



H.C.P.No.699 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.06.2025

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH

AND

THE HONOURABLE MR. JUSTICE V. LAKSHMINARAYANAN

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S.Fasila

... Petitioner

Vs.

1.The Principal Secretary to Government,
Food and Consumer Protection Department,
2nd Floor, Namakkal Kavingar Maligai,
Secretariat, Chennai – 9.

2.The District Collector and District Magistrate,
Kancheepuram District, Kancheepuram.

3.The Secretary to Government of India,
Ministry of Consumer Affairs,
Food and Public Distribution,
(Department of Consumer Affairs),
Room No.270, Krishi Bhavan,
New Delhi – 100 110.

4.The Inspector of Police,
Civil Supplies CID, Kancheepuram.

5.The Superintendent of Police,
Kancheepuram District.



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6. The Superintendent of Prison,
Central Prison, Vellore.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, calling for the records in connection with the order of detention passed by the second respondent dated 16.03.2025 in Detention Order Rc.No.221/2025/M6-D.O.No.05/2025 against the petitioner's husband namely Shahul Hameed @ Shahul, Male, aged about 45 years, S/o.Hussain, who is confined at Central Prison, Vellore, set aside the same and direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr.V.Parthiban

For R3 : Dr.D.Simon,
Senior Panel Counsel (Government of India)

For R4 to R6 : Mr.E.Raj Thilak,
Additional Public Prosecutor

ORDER

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

The petitioner herein, who is the wife of the detenu namely Shahul Hameed @ Shahul, aged about 45 years, S/o.Hussain, has come forward with this petition challenging the detention order passed by the second respondent dated 16.03.2025 issued against her husband, branding him as "Black

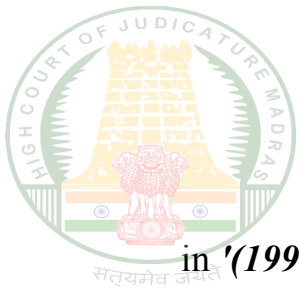


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Marketeer" under the Prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act, 1980 (Central Act 7 of 1980).

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 28.03.2025. According to the learned counsel for the petitioner, though the representation is dated 28.03.2025, the same has been received by the Government only on 11.04.2025; the file has been dealt with by the Secretary Law on 28.04.2025; the Minister concerned dealt with the file on 29.04.2025; the Rejection Letter was prepared on 29.04.2025 and was sent to the detenu on 29.04.2025. It is the further submission of the learned counsel that the delay of 10 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



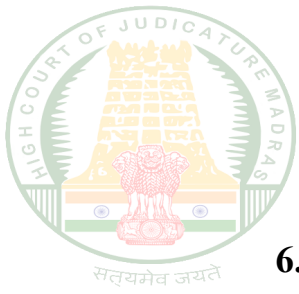
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in '(1999) 1 SCC 417'.

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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 28.03.2025, which was received by the Government on 11.04.2025 and further, the Minister concerned had dealt with the file of the detenu only on 29.04.2025 and the Rejection Letter was sent to the detenu on 29.04.2025. Thus, we find that there is a delay of 10 days in considering the representation of the petitioner. This delay of 10 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 10 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 10 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) of the Constitution of India clearly shows the concern of the makers of the



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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 detenu.

9. Accordingly, the detention order passed by the second respondent on 16.03.2025 in Rc.No.221/2025/M6-D.O.No.05/2025, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Shahul Hameed @ Shahul, aged about 45 years, S/o.Hussain, is directed to be set at liberty forthwith, unless his confinement is required in connection with any other case.

[M.S.R, J.]

[V.L.N, J.]

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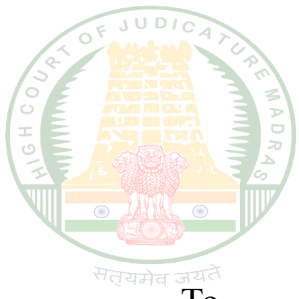
Index: Yes/No

Speaking order/Non-speaking order

Neutral Citation: Yes/No

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To
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- 7.The Public Prosecutor,
High Court, Madras.
- 8.The Joint Secretary, Public (Law & Order),
Chennai – 600 009.



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