
(2014) 03 MAD CK 0106

In the Madras High Court

Case No : Habeas Corpus Petition No. 2041 of 2013

Latha

APPELLANT

Vs

The State of Tamil Nadu

RESPONDENT

Date of Decision : 26-03-2014

Acts Referred:

Constitution of India, 1950 — Article 22(5)

Penal Code, 1860 (IPC) — Section 294(b), 336, 341, 397, 506(ii)

Citation : (2014) CriLJ 2551

Hon'ble Judges : V. Dhanapalan, J;G. Chockalingam, J

Bench : Division Bench

Judgement

V. Dhanapalan, J.—The petitioner is the wife of detenu. The detenu has been branded as a "Goonda" as contemplated under Section 2(f) of the Tamil Nadu Act, 14 of 1982 and detained under order of the 2nd respondent passed in BDFGISSV No. 850/2013 dated 29.08.2013. The detenu came to adverse notice in a the following cases:-

The ground case alleged against the detenu is one registered on 07.08.2013 by the Inspector of Police, J-6, Thiruvanmiyur Police Station in Crime No. 1129 of 2013 for offences under Sections 341, 294(b), 397, 336 and 506(ii) IPC. Aggrieved by the order of detention, the present petition has been filed.

2. Though learned counsel for the petitioner has raised several other grounds to assail the order of detention, he has mainly focussed his argument on the ground that there is a delay in disposal of the representation dated 17.09.2013, which is violative of Article 22(5) of the Constitution of India and therefore, on this sole ground alone, the detention order is liable to be quashed.

3. We have heard the learned Additional Public Prosecutor on the above submission.

4. On a careful scrutiny of the impugned order, it is seen that the detaining authority has passed the order of detention on 29.08.2013 and on receipt of a

copy of detention order, the detenu made a representation dated 17.09.2013 to the authorities concerned, which was received on 20.09.2013, for which the remarks called on 23.09.2013 were received on 07.10.2013. On submission of the file on 08.10.2013, it was dealt with by both the Under Secretary and Deputy Secretary on the same day and thereafter, the file was submitted to the Minister on 12.10.2013. Finally the representation of the detenu was decided to be rejected vide letter dated 17.10.2013, which was sent on 22.10.2013 and served to the detenu on 23.10.2013.

5. In this whole process, there occurred a delay of 10 days, namely, between 23.09.2013 and 07.10.2013 (excluding holidays falling on 28.09.2013, 29.09.2013, 05.10.2013 and 06.10.2013), which would definitely cause great prejudice to the detenu and amount to an infringement of right ensured under Article 22(5) of the Constitution of India. Therefore, the impugned detention order cannot be sustained and is vitiated.

6. Accordingly, the impugned detention order passed by the 2nd respondent, detaining the detenu Babu alias Fruitnik Babu, S/o. Kumar, made in BDFGISSV No. 850/2013 dated 29.08.2013 is quashed and the Habeas Corpus Petition is allowed. The above named detenu, who is detained at the Central Prison, Puzhal, Chennai, is ordered to be set at liberty forthwith, unless his custody is required in connection with any other case. However, this order shall not preclude authorities concerned to effectively contest the matter before the Regular Court, being uninfluenced by the above order. It is also made clear that this order shall not confer any right whatsoever to the detenu to claim anything before the Regular Court.