



HCP(MD)No.322 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 08.08.2023

CORAM

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

H.C.P.(MD)No.322 of 2023

Prema

... Petitioner / Mother of the Detenue

Vs.

- 1.The Additional Chief Secretary to the Government,
State of Tamil Nadu,
Home, Prohibition and Excise Department,
Fort St.George, Chennai – 600 009.
- 2.The District Magistrate and District Collector,
Office of the District Magistrate and District Collector,
Karur District.
- 3.The Superintendent of Prison,
Trichy Women Special Prison,
Trichy District.

.. 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



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detention order passed by the 2nd respondent in Cr.M.P.No.1/2023, dated 14.02.2023 and quash the same and direct the respondents to produce the body or detenue, namely, Shanthi, W/o.(Late) Raja, aged about 38 years now detained at Special Prison for Women, Trichy, before this Court and set her at liberty.

For Petitioner : Mr.K.M.Karunakaran

For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

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

The petitioner is the mother of the detenue viz., Shanthi, W/o.(Late) Raja, aged about 38 years. The detenue has been detained by the second respondent by his order in Cr.M.P.No.1/2023, dated 14.02.2023, holding him to be a "Immoral Traffic Offender", as contemplated under Section 2(g) of Tamil Nadu Act 14 of 1982. The said order is under challenge in this Habeas Corpus Petition.



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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.

3. Among other grounds, the detention order is mainly attacked on the ground that there is a delay in passing the order of detention. Learned counsel appearing for the petitioner strongly contended that though the detenue was arrested on 18.12.2022, the detention order was passed only on 14.02.2023 i.e., after a considerable delay of more than 50 days. Therefore, the detention order has to be set aside.

4. As seen from the grounds of detention, it is clear that though the detenue was arrested on 18.12.2022, the order of detention came to be passed only on 14.02.2023 and hence, there is an abnormal delay in passing the order of Detention, which caused prejudice to the interest of the detenue.



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5.We have gone through the entire materials placed on record.

There is no satisfactory explanation offered by the Detaining Authority for the delay in passing the order of detention. Hence the impugned order of detention is liable to be set aside.

6.In the result, the Habeas Corpus Petition is allowed and the order of detention in Cr.M.P.No.1/2023, dated 14.02.2023 passed by the second respondent is set aside. The detenue, viz., Shanthi, W/o.(Late) Raja, aged about 38 years, is directed to be released forthwith unless her detention is required in connection with any other case.

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

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NCC : Yes / No
Index : Yes / No

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To

1. The Additional Chief Secretary to the 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 Magistrate and District Collector,
Office of the District Magistrate and District Collector,
Karur District.
4. The Superintendent of Prison,
Trichy Women Special Prison,
Trichy District.
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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AND
M.NIRMAL KUMAR, J.

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