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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

and

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

H.C.P.(MD)No.893 of 2021

M.Aruljothi

... Petitioner /

Wife of the Detenu

Vs.

1.State of Tamil Nadu,

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

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

3.The Superintendent of Prison,
Central Prison,
Palayamkottai,
Tirunelveli.

... Respondents

PRAYER: Habeas Corpus Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus, calling for the entire records connected with the detention order passed in H.S.(M).Confdl.No.76/2021, dated 03.06.2021, on the file of the 2nd respondent herein and quash the same and direct the respondents to produce the detenu or body of the detenu/the petitioner's husband, namely, Muthupandi, S/o.Velu Thevar, aged about 48 years, now detained at the Central Prison, Palayamkottai, before this Court and set him at liberty forthwith.

For Petitioner : Mr.N.Pragalathan

For Respondents : Mr.A.Thiruvadi Kumar

Additional Public Prosecutor

O R D E R

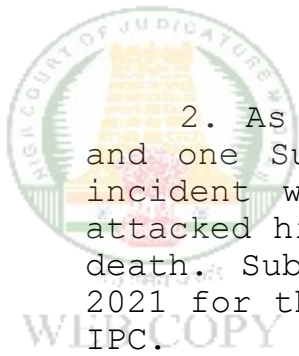
S.VAIDYANATHAN, J.

And

DR.G.JAYACHANDRAN, J.

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

The petitioner is the wife of the detenu, Muthupandi, who has been detained under Tamil Nadu Act 14 of 1982, vide detention order, dated 03.06.2021, for the alleged incident which took place on 04.05.2021 at about 15 hours near Kovilpatti Railway Station.



2. As per the ground case, there was enmity between Muthupandi and one Sudalaipandi/victim, for nearly 10 years. On the date of incident when Sudalaipandi teased the detenu and got provoke and attacked him using an iron bar laying on the side and caused instant death. Subsequently, case has been registered in Crime No.273 of 2021 for the offence under Sections 294(b), 323, 302, and 506(ii) of IPC.

3.The learned counsel for the petitioner assailed the detention order on the ground that it is a solitary case of murder due to sudden provocation and there is no bad antecedent to detain the detenu under the Tamil Nadu Act 14 of 1982. Further he submits that the representation made on behalf of the detenu was not considered in time. There is enormous delay in disposing the representation. Being a solitary case and has not caused any disturbance to the peace and public order, the detention order suffers the non-application of mind.

4. Per contra, the learned Additional Public Prosecutor would submit that though it is a solitary case, the antecedent of the petitioner is not impressive and the occurrence took place in the bright daylight in the public place near the Railway Station, which has caused fear and awe in the minds of the general public, therefore, the detenu was detained under the Tamil Nadu Act 14 of 1982.

5. This Court, on considering the rival submissions and on perusal of the records, is of the view that besides lack of application of mind to arrive at subjective satisfaction, there is substantial delay in disposal of the representation of the petitioner and therefore, on the ground of delay, detention order is liable to be quashed.

6. In the result, this Habeas Corpus Petition is allowed. The detention order passed by the second respondent, in H.S.(M). Confdl.No.76 of 2021, dated 03.06.2021 is set aside. Consequently, the detenu, namely, Muthupandi, son of Velu Thevar, aged about 48 years, who is now detained in Central Prison, Palayamkottai is directed to be released forthwith, unless his presence or custody or detention is required in connection with any other case.

Sd/-

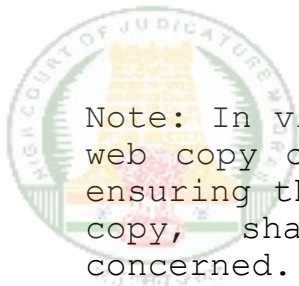
Assistant Registrar (CS-II)

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/ /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.

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To

- 1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat,
Chennai - 600 009.
- 2.The District Collector and District Magistrate,
Thoothukudi District,
Thoothukudi.
- 3.The Superintendent of Prison,
Central Prison,
Palayamkottai,
Tirunelveli.
- 4.The Joint Secretary to Government,
Public (Law and Order),
Fort. St.George,
Chennai-9
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

H.C.P. (MD) No.893 of 2021
10.01.2022

SAR(CO)
GC(27.01.2022) 3P 6C