



H.C.P.(MD) No.1008 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.09.2024

CORAM:

THE HONOURABLE MR.JUSTICE C.V. KARTHIKEYAN

AND

THE HONOURABLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

H.C.P.(MD) No.1008 of 2024

Mumtaj Begam

... Petitioner

-Vs-

1.The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai-600 009.

2.The District Magistrate and District Collector,
Office of the District Magistrate and District Collector
Karur District, Karur.

3.The Superintendent,
Tiruchirapalli Central Prison
Tiruchirapalli

... 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 of the second respondent in Cr.M.P. No.17 of 2023 dated 19.12.2023 and



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quash the same and direct the respondents to produce the body or person of the detainee by name Raja@ Thalipraja, S/o. Shahul Hameed aged about 28 years, now detained as 'Goonda' at Tiruchirapalli Central Prison before this Court and set him at liberty forthwith

For Petitioner : Mr.Abdul Rahuman
For Respondents : Mr.S.Ravi
Additional Public Prosecutor

ORDER

The petitioner is the mother of the detainee namely, Raja@ Thalipraja, S/o. Shahul Hameed aged about 28 years . The detenu has been detained by the second respondent by his order in Cr.M.P. No.17 of 2023 dated 19.12.2023, 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. The learned counsel appearing for the petitioner would contend that the date of arrest is 29.10.2023 and the date of detention is 19.12.2023 and there was a delay of 52 days in passing the detention order. The learned counsel appearing for the petitioner also contended that in the delegation of power under



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Section 3(2) of Tamil Nadu Act 14 of 1982 to the District Collector, in the English version it had been stated that the said delegation is extended for a period of three months from 18.10.2023, whereas in the Tamil version it had been stated that it is so delegated on and from 18.07.2023. The learned counsel for the petitioner also contended that in page no.101 of the booklet relating to the adverse case in the index coloumn it had been stated that the document at page no.101 is 'பிணை உத்தரவு நகல்' (bail order) whereas what was actually enclosed was a remand order.

3. The learned Additional Public Prosecutor, however contended that the grounds raised cannot be sustained by this Court. So far as delay in passing the detention order, it had been stated that the said delay is explainable. It had been stated that the detenue was a habitual offender involved in chain snatching and theft and had on 27.10.2023, committed theft of motor cycle within Madurai District. In this connection, First Information Report has been registered by the Melur Police Station in Crime No.712 of 2023 for offence under Section 379 of IPC against three accused. That apart it had been stated that thereafter on 28.10.2023 in early morning at 07.45 a.m., a second First Information Report had



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been registered by Velliyanai Police Station, Karur District in Crime No.462 of 2023 for the offence under Section 392 of IPC, in which the detenue and other accused were alleged to have snatched a chain from the lady who was a pillion rider in a motor cycle. Thereafter on the very same day at 09.00 a.m., the detenue and the other two accused attempted to snatch a chain leading to registration of the First Information Report in Crime No. 462 of 2023 under Section 392 of IPC by Thanthonimalai Police Station, Karur District. It is stated that thereafter during vehicle check the accused including this detenue were secured. It had been contended that they have been committing the same nature of offence from the year 2017 onwards and had obtained bail and absconded from judicial process and thus committed the aforementioned offences. It had been stated that the sponsoring authority had to obtain certified copies of documents from three separate Magistrate courts and the said certified copies had been obtained only on 11.12.2023 and immediately thereafter the Sponsoring Authority had put up the files for sponsoring the detenue to be detained under Tamil Nadu Act 14 of 1982 and within a period of 8 days, on 19.12.2023 the detention order had been passed.



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4. Further, in respect of the contention that though in the index, the document relating to the adverse case it had been mentioned that the document at page no.101 is பிணை உத்தரவு (bail order) whereas a remand order had been enclosed, it is seen that the document was only in respect of the adverse case and the actual bail order had also been enclosed in a subsequent page. We hold that this has not violated any right of the petitioner to give effective representation. It is stated that no representation what soever had been given by the detenue and therefore no right of the detenue had been infringed.

5. With respect to the delegation of power under Section 3(2) of Tamil Nadu Act 14 of 1982, wherein in the English version the date authorising delegation powers to the District Collector was given as 18.10.2023, whereas in the Tamil version it had been stated as 18.07.2023, the learned Additional Public Prosecutor contended that this delegation of powers was a document which was not actually earlier provided to the detenue that had been provided only to establish the fact of delegation of powers and the authority of the District Collector to detain the detenue and pass the detention order under Tamil Nadu Act 14 of 1982. We hold that no right order had been violated.



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6. We have carefully considered the arguments advanced and hold that with respect to the delay in passing the detention order, even though in the case of *Sushanta Kumar Banik vs. State of Tripura*, reported in *2022 SCC Online (SC) 1333*, it had been stated that the words used in Article 22(5) of the Constitution of India are “as soon as may be”, proper explanation had been given. It had been pointed out that certified copies of documents has been applied for and had been obtained on 11.12.2023 and immediately thereafter the detention order had been passed.

7. With respect In respect of date wrongly given in the delegation of powers under Section 3(2) of Tamil Nadu Act 14 of 1982, we hold that the said difference in the date did not affect the right of the petitioner in any manner what so ever. It is at the most only a typographical error. The delegation of powers to the District Collector to authorise the District Magistrate to pass detention orders is general in nature and not specific to the detenue.



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8. With respect to the furnishing of remand order in the booklet whereas in the contents to the booklet it had been stated as பிணை உத்தரவு (bail order) we hold that the said document relates only to the adverse case and therefore the right of the petitioner had not been materially affected.

9. As a matter of fact the detainee had not given any representation on his side.

10. In view of the above reasons, we are not inclined to allow the petition.

11. In the result, the Habeus Corpus Petition stands dismissed.

[C.V.K., J.] & [J.S.N.P., J.]

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NCC : Yes / No

Index : Yes / No

Internet : Yes / No

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- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
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