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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.04.2026

CORAM

THE HON'BLE MR JUSTICE N. ANAND VENKATESH

AND

THE HON'BLE MR JUSTICE K.K.RAMAKRISHNAN

H.C.P.(MD)No.397 of 2026

Mariyanayagam

.. Petitioner / wife of the
detenu

Vs.

1.The State of Tamil Nadu,
represented by
the Principal Secretary to Government,
Home, Prohibition and Excise (IX) Department,
Chennai-600 009.

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

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, to call for the entire records connected with the



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detention order of the second respondent in Cr.M.P.No.13 of 2025 (Economic Offender) dated 02.08.2025 and quash the same and direct the respondents to produce the body or person of the detenu, by name Gangadharan, son of Sankaranarayan, aged about 40 years, now detained at Madurai Central Prison before this Court and set him at liberty forthwith.

For Petitioner : Mr.R.Alagumani

For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

(Order of the Court was made by N. ANAND VENKATESH,J.)

The petitioner is the wife of the detenu, by name, Gangadharan, son of Sankaranarayan, aged about 40 years. The detenu has been detained by the second respondent by his order in Cr.M.P.No.13 of 2025 (Economic Offender) dated 02.08.2025 holding him to be a "Economic Offender", as contemplated under Section 2(ee) 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.



3. When this petition came up for hearing on 15.04.2026, this Court after hearing both sides passed the following order:

“This is the 2nd Habeas Corpus Petition filed challenging the detention order of the 2nd respondent dated 02.08.2025 passed in Cr.M.P.No.13/2025.

*2. The learned counsel for the petitioner primarily raised two grounds, which were not raised when the earlier HCP was dismissed by an order dated 16.02.2026 and they are, (a) The representation was made to the detaining authority, namely, Collector on 07.08.2025 and it was received on 09.08.2025 and it came to be rejected by the detaining authority on 15.08.2025. In the meantime, the Government had granted approval on 13.08.2025 and as a consequence the detaining authority became functus officio. To substantiate this submission, the learned counsel relied upon the judgment of this Court **Muruggavalli v. State rep. by Secretary to Government and others** reported in 2012 (2) MWN Crl. 99 and*

(b) 12 days time is given for the detaining authority to consider the representation and the detaining authority has the power to withdraw the detention order by considering the representation. However, within 12 days, the Government had given



the approval and as a result, the detaining authority became functus officio and thereby the detenu lost the valuable right of his consideration before the detaining authority since the Government by then had granted the approval. To substantiate this submission, the learned counsel relied upon the judgment in S.Bhuvaneshwari v. the State and others in HCP(MD) No.1493 of 2017 dated 01.02.2018 and Rajalakshmi v. the State and others in HCP(MD) No.1520 of 2015 dated 02.12.2015.

3. The learned Additional Public Prosecutor seeks for some time to make submissions. Post on 20.04.2026.”

4. Pursuant to the above order, the original files were placed before this Court. On going through the original files, it is seen that the detenu has made a representation dated 09.08.2025 to the Detaining Authority and it was endorsed by the Jailor on 12.08.2025. However, within 12 days, the Government had given approval and as a result, the Detaining Authority to whom the representation was made by the detenu has become *functus officio*.



5. In the considered view of this Court, the detention order was passed on 02.08.2025 and whereas, the rejection of the representation was made by the Detaining Authority on 15.08.2025. This issue is covered by the earlier judgment of this Court in H.C.P.(MD).No.1202 of 2024 dated 19.02.2025 and the relevant portion is extracted hereunder:

“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.*

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.”*



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6. In our considered view, the belated consideration of the representation made by the detenu after confirmation of the above order by the State makes the Detaining Authority a *functus officio* and therefore, it renders the detention order nonest.

7. In the result, the Habeas Corpus Petition is allowed and the order of detention in Cr.M.P.No.13 of 2025 (Economic Offender) dated 02.08.2025 passed by the second respondent is set aside. The detenu, viz., Gangadharan, son of Sankaranarayan, aged about 40 years, is directed to be released forthwith unless his detention is required in connection with any other case.

(N.A.V.,J..) (K.K.R.K.,J.)
21.04.2026

Index : Yes / No

Internet : Yes / No

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To

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



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2. The District Magistrate and District Collector,
Office of the District Magistrate and District Collector,
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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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**N. ANAND VENKATESH,J.
AND
K.K.RAMAKRISHNAN,J.**

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