



H.C.P.No.182 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.02.2025

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH

AND

THE HONOURABLE MR. JUSTICE N. SENTHILKUMAR

H.C.P.No.182 of 2025

J.Vasanthamani

... Petitioner

Vs.

1.State of Tamil Nadu,
Rep. by its Secretary,
Home, Prohibition & Excise Department,
Fort St.George, Chennai – 600 009.

2.District Magistrate and District Collector,
Erode District.

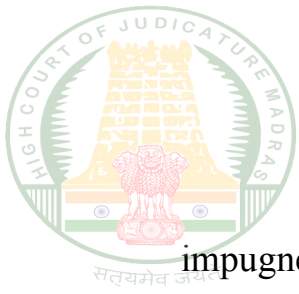
3.The Superintendent of Police,
Erode District.

4.The Superintendent of Prison,
Central Prison, Coimbatore.

5.Inspector of Police,
All Women Police Station,
Sathyamangalam, Erode 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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impugned order of detention passed by the 2nd respondent in C.M.P.No.29/Sexual Offender/2024 C1 dated 29.06.2024 and quash the same and consequently direct the respondents to produce the husband of the petitioner/the detenu namely Jothimani @ Neelamputhur Thatha, S/o.Late Palanisamy, aged about 61 years, now confined at Central Prison, Coimbatore, before this Court and set him at liberty.

For Petitioner : Mr.S.Parthasarathy

For Respondents : Mr.R.Muniyapparaj,
Additional Public Prosecutor
assisted by Mr.M.Sylvester John

ORDER

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

The petitioner herein, who is the wife of the detenu namely Jothimani @ Neelamputhur Thatha, aged about 61 years, S/o.Late Palanisamy, has come forward with this petition challenging the detention order passed by the second respondent dated 29.06.2024 slapped on her husband, branding him as "Sexual Offender" under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Cyber Law Offenders, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Sexual Offenders, Slum Grabbers and Video Pirates Act, 1982 [Tamil Nadu Act 14 of 1982].



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2. Heard the learned counsel for the petitioner, as well as the learned Additional Public Prosecutor appearing for the respondents.

3. Though several grounds are raised in the petition, the learned counsel for the petitioner focused mainly on the ground that there is an unexplained delay in considering the representation of the petitioner, dated 04.07.2024. According to the learned counsel for the petitioner, though the representation is dated 04.07.2024, the same has been received by the Government only on 14.08.2024; the file has been dealt with by the Deputy Secretary on 02.09.2024; the Minister concerned dealt with the file on 04.09.2024; the Rejection Letter was prepared on 05.09.2024 and was sent to the detenu only on 09.09.2024. It is the further submission of the learned counsel that the delay of 6 days in considering the representation remains unexplained and the same vitiates the detention order. In support of his contention, the learned counsel for the petitioner relied on the judgment of the Hon'ble Supreme Court in '**Rajammal Vs. State of Tamil Nadu**', reported in '**(1999) 1 SCC 417**'.

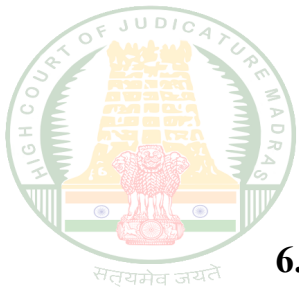


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4. As per the submission of the learned counsel for the petitioner and on perusal of the records, we find that the representation of the petitioner is dated 04.07.2024, which was received by the Government on 14.08.2024 and further, the Minister concerned had dealt with the file of the detenu only on 04.09.2024 and the Rejection Letter was sent to the detenu on 09.09.2024. Thus, we find that there is delay of 6 days in considering the representation of the petitioner. This delay of 6 days in considering the petitioner's representation remains unexplained.

5. 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 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 the delay of 6 days. Therefore, we have to hold that the delay has vitiated further detention of the detenu.

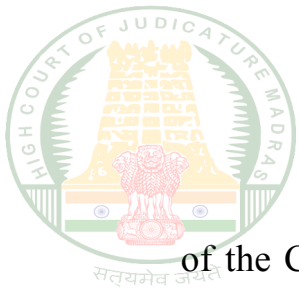


6. In the judgment of the Hon'ble Supreme Court in ***Rajammal's case*** (cited *supra*), it has been held as follows:

"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."

As per the dictum laid down by the Hon'ble Supreme Court in above cited ***Rajammal's case***, number of days of delay is immaterial and what is to be considered is whether the delay caused has been properly explained by the authorities concerned. But, here the inordinate delay of 6 days has not been properly explained at all.

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



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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.

8. In the light of the above discussion, we have no hesitation in quashing the order of detention on the ground of delay on the part of the Government in disposing of the representation of the petitioner.

9. Accordingly, the detention order passed by the second respondent on 29.06.2024 in C.M.P.No.29/Sexual Offender/2024 C1, is hereby set aside and the Habeas Corpus Petition is allowed. The petitioner/detenu viz., Jothimani @ Neelamputhur Thatha, aged about 61 years, S/o.Late Palanisamy, is directed to be set at liberty forthwith, unless his confinement is required in connection with any other case.

[M.S.R, J.]

[N.S, J.]

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Index: Yes/No

Speaking order/Non-speaking order

Neutral Citation: Yes/No

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To

- 1.The Secretary to State of Tamil Nadu,
Home, Prohibition & Excise Department,
Fort St.George, Chennai – 600 009.
- 2.District Magistrate and District Collector,
Erode District.
- 3.The Superintendent of Police,
Erode District.
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Central Prison, Coimbatore.
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- 6.The Public Prosecutor,
High Court, Madras.



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