

(2008) 11 MAD CK 0088

In the Madras High Court

Case No : Habeas Corpus Petition No. 1061 of 2008

J. Gurunathan @ Guru

APPELLANT

Vs

The District Magistrate and District Collector, The State of
Tamil Nadu and The Government of India, Ministry of Home
Affairs, Department of Internal Security

RESPONDENT

Date of Decision : 18-11-2008

Acts Referred:

Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 —
Section 2, 3(1)
Constitution of India, 1950 — Article 22(5)
Penal Code, 1860 (IPC) — Section 153, 153A, 153B, 294, 307

Citation : (2008) 2 LW(Cri) 1348

Hon'ble Judges : S. Tamilvanan, J; Elipe Dharma Rao, J

Bench : Division Bench

Advocate : B. Kumar for K. Balu, for the Appellant; Ramasamy, A.A.G. assisted
by M. Babu Muthumeeran, Assistant Public Prosecutor for Respondents 1 and 2
and M. Gopikrishnan, ACGSC for R. 3, for the Respondent

Final Decision : Dismissed

Judgement

Elipe Dharma Rao, J.—The petitioner belongs to a recognised political party in Tamil Nadu, namely Pattali Makkal Katchi (PMK), and is

the President of Vanniar Sangam, which is the parent organization of the said political party and also an Ex.MLA. From the materials placed on

record, it transpires that one Mr. Vaithi is the Secretary of the said party of the Ariyalur District. One Veeramani, who was the contractor for the

road expansion work of Jeyankondam-Virudachalam road has lodged a complaint against the said Vaithi, alleging that he illegally demanded, under

threat, a sum of Rs. 5 lakhs from him towards party fund. Based on the said complaint, Mr. Vaithi was arrested by the police, after registering a

case. Protesting the arrest of Mr. Vaithi, the District General Body Meeting of PMK was held at Geetha Mahal in Ariyalur, wherein about 500

members participated and the petitioner is alleged to have delivered the impugned provoking speech. While on the part of the petitioner it has been

stated that it is purely an indoor meeting, on the part of the respondents, it has been strenuously argued that Press Reporters have also participated

in the above meeting and it is nothing but a public meeting.

2. It is alleged that in the said meeting, the petitioner delivered a provoking speech, with a view to destabilise the national peace and security and to

erupt communal violence by promoting enmity and hatred between different classes of the Society and therefore, based on the complaint lodged by

one R.Murugesan, who is also said to have attended the said meeting at Geetha Mahal, a case in Cr. No. 30/2008 for the offences under Sections

153, 153-A, 153-B(i), 504, 505(b), 500 and 506(II) IPC was registered by the Sub Inspector of Police, Ariyalur on 12.1.2008. Since another

case in Cr. No. 111/2008 of Mensurutti Police Station for the offences under Sections 294(b), 323 and 307 also came to be registered against the

petitioner and when the petitioner was arrested in that case and was produced before the learned Judicial Magistrate, Jeyankondam on 5.7.2008,

the Inspector of Police, Ariyalur filed a petition before the learned Judicial Magistrate, Ariyalur and after obtaining necessary permission, the

petitioner was arrested in the case on hand at 5.30 p.m. on 6.7.2008 at the Central Prison, Tiruchirappalli and he was produced before the

Magistrate on 7.7.2008, who remanded him till 18.7.2008. Thereafter, the detention order came to be passed against the petitioner on 10.7.2008,

which is under challenge in this petition.

3. Heard Mr. B.Kumar, learned senior counsel for the petitioner and Mr. Ramasamy, learned Additional Advocate General for the respondents 1

and 2 and Mr. M.Gopikrishnan, learned Additional Central Government Standing Counsel for the third respondent.

