

H.C.P(MD)No.1574 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.09.2025

CORAM:

**THE HONOURABLE Mr.JUSTICE C.V.KARTHIKEYAN
and
THE HON'BLE Mr.JUSTICE R.VIJAYAKUMAR**

H.C.P.(MD) No.1574 of 2024

Selvaraj

... Petitioner

Vs

- 1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai-600 009.
- 2.The District Magistrate and District Collector,
Office of the District Magistrate and District Collector,
Dindigul District,
Dindigul.
- 3.The Superintendent of Prison,
Madurai Central Prison,
Madurai District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, calling for the entire records, connected with the detention order of the Respondent No.2 in Detention



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Order No.103/2024, dated 24.10.2024 and quash the same and direct the respondents to probe the body or person of the detenu by name Selvaraj, son of Late.Muthan, aged about 59 years, now detained as "Sexual Offender" at Madurai Central Prison before this Court and set him at liberty forthwith.

For Petitioner : Dr.R.Alagumani

For Respondents : Mr.A.Thiruvadi Kumar

Additional Public Prosecutor

ORDER

(Order of the Court was made by C.V.KARTHIKEYAN,J.)

The petitioner is the detenu viz., Selvaraj, aged about 59 years. The detenu has been detained by the second respondent by Detention Order No.103/2024, dated 24.10.2024 holding him to be a 'Sexual Offender', as contemplated under Section 2(ggg) of Tamil Nadu Act 14 of 1982. The said order is under challenge in this habeas corpus petition.



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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 first ground raised by the learned counsel for the petitioner is that the Tamil version of the Medical examination of the petitioner relating to his potency dated 09.09.2024 had not been supplied. It is contended that owing to non-furnishing of the Tamil Version, the petitioner has been put to serious prejudice in not making effective representation. It is also to be noted that in his representation, he had very specifically asked for the Tamil Version of the said Medical report, since several pages of the English version have not been translated and furnished to him.

4. The second ground taken by the learned counsel for the petitioner is that the date of arrest was on 09.09.2024 and the date of passing of the detention order was on 24.10.2024 and that there was a delay of 45 days from the date of arrest for the detaining authority to



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come to subjective satisfaction to detain the petitioner under Act 14 of 1982 and it is contended that there is no proximate link between the date of arrest and the date of the detention order.

5. The third ground raised is more serious and we would certainly have to address the same. It is contended by the learned counsel for the petitioner that the detention order was passed on 24.10.2024 and in the English version of the detention order, the Government Order had been mentioned as G.O(D)No.96 Home, Prohibition and Excise (XVI) Department, dated 15.04.2024, but in the Tamil version it has been wrongly mentioned as G.O(D)No.272, Home, Prohibition and Excise (XVI) Department, dated 14.10.2024. It had been further stated in the English version of the detention order with respect to the crime number and section of law as Cr.No.14 of 2024 for the offences punishable under Sections 364(A), 376(D) IPC and Section 5(i), 5(l) r/w 6 of Protection of Children from Sexual Offences Act, 2012 registered by the Dindigul Rural All Women Police Station. But, in the Tamil version of the detention order, the crime number and section of law had been stated as Cr.No.32 of 2024 for the offences punishable under Sections 450, 506(i) IPC and Section 5(l), 5(n), 5(j)(ii) and Section 6 of POCSO Act



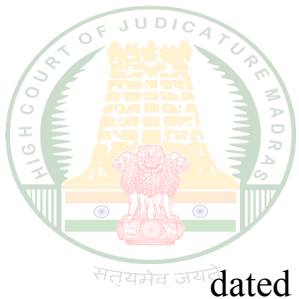
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registered by the Dindigul Rural All Women Police Station.

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Subsequently, the detaining authority had issued an amendment on 28.10.2024 correcting the Government Order from G.O(D)No.96 Home, Prohibition and Excise (XVI) Department, dated 15.04.2024 to G.O(D) No.272 Home, Prohibition and Excise (XVI) Department, dated 14.10.2024. There was a further amendment with respect to the crime number as given in English version from Cr.No.14 of 2024 to Cr.No.32 of 2024. The offences were also amended from Sections 364(A), 376(D) IPC and Section 5(i), 5(l) r/w 6 of Protection of Children from Sexual Offences Act, 2012 to Sections 450, 506(i) IPC and Section 5(i), 5(n), 5(j)(ii) and 6 of Protection of Children from Sexual Offences Act, 2012 @ 450, 506(ii) IPC and Section 5(l), 5(n), 5(j)(ii) and 6 of Protection of Children from Sexual Offences Act, 2012. Similar corrections were also made in the Tamil version, wherein, originally the crime number given was Cr.No.32 of 2024 and the offences have been altered as stated above.

