



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

and

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

H.C.P. (MD) No.1902 of 2021

Esakkimuthu

... Petitioner/Detenu

Vs.

1.The Secretary to Government,  
Food, Co-operation and Consumer Protection Department,  
Namakkal Kavignar Maaligai 2nd Floor,  
Secretariat,  
Chennai - 600 009.

2.The Commissioner of Police,  
Tirunelveli City,  
Tirunelveli.

3.The Additional Secretary to the Government of India,  
Department of Consumer Affairs,  
Food and Consumer Affairs Department,  
Room No.270, Krishibhavan,  
New Delhi - 110 001.

4.The Superintendent of Central Prison,  
Palayamkottai,  
Tirunelveli District.

... Respondents

**PRAYER:** Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, to call for the entire records connected with the Detention Order passed in No.6/B.M./2021 dated 30.11.2021 on the file of the second respondent herein and quash the same and direct the respondents to produce the detenu or body of the detenu namely, Esakkimuthu, S/o.Santhanaraj, aged about 23 years, now detained in Central Prison, Palayamkottai, before this Court and set him at liberty forthwith.

For Petitioner : Mr.N.Pragalathan

For Respondents 1, 2 & 4: Mr.A.Thiruvadi Kumar  
Additional Public Prosecutor.

For 3rd Respondent : Mrs.L.Victoria Gowri,  
Assistant Solicitor General



**O R D E R**

**R.SUBRAMANIAN, J.**  
**AND**  
**N.SATHISH KUMAR, J.**

The petitioner is the detenu, namely, Esakkimuthu, S/o.Santhanaraj, aged about 23 years. The detenu has been detained by the third respondent by his proceedings in C.No.6/B.M./2021 dated 30.11.2021 holding him to be a "Black Marketer", as contemplated under the provision of Prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act, 1980 (Central Act No.7 of 1980). The said order is under challenge in this Habeas Corpus Petition, solely on the ground that there is a delay in intimating the order of detention to the Central Government.

2. We have heard the learned counsel for the petitioner, the learned Assistant Solicitor General appearing for the third respondent and the learned Additional Public Prosecutor appearing for respondents 1, 2 and 4. We have also perused the records produced by the Detaining Authority.

3. Mr.N.Pragalathan, learned counsel for the petitioner would, relying upon Section 3(4) of the said enactment, strenuously contend that the State Government is obliged to inform to the Central Government of the detention order within seven (7) days of approval of the detention order.

4. In the case on hand, the detention order was passed on 30.11.2021 and the same ought to have been approved by the State Government by 12.12.2021. Thereafter, the same should have been informed to the Central Government by 19.12.2021. The counter filed by the Under Secretary, Department of Consumer Affairs, New Delhi, shows that the detention order was informed to the Central Government only on 21.12.2021 with a delay of two days. This delay in our opinion vitiates the order of detention. The impugned detention order is, therefore, liable to be quashed.

5. In the result, the Habeas Corpus Petition is allowed and the order of detention in C.No.6/B.M./2021 dated 30.11.2021 passed by the second respondent is set aside. The detenu, namely, Esakkimuthu, S/o.Santhanaraj, aged about 23 years, is directed to be released forthwith unless his detention is required in connection with any other case.

Sd/-

Assistant Registrar (CS-III)

// 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.

To  
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Tirunelveli District.
- 5.The Joint Secretary to Government,  
Public (Law & Order),  
Fort St.George,  
Chennai-600 009.
- 6.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.

**H.C.P. (MD) No.1902 of 2021**  
**17.03.2022**

RK(28/03/2022) 3P 7C