4. Mr. B.Kumar, the learned senior counsel appearing for the petitioner would contend that the meeting, wherein the alleged speech is said to have

been delivered by the petitioner, is an indoor meeting and the entry is restricted only for a group of party people to which the general public or for

that matter anybody else has got entry and the meeting also went on smoothly

and concluded in the normal manner and there was no law and order problem in the locality as has been falsely alleged by the respondents and that the entire action of the respondents is biased and politically motivated and would pray to set aside the order of detention.

5. This contention of the petitioner has been stiffly opposed by the respondents by contending that the said meeting, conducted to protest the arrest of the said Vaithi at Geetha Mahal on 6.1.2008, was not at all an indoor meeting since all the public, particularly the media people are also present.

6. Page No. 43 of the Paper Book bears a news report published in "Dina Malar" dated 7.1.2008. The publication of the news, containing the speech delivered by the petitioner, sheds all the doubts and makes it abundantly clear that it is not at all an indoor meeting, as has been falsely claimed on the part of the petitioner, but was attended to by all, particularly by the Fourth Estate. When even the speech of the petitioner has been printed in the newspapers, the contention of the petitioner that it is only an indoor meeting that too for a separate group of persons, either for a particular caste people or the people belonging to a particular political party, cannot be appreciated and accepted. Our finding is further fortified by the fact that the complaint in the case itself has been lodged by one R.Murugesan, who also belongs to the same caste as that of the petitioner and who also participated in the meeting, though admittedly belongs to a different political party. Therefore, this argument advanced on the part of the petitioner is rejected.

7. This news item (which is in Tamil and has been read over and translated to me by my brother The Honourable Mr. Justice S.Tamilvanan), bears the heading "Theemuka MLA Thoguthiyil Idai Therthal Varum" (means "There will be a bye-election in the DMK MLAs constituency"), and it shows that the petitioner has made several allegations against the Union Minister Mr. Raja, Mr. Sivasankar, who is the MLA of Andimadam and the District Collector of Perambalur. He further alleged that the complaint against Mr. Vaithi was lodged only by a henchman of Mr. Sivasankar.

He challenged that let he be arrested and see the repercussions and further proceeded to say that if it so happens that he is arrested, no DMK man will be allowed to sleep peacefully and they will not be allowed to move freely. He further said that since Mr. Vaithi was arrested, the Union

Minister Mr. Raja cannot be permitted to move freely and that there will be a bye-election to Andimadam constituency. He further said that if

DMK men convene any meeting, the stage also would be and burnt.

8. On the part of the respondents 1 and 2, they would submit that the entire speech delivered by the petitioner on that day was electronically

recorded and what has been reported in the newspapers is only a tip of the iceberg and that the recorded speech would be an evidence in the trial

of the case. In Para No. 2 of the grounds of detention, it has been stated as follows:

That on 12.1.2008 at 9.00 hours, while the Sub-Inspector of Police, Ariyalur Police Station, was on duty, Thiru R.Murugesan (38), s/o.Thiru

Raju, Door No. 11-C, Kallukudi Street, Ariyalur came to the Police Station and gave a written complaint, stating that he is a businessman dealing

in cement at Ariyalur and that he belongs to Vanniar Community; that on 6.1.2008 at 12.00 hours, he had gone to Geetha Mahal in Ariyalur to

listen to the speeches of the speakers in the Perambalur and Ariyalur Districts Pattali Makkal Katchi (PMK) District General Council meeting, that

in the said meeting Thiru J.Gurunathan @ Guru during the course of his speech had condemned the police who had registered the case against

Thiru Vaithi, Secretary of Pattali Makkal Katchi, Ariyalur District, for having demanded Rs. 5 lakhs as commission from a road contractor,

condemned Thiru Sivasankar, Andimadam MLA, whom he alleged to have instigated the registration of the case and also condemned the District

Collector, Perambalur, that if Thiru Vaithi was jailed Thiru Sivasankar, MLA, Andimadam will be murdered and it would pave way for a bye-

election, that Thiru Sivasankar, MLA would be beaten up after trespassing into his house, no bus would ply and no roads will exist, that if DMK

men convened any meeting they would be beaten up and burnt along with the stage, that no individual would be allowed to go alive after their

speech, that if the Perambalur District Collector is not transferred within fifteen days they will conduct a big agitation to paralyze the District, that