6. It is contended by the learned counsel for the petitioner that there is a duty cast upon the detaining authority to forward the amended detention order to the Government for approving the detention order. In this case, the Government while approving the detention order

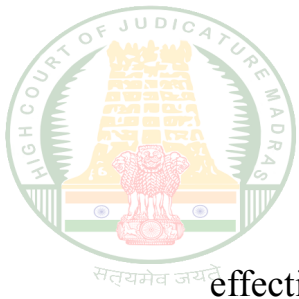


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dated 24.10.2024 and not the amended order. Further, when the matter was examined by the Advisory Board again, the original detention order dated 24.10.2024 alone had been forwarded and not the amended version as amended by the order dated 28.10.2024. It is therefore, contended by the learned counsel for the petitioner that the detention order has strictly not been approved by the Government in the manner known to law by appreciating and examining of all relevant documents. We find much force in these contentions raised by the learned counsel for the petitioner.

7. The learned Additional Public Prosecutor appearing for the respondents argued that there was one alteration of the provision of the law before the trial Court, which was on 13.09.2024, wherein, offences under Section 506(ii) and 450 IPC had been included. But even, that alteration was prior to the detention order dated 24.10.2024 and should have been mentioned atleast in the detention order dated 24.10.2024. More, surprisingly, in both the Tamil and English versions even the crime number had been given differently. In the English version, the crime number had been stated as Cr.No.14 of 2024, whereas, in the Tamil version it has been stated as Cr.No.32 of 2024. We hold that these glaring mistakes have certainly prevented the detenu in making an



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effective representation challenging the detention order passed to detain him under the Tamil Nadu Act, 14 of 1982.

8. In this connection, the learned counsel for the petitioner placed reliance on the judgment of the Hon'ble Division Bench of this Court in ***Moun Mary vs. District Collector and District Magistrate, Thoothukudi District and others*** reported in ***(2007) 1 LW (Crl) 132***, wherein, under the same circumstances, the Division Bench has held as follows:

"9. It is a matter of shock and surprise to note that the amended order passed on 26.06.2006, was never placed before the Government by the detaining authority. So far as the amended order is concerned, it is pertinent to point out that the approval of the first order dated 19.6.2006 was made by the Government on 29.6.2006. Thus, what has been now approved by the State is the order dated 19.6.2006 and not the amended order. That apart, whenever an order is passed by the detaining authority like this, time stipulation will be available for making the representation, and the detenu must be put on notice that he is having 12 days time, within which he could make the representation, if he so



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desires. In the instant case, it is available in the order dated 19.6.2006, but not in the amended order. Thus, it was not made known to the detenu that after amending the order, he is also having sufficient time to make his representation. Thus, the order lacks legally in all respects as mentioned above. In such circumstances, the Court has no hesitation to set aside the order.

9. With respect to the second ground raised, namely that the date of arrest was 09.09.2024 and the date of detention order was 24.10.2024, the learned Additional Public Prosecutor stated that various documents had to be obtained including the DNA report even though charge sheet has been filed. It was contended that the detaining authority had to collect the documents from the medical professionals whether the medical examination done and therefore, there were acceptable reasons for the delay in passing the detention order. It is also emphasised that since the offence was aggravated penetrative sexual assault leading to impregnancy, the detaining authority necessarily had to collect the materials before coming to subjective satisfaction before passing the detention order.



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10. We would accept the reason advanced. We find much force in the particular contention raised by the learned counsel for the petitioner.

11. With respect of non-furnishing of the Tamil version of the medical examination report of the petitioner, we hold that this is also a serious infraction directly affecting the detenu from making effective representation.

12. In view of all these irregularities, we have no hesitation in quashing the order of detention. We would however clarify that the detention order alone is quashed and we have not entered into any discussion on the gravity of the offence or on other aspects, which are normally taken into consideration while considering grant or otherwise of bail.

13. In fine, the Habeas Corpus Petition is allowed. The detention order passed in No.103/2024, dated 24.10.2024, by the 2nd respondent, is set aside. Consequently, the detenu viz., Selvaraj, S/o.Late.Muthan, aged about 59 years, who is now detained in Central



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Prison, Madurai, is directed to be released forthwith, unless his presence or custody or detention is required in connection with any other case.

(C.V.K., J.) (R.V., J.)
17.09.2025

Index : Yes / No
NCC : Yes / No
Internet : Yes
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To

- 1.The Additional Chief Secretary to Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai-600 009.
- 2.The District Magistrate and District Collector,
Dindigul District,
Dindigul.
- 3.The Superintendent of Prison,
Madurai Central Prison,
Madurai District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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C.V.KARTHIKEYAN, J.
and
R.VIJAYAKUMAR, J.

am

ORDER MADE IN
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17.09.2025