

2022 LiveLaw (SC) 25

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
A.M. KHANWILKAR; C.T. RAVIKUMAR, JJ.
JANUARY 05, 2022

CRIMINAL APPEAL NO. OF 2022 (Arising from the SLP(Crl.) No. 9512 of 2021)

S. AMUTHA VERSUS THE GOVERNMENT OF TAMIL NADU & ORS.

Detention- In the matter of considering representation made against detention order, the Competent Authority is duty bound to do so with utmost despatch - The time period of over two months spent in doing so, cannot countenanced. It does not require such a long time to examine the representation concerning preventive detention of the detenu.

(Arising out of impugned final judgment and order dated 18-11-2021 in HCPMD No. 1126/2021 passed by the High Court of Judicature at Madras at Madurai)

For Petitioner(s) Mr. S. Nagamuthu, Sr. Adv. Mr. M.P. Parthiban, AOR. Mr. A.S. Vairawan, Adv. Mr. R. Sudhakaran, Adv. Mrs. Shalini Mishra, Adv. Mr. T. Hari Hara Sudhan, Adv. Mr. Vikash G.R. Adv.

For Respondent(s) Mr. V. Krishnamurthy, Sr. Adv./AAG Dr. Joseph Aristotle S., AOR Ms. Preeti Singh, Adv. Ms. Nupur Sharma, Adv. Mr. Sanjeev Kumar Mahara, Adv.

O R D E R

Leave granted.

This appeal takes exception to the judgment and order dated 18.11.2021 passed by the Madras High Court, Bench at Madurai in H.C.P (MD) No.1126 of 2021, whereby the High Court rejected the writ petition challenging the detention order bearing No. P.D.No.83 of 2021 dated 20.7.2021 passed by the District Collector and District Magistrate under the Tamil Nadu Act, 14/1982-Serving of Orders against one Kalyanaodai Senthil @ Senthil, aged 53 years, son of Durairaj, now confined in Central Prison, Cuddalore.

The detention order does refer to the questionable activities of the detenu, which could have been good reason to detain him by way of preventive action. However, the sole question sufficient to dispose of this appeal is: whether the representation dated 30.07.2021 made by the detenu to the Additional Chief Secretary to the Government, Home, Prohibition & Excise Department had been considered by the appropriate authority with utmost despatch? From the response filed before this Court, it can be noticed as follows:

"It is further submitted that the petitioner made another representation dated 30.07.2021 to the Additional Chief Secretary to Government, Home, Prohibition and Excise department which was received on 18.08.2021 with the request to cancel the detention order of her husband. After obtaining the remarks of the Detaining Authority which was received on 06.09.2021, the file was circulated on 06.09.2021. The Minister (E.P. & E)

cleared the file on 20.10.2021. Here again the time taken to clear the file was due to his enormous responsibility vested with him with his official work. It may be inadvertently omitted to mention the representation in the counter filed before the High Court."

The explanation offered by the Competent Authority, who was called upon to decide the representation, to say the least, is unacceptable. For, in the matter of considering representation made against detention order, the Competent Authority is duty bound to do so with utmost despatch. The vague explanation of being preengaged with other official work for more than two months, cannot be countenanced in law. Notably, no details of the official work have been furnished, much less to indicate that it was relatively so urgent that the obligation to decide the representation against detention order with promptitude could wait for two months.

In the present case, it is an admitted position that the representation dated 30.7.2021 was received in the office of the concerned Authority on 18.8.2021, the Minister cleared the file finally on 20.10.2021. Even if, it may not be a case of lethargy of the Competent Authority to consider the representation, the time period of over two months spent in doing so, cannot be countenanced. It does not require such a long time to examine the representation concerning preventive detention of the detenu.

Hence, this appeal ought to succeed. The impugned judgment and order is set aside. The writ petition filed by the appellant for quashing of the stated detention order stands allowed in terms of this order. The detenu is directed to be set free forthwith, if not required in connection with any criminal case pending against him.

The appeal(s) stands disposed of in the above terms.

Pending applications, if any, stand disposed of.

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