



HCP(MD)No.71 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 20.07.2023

CORAM

**THE HON'BLE MR JUSTICE M.S.RAMESH
AND
THE HON'BLE MR JUSTICE M.NIRMAL KUMAR**

H.C.P.(MD)No.71 of 2023

M.Paramasivan

... Petitioner / Father of the Detenu

Vs.

1.The State of Tamil Nadu,
rep. by its Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George, Chennai – 600 009.

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

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

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to
issue a writ of Habeas Corpus, calling for the records relating to the
detention order passed by the 2nd respondent in



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H.S.(M)Confdl.No.245/2022, dated 15.11.2022 and quash the same and direct the respondents to produce the body or detenu, namely, Essakiraja, S/o.Paramasivan, aged about 27 years now detained at Central Prison, Palayamkottai before this Court and set him at liberty.

For Petitioner : Mr.N.Pragalathan

For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

(Order of the Court was made by *M.S.RAMESH,J.*)

The petitioner is the father of the detenu viz., Essakiraja, S/o.Paramasivan, aged about 27 years. The detenu has been detained by the second respondent by his order in H.S.(M)Confdl.No.245/2022, dated 15.11.2022, holding him to be a "Goonda", as contemplated under Section 2(f) of Tamil Nadu Act 14 of 1982. The said order is under challenge in this Habeas Corpus Petition.

2.We have heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondents. We have also perused the records produced by the Detaining Authority.



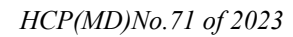
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3.Though several grounds have been raised in the Habeas Corpus Petition, the learned counsel appearing for the petitioner would mainly focus his argument on the ground that the detention order was passed on 15.11.2022 and the grounds of detention ought to have been served within five days, i.e., on or before 20.11.2022. However, it was served on the detenu only on 26.11.2022 and therefore, there is a delay of 11 days in serving the booklet to the detenu. On the said sole ground, he contended that the detention order is liable to be set aside.

4.Though the learned Additional Public Prosecutor has not filed any counter affidavit, he has strongly opposed this Habeas Corpus Petition.

5.Perusal of the record would go to show that no doubt, the detention order was passed on 15.11.2022 and the booklet was served on the detenu only on 26.11.2022, which is evident from the endorsement made as under:

[illegible]



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6.As per Section 8 of the Act 14 of 1982, the detaining authority not later than five days from the date of detention, serve the detenu the grounds of detention. As per the said Act, one day should be excluded. In the present case, after excluding the said one day, it is seen that the booklet has been served with a delay of 11 days and hence, the detention order is liable to be quashed.

7.In the result, the Habeas Corpus Petition is allowed and the order of detention in H.S.(M)Confdl.No.245/2022, dated 15.11.2022 passed by the second respondent is set aside. The detenu, viz., Essakiraja, S/o.Paramasivan, aged about 27 years, is directed to be released forthwith unless his detention is required in connection with any other case.

(M.S.R.,J.) & (M.N.K.,J.)
20.07.2023

NCC : Yes / No
Index : Yes / No

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**M.S.RAMESH, J.
AND
M.NIRMAL KUMAR, J.**

Yuva / RR

To

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

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