



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.01.2022

CORAM:

**THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN
and
THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN**

H.C.P. (MD) No.907 of 2021

Pandiyaraja

... Petitioner

-vs-

1.The Additional Chief Secretary to Government
Home, Prohibition and Excise Department
Secretariat, Chennai-9

2.The District Magistrate and District Collector
Dindigul District
Dindigul

3.The Superintendent of Prison
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 in pursuant to the proceedings of the second respondent in Detention Order No.22/2021, dated 18.05.2021, quash the same and consequently, direct the respondents to produce the detenu, namely, Kannan, son of Rajendran, aged 27 years, who is now detained in Central Prison, Madurai, before this Court and set him at liberty.

For Petitioner : Mr.Sathish Kumar.K.

For Respondents : Mr.A.Thiruvadi Kumar
Additional Public Prosecutor

O R D E R

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

The petitioner herein is the brother of the detenu Kannan, who is now confined in the Central Prison, Madurai, under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Cyber Law Offenders, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Sexual Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982), vide order dated 18.05.2021.



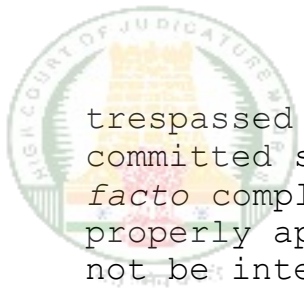
2. The ground case, which has satisfied the Detaining Authority to slap the detention order, runs as below:

2.1. On 21.04.2021, at about 02.00 p.m., the detenu aged 27 years, trespassed into the house of the *de facto* complainant M.Kavitha, aged 45 years and tried to misbehave with her. When the *de facto* complainant resisted his attempt to rape, he assaulted on her face causing dislodge of her teeth and contusion of her lips. Thereafter, the *de facto* complainant got fainted. The *de facto* complainant's husband, who was away from the home at the time of incident, returned and saw her unconscious with injury, hence, he took her to the Christian Fellowship Hospital, Oddanchatram. The Detaining Authority, on considering the gravity of the offence committed by the detenu, has passed the detention order, dated 18.05.2021. The said detention order is challenged on the grounds that the Detaining Authority has not applied its mind and the reason for arriving at the subjective satisfaction is very flimsy.

3. The learned counsel for the petitioner would submit that the injury found on the *de facto* complainant was caused by her husband suspecting her fidelity and the detenu has not committed any offence. Further, he would submit that the detenu had not moved any bail petition, however, the Detaining Authority has mentioned in the detention order that there is a possibility of getting bail.

4. The learned Additional Public Prosecutor appearing for the respondents, referring the counter affidavit filed by the second respondent, would submit that the detenu was employed by the Contractor constructing Water Tank near the house of the *de facto* complainant and taking advantage of the loneliness of the *de facto* complainant, the detenu had entered into her house and sexually assaulted her. When the *de facto* complainant resisted the attempt, the detenu has caused grievous injury dislodging of her teeth and contusion of her lips. She fainted and laying unconscious when her husband came back to home. The incident has shocked the minds of the general public and instilled fear and insecurity. The detenu, after judicial remand, sought for bail in CrI.M.P.No.2112 of 2021, however the same was dismissed by the learned Judicial Magistrate, Oddanchatram, on 04.05.2021. Being satisfied that there is every possibility of coming out on bail and if the detenu is not preventively detained, there is every possibility of causing panic in the minds of the general public, the detention order was passed.

5. The learned Additional Public Prosecutor would further submit that the representation of the detenu was received on 28.05.2021 and the same was considered by the Authorities and rejected on 26.07.2021. The Advisory Board has also confirmed the detention order on 13.08.2021. The detenu, being a sexual offender,



trespassed into the house of the *de facto* complainant and forcibly committed sexual offence and also caused grievous injury when the *de facto* complainant resisted the attempt. The Detaining Authority has properly applied its mind and passed the detention order, which need not be interfered with.

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6. This Court, on considering the facts of the case holistically, finds that it is a case of sexual offence committed by a 27 years old detenu against 45 years old lady when she was alone and though there appears to be some delay in disposing of the detenu's representation, the reasons stated in the counter affidavit indicate that the delay was neither inordinate nor willful. If the detenu is not preventively detained, the general public may feel insecure. Hence, the habeas corpus petition challenging the detention order passed against the detenu is liable to be dismissed.

7. Accordingly, the habeas corpus petition is dismissed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2022

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.

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To:

- 1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai-9.
- 2.The District Magistrate and District Collector,
Dindigul District,
Dindigul.
- 3.The Superintendent of Prison,
Central Prison,
Madurai.
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.

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