Central Prison, before this Court and set him at liberty forthwith.

For Petitioner : Mr.D.Selvam
for Mr.S.Muthukumar



For Respondents : Mr.R.Anandharaj
Additional Public Prosecutor

: Mr.R.Karunanidhi
for defacto complainant

WEB COPY

O R D E R

(Order of the Court was made by K.KALYANASUNDARAM, J.)

This habeas corpus petition has been filed by the wife of the detenu, namely, Chokkar, son of Chetti Chinna Karuthakannuthevar @ Chetti Veeratthevar, aged about 63 years, challenging the Detention Order No.57 of 2020, dated 14.10.2020, passed by the second respondent, branding him as "GOONDA" as contemplated under Section 2(f) of Tamil Nadu Act 14 of 1982.

2. Mr.D.Selvam, learned counsel appearing for the petitioner, would argue that even though the petitioner has raised several grounds, he has confined his arguments only to the delay in disposal of the petitioner's representation. It is submitted by the learned counsel for the petitioner 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.

3. Mr.R.Anandharaj, learned Additional Public Prosecutor, while reiterating the counter affidavit filed by the second respondent, submitted that after satisfying with the materials placed by the Sponsoring Authority, the Detaining Authority has passed the detention order and there is no illegality or infirmity in the detention order. It is also stated that even if there is any delay in disposal of the representation, it has not caused any prejudice to the rights of the detenu and hence, prayed for dismissal of the habeas corpus petition.

4.Mr.R.Karunanidhi, learned counsel appearing for the defacto complainant, would urge that the detenu has committed a heinous crime of murdering a practicing advocate, who is the younger brother of the defacto complainant. Furthermore, he also threatened the witnesses.

5. Heard Mr.D.Selvam, learned counsel appearing for the petitioner, Mr.R.Anandaraj, learned Additional Public Prosecutor appearing for the respondents and Mr.R.Karunanidhi, learned counsel appearing for the defacto complainant in the Criminal case and respondents and the materials available on record.



6. In the instant case, the proforma furnished by the learned Additional Public Prosecutor would indicate that as against the impugned detention order, the petitioner made a representation to the first respondent on 14.10.2020 and it was received on 22.10.2020. Remarks were called for on the same day i.e.22.10.2020 and it was received on 10.11.2020. The Deputy Secretary dealt with the matter on the same day i.e.on 10.11.2020. The concerned Minister dealt with the matter on 16.11.2020 and the representation came to be rejected on 17.11.2020. It is seen that in between 22.10.2020 and 10.11.2020, there was a delay of fourteen days, after excluding the four Government Holidays, 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.

8. In the case on hand, as stated supra, the delay of fourteen days in considering the representation of the petitioner has not been properly explained by the respondents. 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.

9. In fine, the Habeas Corpus Petition is allowed. The detention order No.57 of 2020, dated 14.10.2020, passed by the second respondent, is set aside. Consequently, the detenu, namely, Chokkar, son of Chetti Chinna Karuthakannuthevar @ Chetti Veeratthevar, aged about 63 years, who is now detained at Madurai Central Prison, is directed to be released forthwith unless his presence or custody or detention is required in connection with any other case. Consequently, connected miscellaneous petition is closed.

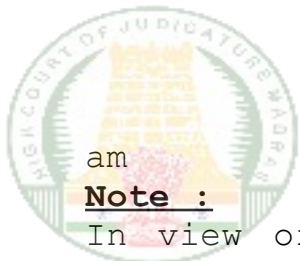
Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)



am

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,
Home Prohibition and Excise Department,
Fort St. George,
Chennai-9.
- 2.The District Collector and District Magistrate,
Theni District,
Theni.
- 3.The Inspector of Police,
Uthamapalayam Police Station,
Theni District.
- 4.The Superintendent,
Central Prison,
Madurai.
- 5.The Joint Secretary to Government
Public(Law and Order)Department,
Fort.St.George, Chennai-600 009.
- 6.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

H.C.P. (MD) No.900 of 2020
18.01.2021

KM (03.02.2021) 4P 7C