Collector Office will be locked and the entire district would be in flames; that if anyone of them is jailed, then no one will be allowed to move out,

that he spoke in such a way to instigate hatred between members of Vanniar Sangam and DMK to create communal clashes and to disturb the

public order; that in view of his speech, effigy burning, attack on buses, clashes and demonstration erupted in several places in Perambalur and

Ariyalur Districts and thereby a sense of great fear prevailed everywhere and he requested action on his complaint.

9. It is not at all the case of the petitioner that no such meeting was conducted on 6.1.2008 and that he never delivered such a speech, as has been

mentioned by the complainant in his complaint. Even the translated version of the speech, as could be found in the grounds of detention and in para

No. 4 of the counter, was not challenged by the petitioner and his only contention is that it is only an indoor meeting and the entry is restricted only

for a limited sect of people belonging to a particular political party, which cannot be accepted, in view of the fact that even the speech of the

petitioner has been printed in the newspapers and that the complaint in the case itself has been lodged by one R.Murugesan, who also belongs to

the same caste as that of the petitioner and who also participated in the meeting, though admittedly belongs to a different political party.

10. Though the original of the recorded speech has not been produced before us, even from the newspaper reports, which are available in the

paper book, as has been narrated supra, there is no doubt for us to hold that the speech of the petitioner was abnormal, inflammatory, fuelling

passions, inciting and intimidatory and he has provoked the public who attended the meeting to wage a war against the other party men, including

the Union Minister, going upto the extent of saying that there will be a bye-election to Andimadam Assembly constituency. What does he really

mean in saying that there will be a bye-election to Andimadam Assembly Constituency is not out of anybody's guessing, since it shows that he

want to do away with the present MLA of Andimadam Assembly Constituency. A man who is said to be holding a responsible post in a political

party and was a Member of the Legislative Assembly is not at all expected to hurl such unwanted words while addressing a public meeting,

provoking and prompting the participants to indulge in illegal activities, including to commit murder of a People's Representative. If such persons

are not handled with iron hands, they will pollute the Society, provoking, prompting and preaching only illegal activities to others, shaking the Unity

of the country.

11. This provocative speech, prompting the people to cause danger to the lives and limbs of opposite party people, who are an MLA and the Union Minister, and even asking the participants of the meeting not to allow the Union Minister and the MLA to move freely, which has been guaranteed as a Fundamental Right by the Constitution, has erupted law and order problem in the State, with the other party people protesting against such callous and criminal speech made by the petitioner since at most of the places, the effigies of the petitioner were burnt, Government buses were attacked and damaged at many places in Ariyalur and Perambalur Districts, creating panic and fear among general public, further leading to clashes between the supporters of both the parties. It is also seen that on the news spreading to other places, it has caused hindrance to the normalcy of life and even tempo of the society. By delivering such a speech, the petitioner let loose a wave of terror of such greater intensity and magnitude that the even tempo of the life of the community and the general public of Ariyalur and Perambalur Districts and neighbouring areas was put in extreme peril and severe jeopardy, the people of the surrounding areas were panic stricken and the normalcy of life of the community was seriously affected and a feeling of dismay and insecurity prevailed in Ariyalur and Perambalur Districts and the neighbouring districts. The documents available from pages 16 to 42 of the paper book will support this and would show that the violence has spread to other places affecting the normalcy of life and the even tempo of the society.

