



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

and

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

H.C.P. (MD) No. 747 of 2021

WEB COPY

Gomathi

... Petitioner /
Mother of the Detenue

Vs.

1.The Additional Chief Secretary to the Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai-600 009.

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

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

... Respondents

PRAYER: Habeas Corpus Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus, to call for the records pertaining to the impugned detention order passed by the 2nd respondent made in his proceedings in P.D.No.55/2021 dated 30.04.2021 in detaining the detenue under section 2 (f) of the Tamilnadu Act 14 of 1982 as a Goonda and quash the same and direct the respondents to produce the detenue, namely, Madheshwaran, S/o.Nagarajan, male, aged about 18 years, who is detained in Central Prison, Tiruchirappalli before this Court and set him at liberty.

For Petitioner : Mr.V.Rama Moorthy

For Respondents : Mr.S.Ravi

Additional Public Prosecutor

O R D E R

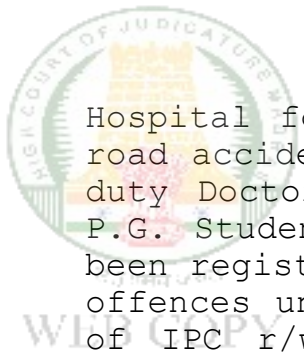
S.VAIDYANATHAN, J.

And

DR.G.JAYACHANDRAN, J.

[Order of the Court was made by **DR.G.JAYACHANDRAN, J.**]

The petitioner is the mother of the detenue, aged 18 years. The sole case against the detenue, who is now suffering the preventive detention, is that on 09.04.2021, at about 12.50 hours, the detenue along with one Raghavan went to the Thanjavur Medical College



Hospital for treatment of the injury sustained by Raghavan in the road accident. At that time infuriated by the question asked by the duty Doctor, the detainee had attacked Dr.Arun Pandian, First Year P.G. Student, working in the emergency ward. Therefore, a case has been registered in Crime No.170 of 2021 against four persons for the offences under Sections 147, 148, 294(b), 324, 353, 307 and 506(ii) of IPC r/w Section 3 of Tamilnadu Medicare Service Persons and Medicare Service Institutions (Prevention of Violence and Damage or Loss to the Property) Act, 2008.

2. The detention order is challenged on the ground that the detention order was served to the detainee on 30.04.2021 but the booklet was served on 06.05.2021, ie., after the delay of 7 days and there is a delay of more than 22 days in disposing the petitioner's representation.

3. The learned counsel for the petitioner would submit that the detainee hardly 18 years old and he has no other bad antecedents and the Detaining Authority had passed the detention order without proper application of mind and in violation of Section 8 and 10 of the Tamil Nadu Act 14 of 1982.

4. The second respondent filed a detailed counter stating the subjective satisfaction for passing the Detention Order. From the records, this Court finds that the Detention Order, dated 30.04.2021 was served to the detainee along with the booklet on 06.05.2021.

5. Section 8 (1) of the Tamil Nadu Act 14 of 1982 reads as follows:

" 8.Grounds of order of detention to be disclosed to persons affected by the order: (1) When a person is detained in pursuance of a detention order, the authority making the order shall, as soon as may be, but not later than five days from the date of detention, communicate to him the grounds on which the order has been made and shall afford him the earliest opportunity of making a representation against the order to the State Government."

6. In this case, though the Detention Order was served immediately, the booklet has been served after 5 days from the date of detention. The representation of the petitioner, dated 13.05.2021 was rejected by the authority on 15.07.2021. The Advisory Board in this case has met on 15.06.2021 and confirmed the detention on 28.07.2021. Though there is no material to infer that there was delay in referring the matter to the Advisory Board, this Court, on taking note of the delay in disposing the representation is not duly explained, is of the view that the Detention Order is not in consonance with the provisions of the Act and suffers lack of application of mind. Hence, the Detention Order, dated 30.04.2021



is liable to be quashed.

7. In the result, this Habeas Corpus Petition is allowed. The order of detention passed by the second respondent, in P.D.No.55/2021 dated 30.04.2021, is set aside. Consequently, the detenu, namely, Madheshwaran, son of Nagarajan, aged about 18 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 (CS-II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

PJL

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 the Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai-600 009.

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

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

4. The Joint Secretary to Government,
Public (Law &Order) Fort St.Goerge, Chennai 600 009

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

H.C.P. (MD) No.747 of 2021
06.01.2022

GM(CO)

KB(25.01.2022) 3P 6C

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