



**H.C.P.(MD) No.1620 of 2023**

**WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 21.06.2024**

**CORAM:**

**THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA  
and  
THE HONOURABLE MR.JUSTICE K.RAJASEKAR**

**H.C.P.(MD) No.1620 of 2023**

R.Renuga

... Petitioner

-VS-

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

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

3.The Superintendent,  
Central Prison,  
Tiruchirappalli.

... Respondents

**PRAYER:** Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus to direct the respondents to produce the person or body of



**H.C.P.(MD) No.1620 of 2023**

detenu namely A.Ramkumar, S/o.Arulraj, aged about 47 years before this Court, who is now detained in the Central Prison, Trichy in pursuant to the detention order passed by the second respondent in C.No.108/Detention/C.P.O/T.C/2023, dated 29.11.2023 and to call for the records and quash the same and set the detenu at liberty forthwith.

For Petitioner : Mr.S.Ramsundarvijayraj

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

### **ORDER**

**[Order of the Court was made by A.D.JAGADISH CHANDIRA, J.]**

The petitioner is the wife of the detenu viz., Ramkumar, son of Arulraj, aged about 47 years. The detenu has been detained by the second respondent by his order in C.No.108/Detention/C.P.O/T.C/2023, dated 29.11.2023 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.



**H.C.P.(MD) No.1620 of 2023**

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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. The learned counsel appearing for the petitioner would submit that the representation of the petitioner, dated 04.12.2023 sent to the first respondent which has been received by him on 07.12.2023 has not been considered by the respondents and thereby, the detention order has to be set aside. In support of his contention, learned counsel for the petitioner relied on the Judgment of the Honourable Supreme Court in *Rajammal vs. State of Tamil Nadu*, reported in *(1999) 1 SCC 417*.

4. Learned Additional Public Prosecutor, on instructions, submitted that after satisfying with the materials placed by the Sponsoring Authority, the Detaining Authority has passed the impugned detention order and there is no illegality or infirmity in the detention order. He would further submit that the respondents have not received any representation from the petitioner or detenu and hence, prayed for dismissal of the habeas corpus petition



7. It is trite law that the representation should be very expeditiously considered and disposed of with a sense of urgency and without avoidable delay. Any unexplained delay in the disposal of the representation or non-consideration



**H.C.P.(MD) No.1620 of 2023**

of the representation would be a breach of the constitutional imperative and it would render the continued detention impermissible and illegal. From the records produced, we find that no acceptable explanation has been offered for non-considering the representation.

8. In the above cited decision of the Honourable Supreme Court in ***Rajammal***'s case, it has been held as follows:

*"It is a constitutional obligation of the Government to consider the representation forwarded by the detenu without any delay. Though no period is prescribed by Article 22 of the Constitution for the decision to be taken on the representation, the words "as soon as may be " in clause (5) of Article 22 convey the message that the representation should be considered and disposed of at the earliest."*

Whereas, in this case, strangely, the representation of the petitioner has not been considered by the respondents, which vitiates the detention order.

9. Further, in a recent decision in ***Ummu Sabeena vs. State of Kerala-2011 STPL (Web) 999 SC***, the Honourable Supreme Court has held that



**H.C.P.(MD) No.1620 of 2023**

WEB COPY

the history of personal liberty, as is well known, is a history of insistence on procedural safeguards. The expression 'as soon as may be', in Article 22(5) of the Constitution of India clearly shows the concern of the makers of the Constitution that the representation made on behalf of the detenu, should be considered and disposed of with a sense of urgency and without any avoidable delay.

**10.** In the light of the above discussion, we have no hesitation in quashing the order of detention on the ground of non-consideration of the representation.

**11.** In the result, the Habeas Corpus Petition is allowed and the order of detention in C.No.108/Detention/C.P.O/T.C/2023, dated 29.11.2023, passed by the second respondent is set aside. The detenu, viz., Ramkumar, aged about 47 years, son of Arulraj, is directed to be released forthwith unless his detention is required in connection with any other case.

NCC : Yes / No  
Index : Yes / No  
Internet : Yes / No  
am

**[A.D.J.C., J.] [K.R.S., J.]**  
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Madurai Bench of Madras High Court,  
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**AND**  
**K.RAJASEKAR, J.**  
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