12. The entire reading of the speech delivered by the petitioner would depict a sorrowful picture as to where we are heading to. The Freedom Movement of India was carried forward by the Father of the Nation and other National Leaders with the spirit and sole aim of freeing Mother India from the clutches of foreign rule and in the process many inspirational speeches were delivered by them, which have inspired the people to fight for the freedom of the country from the hands of a foreigner, that too in a non-violent manner and by resorting only to non-cooperation movements. But, now, as could be seen from the case on hand, the so-called leaders, instead of being inspirational and role models to others, are indulging in delivering instigating and provoking speeches to wage war against the fellow country men by resorting to caste politics, which would

shake the Unity of the Nation. The important characteristic of our country is Unity in Diversity. The people with many religions, beliefs and

languages are living under one roof in the country with a sense of brotherhood, which should not be allowed to be broken or shaken by anybody

for their self interestedness or invented purposes.

13. Casteism is the root cause of many law and order problems in the country. The petitioner, who is an Ex.MLA, even in his affidavit has proudly

stated that he belongs to a particular community as if he is indebted to be loyal only for the caste people that too at the cost of peace and harmony

of the country and the safety and liberty of other people. This ill-culture of promoting casteism, to achieve self goals, at the cost of safety and

security of other people and posing threat to the Unity and integrity of the country should not be encouraged.

14. If a man accused of a criminal activity is arrested by the law implementing agency, the legal courses of action are very well open to him and for

his supporters. But, by conducting meetings of protest, with a view to provoke people to wage war against the persons whom they are suspecting

to be the causes for the arrest of the said accused, that too posing serious threat to the lives and limbs and even the personal liberties of such

people is heinous and should be dealt with iron hands. With these, we shall now proceed to deal with the other arguments advanced on either side.

15. In the case on hand, the alleged occurrence took place on 6.1.2008 and the impugned order of detention came to be passed on 10.7.2008.

Therefore, on the part of the petitioner, the learned senior counsel would argue that the long delay from the date of the alleged offence to the date

of order of detention would vitiate the order of detention. In support of his contentions, the learned senior counsel for the petitioner would rely on

the following judgments:

1. M.A. Brosh Nainar v. State of Tamil Nadu, rep. by Deputy Secretary to Government public (S.C.) Dept., MADRAS 1987 L.W. (Cri.) 295 ;

2. Rajinder Arora v. Union of India and Ors. (2006) 2 SCC (Cri) 418 and

3. Adishwar Jain v. Union of India and Anr. (2007) 1 SCC (Cri) 464.

16. In the first judgment cited above, a Division Bench of this Court has held that "lapse of long delay of 11 months between the occurrence and

the passing of the order of detention was not explained" and hence has quashed

the order of detention passed against the detenu therein passed u/s

3(1)(i) of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974.

17. In the second judgment cited above, the Honourable Apex Court, while dealing with a preventive detention order passed under the provisions

of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974, wherein there is an unexplained delay of about ten

months from the date of the alleged occurrence to the date of detention order, has set aside the detention order.

18. In the third judgment cited above also, the Honourable Apex Court has set aside the order of detention on the ground that the lapse of four

months time between proposal for detention and order of detention was not explained.

19. There is no dispute regarding the propositions laid down in the above judgments, unanimously, to the effect that unexplained delay from the

date of occurrence to the date of detention order will vitiate the detention order. But, every case has to be judged on its own facts and

circumstances. In the case on hand, the bone contention of the respondents 1 and 2 is that from the date of the occurrence, the petitioner is

absconding and was always giving a slip to them. Though on the part of the petitioner it has been contended that he, being a politician, was

attending all public meetings and has delivered more than 100 speeches, which were reported in local newspapers and in the TV channels, it has

been pooh-poohed by the respondents on the ground that not even a single public meeting was attended by the petitioner after the occurrence

dated 6.1.2008 and was playing tricks on the law implementing agency, avoiding his arrest. It has been strongly contended on the part of the

respondents that after 6th January, 2008, they had not come across any political meeting attended to by the petitioner and though the petitioner is a

native of Kaduvetti, he was occasionally visiting the village and whenever the Police reach a particular place, knowing about his whereabouts, he

was immediately changing his location. When the petitioner contends that he delivered more than 100 speeches after 6.1.2008, which are widely

reported in local newspapers and in the TV channels, it has not been substantiated by him in any manner, by producing even a scrap of publication

in any newspaper. Since he being a politician, rather became more popular after the speech in question, at least some speeches would have been published in the media. Therefore, the contention of the petitioner that he is always in the public and was never absconding, goes without any proof.

