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Durga Devi Vs. the Commissioner of Police

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Court : Chennai

Decided On : Jun-18-2014

Judge : V.Dhanapalan

Appellant : Durga Devi

Respondent : The Commissioner of Police

Judgement :

IN THE HIGH COURT OF JUDICATURE AT MADRAS DATED:

18. 06.2014 CORAM: THE HONOURABLE MR. JUSTICE V.DHANAPALAN and THE HONOURABLE MR. JUSTICE G.CHOCKALINGAM H.C.P.No.3160 of 2013 Tmt.Durga Devi W/o Suresh ... Petitioner vs.

1. The Commissioner of Police, O/o the Commissioner of Police, Chennai City Police, Egmore, Chennai 600 008.

2. The Secretary, Government of Tamil Nadu, Home, Prohibition & Excise Department, Chief Secretariat, Fort St. George, Chennai 600 009.

3. The Superintendent, Special Prison for Women, Puzhal, Chennai. ... Respondents Habeas Corpus Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Habeas Corpus directing the detaining authority to produce the detainee, viz., the petitioner's mother Padma W/o Velu, aged about 40 years, now detained under Act 14 of 1982, after having been

declared as a Drug Offender by preventive detention order dated 10.10.2013 in BDFGISSV No.1268 of 2013, presently confined in Special Prison for Women, Puzhal,Chennai, quash and set aside the same and set the detainee at liberty. For Petitioner : Mr.T.S.Srinivasan For Respondents : Mr.P.Govindarajan Addl. Public Prosecutor

ORDER

(Order of the Court was made by V.Dhanapalan,J.) The petitioner is the daughter of the detenue. The detenue has been branded as a ".Drug Offender". under the Tamil Nadu Act 14 of 1982 and detained under the order of the 1st respondent passed in Memo No.1268/BDFGISSV/2013, dated 10.10.2013.

2. The detenue came to adverse notice in the following cases: S.No.Police Station and Crime No.Sections of Law 1 F-2 Egmore Police Station Crime No.369/2011 8(c) r/w 20(b) of NDPS Act. 2 F-2 Egmore Police Station Crime No.1703/2012 8(c) r/w 20(b) of NDPS Act. The ground case alleged against the detenue is one registered on 20.09.2013 by the Inspector of Police, F-2 Egmore Police Station Crime No.1172/2013 for the offence u/s 8(c) r/w 20(b) (2) (b) of NDPS Act.

3. Though the learned counsel for the petitioner raised several grounds to assail the impugned order of detention, he mainly focused his arguments on the question of delay in consideration of the petitioner's representation, which has not been properly explained by the respondents. Therefore, it would vitiate the rights guaranteed under Article 22(5) of the Constitution of India.

4. We have heard Mr.P.Govindarajan, learned Additional Public Prosecutor on the above point and perused the records.

5. On a perusal of the list informing the course of consideration of the petitioner's representation, it is seen that the Detention Order was passed on 10.10.2013; the detenue made a representation to the detaining authority dated 03.12.2013 and it was received by the competent authority on 05.12.2013; remarks were called on 05.12.2013 and only on 30.12.2013 remarks were received and file was submitted on 03.01.2014; the Deputy Secretary dealt with it on 03.01.2014; on 10.01.2014,

the Minister (Electricity, Prohibition and Excise) dealt with it and rejected it.

6. Verification of the above dates and events would clearly show that there is unexplained delay of more than 15 days between 03.12.2013, the date on which remarks were called for and 30.12.2013, the date on which remarks were received, excluding holidays. The said delay is not explained by the competent authority. Therefore, it is apparent that there has been an inordinate and unexplained delay in consideration of the petitioner's representation and the same contradicts the requirement of Article 22(5) of the Constitution of India and the consequence thereof is in infringement of the right of Article 21 of the Constitution of India.

7. Accordingly, the impugned detention order passed by the second respondent in BDFGISSSV No.1268/2013 dated 10.10.2013 is hereby quashed and the Habeas Corpus Petition is allowed. The detenu, namely Padma W/o Velu , in this case is set at liberty forthwith, unless her custody is required in connection with any other case. (V.D.P.,J.) (G.C.,J.) gr. 18.06.2014 Index : Yes/No Internet : Yes/No To:

1. The Commissioner of Police, O/o the Commissioner of Police, Chennai City Police, Egmore, Chennai 600 008.

2. The Secretary, Government of Tamil Nadu, Home, Prohibition & Excise Department, Chief Secretariat, Fort St. George, Chennai 600 009.

3. The Superintendent, Special Prison for Women, Puzhal, Chennai.

4. The Public Prosecutor, High Court of Madras, Chennai 600 104. V.DHANAPALAN,J.

and G.CHOCKALINGAM,J.

gr Order in H.C.P.No.3160 of 2013 Dated:

18. 06.2014

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