



HCP(MD)No.1202 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 19.02.2025

CORAM

THE HONOURABLE **DR.JUSTICE G.JAYACHANDRAN**

AND

THE HONOURABLE **MS.JUSTICE R.POORNIMA**

H.C.P.(MD)No.1202 of 2024

Amutha

.. Petitioner /Detenu

Vs.

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

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

3.The Superintendent of Prison,
Special Prison for Women,
Madurai District.

.. Respondents

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 Respondent No.2 in Detention Order No.48/2024 dated 05.08.2024 and quash the same and direct the respondents to produce the body or person of the detenu by name Amutha, wife of Mayathevar,



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aged about 48 years, now detained as “Drug Offender” at Special Prison for women, Madurai before this Court and set her at liberty forthwith.

For Petitioner :Mr.R.Alagumani

For Respondents :Mr.S.Ravi
Additional Public Prosecutor

ORDER

DR.G.JAYACHANDRAN, J.

AND

R.POORNIMA, J.

This Habeas Corpus Petition is filed by the detenu viz., Amutha, wife of Mayathevar, aged about 48 years. The detenu has been detained by the second respondent, by his order in Detention Order NO.48/2024 dated 05.08.2024 holding him to be a "Drug Offender", as contemplated under Section 2(e) of the Tamil Nadu Act 14 of 1982. The said order is under challenge in this Habeas Corpus Petition.

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.



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3.The detenu Amutha for her involvement in drug offence was detained under Act 14 of 1982 vide detention order dated 05.08.2024. She has given a representation to the detaining authority on 09.08.2024 to reconsider the detention order. As per the Statute, such representation ought to have been decided and disposed of within 12 days. In this case, the representation was disposed by the detaining authority only on 22.08.2024, by that time, he has become a *functus officio*. The representation of the detenu ought to have been forwarded to the State. However, in this case, the detaining authority has not forwarded the representation to the State. At the same time, the State has considered the detention order and confirmed it on 16.08.2024.

4.Considering the dictum laid down by the Hon'ble Apex Court in catena of the judgments, the detaining authority is vested with the power to reconsider the detention order within 12 days of the detention order. If he received any representation, he has also to forward the same to the State, if he could not dispose the representation by that time.



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5. In this case, the detaining authority has neither forward the representation to the State nor dispose the representation within the time stipulated.

6. The belated consideration of the representation, after confirmation of the detention order of the State and if he became a *functus officio*, renders the detention order non-est. Hence, the Habeas Corpus Petition is allowed and the order of detention in Detention Order No.48/2024 dated 05.08.2024 passed by the second respondent is set aside. The detenu, viz., Amutha, wife of Mayathevar, aged about 48 years, is directed to be released forthwith unless her detention is required in connection with any other case.

[G.J., J.] & [R.P., J.]

19.02.2025

NCC :Yes/No
Index:Yes/No
Internet:Yes/No
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Madurai Bench of Madras High Court,
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