

Rani Vs. the State of Tamil Nadu

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Court : Chennai

Decided On : Nov-16-2011

Judge : M.Jaichandren; S.Nagamuthu, Jj.

Acts : Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum-grabbers and Video Pirates Act, 1982 - Section 3(1)

Appeal No. : H.C.P.(MD)No.628 of 2011

Appellant : Rani

Respondent : The State of Tamil Nadu

Judgement :

1. The petitioner is the wife of the detenu-Suresh @ Sureshkumar, who has been detained by the order of the second respondent, in P.D.No.15/2011 dated 08.07.2011, under Section 3(1) of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum-grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982), branding him as GOONDA. Seeking to quash the said detention order, the petitioner has come up before this Court with the present Habeas Corpus Petition.

2. In this case, as against the detention order, the detenu submitted a representation dated 27.07.2011, which was received by the Government on

01.08.2011. The remarks were called for by the Government from the detaining authority on 02.08.2011, but the remarks were received by the Government only on 23.08.2011. Thereafter, the rejection order was passed on 29.08.2011 by the Government.

3. With the above admitted facts, the learned counsel for the petitioner would submit that the delay between 02.08.2011 and 23.08.2011, is fatal and on this ground alone, the detention order is liable to be quashed. The learned counsel for the petitioner would point out that absolutely there is no explanation for the said delay and the delay has caused serious prejudice to the detenu.

4. The learned Additional Public Prosecutor appearing for the State, has produced a proforma giving the dates and events, which also shows that remarks were called for from the detaining authority on 02.08.2011, but the same were received only on 23.08.2011. The learned Additional Public Prosecutor is not in a position to give any explanation for the said delay.

5. As has been repeatedly held by the Hon'ble Supreme Court, the delay itself, which remains unexplained, is a ground for quashing the detention order as it would cause serious prejudice to the detenu. On this sole ground of delay, in view of the settled principles of law, we are inclined to quash the impugned order of detention passed by the second respondent.

6. In the result, the Habeas Corpus Petition is allowed and the order of detention passed by the second respondent in his Proceedings P.D.No.15/2011 dated 08.07.2011 is set aside. The detenu is directed to be released forthwith unless his presence is required in connection with any other case.

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