20. There is no doubt that the petitioner was arrested on 5.7.2008 in connection with another case pending against him in Cr. No. 111/2008 of

Meensurutti Police Station, for the offences under Sections 294(b), 323 and 307 IPC, in execution of the warrant pending against him and he was

produced before the learned Judicial Magistrate on 5.7.2008 itself. Thereupon, getting necessary permission from the learned Magistrate, the

Inspector of Police, Ariyalur has arrested the petitioner on 6.7.2008 in the case on hand at the Central Prison, Tiruchirappalli and immediately

thereafter, on 10.7.2008, the impugned order of detention came to be passed. Thus, we have no hesitation to hold that there is no delay at all in

passing the detention order and the alleged gap from the date of occurrence to the date of order of detention has very well been explained by the

respondents. Therefore, the judgments relied on by the learned senior counsel for the petitioner in no manner come to the rescue of the case of the

petitioner.

21. When from the materials available on record, it is clear that the petitioner was always giving a slip to the police and in the absence of any

material to show that he attended any public meeting after 6.1.2008, the other contention raised on the part of the petitioner that he has been

targeted and arrested only because of severance of political alliance between his party and the ruling party in the State cannot be accepted, in view

of the voluminous material available on record as to how the speech delivered by the petitioner has sent shocking waves in the Society, affecting

the law and order problem. When the petitioner was arrested in another case pending against him in Cr. No. 111/2008 of Meensuritti Police

Station, in execution of the warrant pending against him, there is no legal error in causing his arrest in the present crime that is Cr. No. 30/2008 of

Ariyalur Police Station at the Central Prison, Trichy where he was lodged.

22. Coming to the aspect of subjective satisfaction, after arresting the petitioner and taking into consideration the panic created by the speech of

the petitioner, affecting the even tempo of the Society, the Sponsoring Authority has placed all the materials before the Detaining Authority. The

Detaining Authority has scrupulously analysed all the materials placed on record by the sponsoring authority and having satisfied that "the activities

of the petitioner played a vital role in disrupting the public order and considering the need for the preventive steps to restrain the activities of the

petitioner, failing which he would indulge in such activities in future, causing prejudice to the maintenance of public order and tranquility", has

passed the detention order. The Detaining Authority has passed the detention order in accordance with the provisions of the National Security Act,

after satisfying himself and on application of his mind to the facts and circumstances of the case, which has compelled him to pass the detention

order.

23. The learned senior counsel for the petitioner would further submit that since admittedly, the petitioner is having one more case to his credit, he

falls within the definition of "'Goonda'", as defined u/s 2(f) of Act 14 of 1982 and therefore, the impugned detention order could not have been

passed against him since no such order could be passed against a "Goonda". From the grounds of detention, it is seen that no case has been

shown as an adverse case against the petitioner and even Cr. No. 111 of 2008 of Meensurutti Police Station has been referred to only as a

passing remark, without placing any reliance on its contents. The impugned detention order has been passed solely based on the case in Cr. No.

30 of 2008 of Ariyalur Police Station and nowhere in the impugned detention order, the petitioner has been referred as a "Goonda". When the

other case pending against the petitioner has not at all been taken into consideration by the Detaining Authority while passing the detention order

and the detention order has been passed solely based on the case in Cr. No. 30 of 2008 and when the detention order has not been passed under

the provisions of Act 14/82 but under the provisions of the National Security Act, the arguments advanced on the part of the petitioner in this

regard have no legs to stand before us.

24. The learned senior counsel for the petitioner would further argue that since there is a long gap between the date of the alleged occurrence and

the date of passing of the detention order, that too in the absence of any fresh

violence in the recent past that is as on the date of passing of the detention order, the very purpose of the detention itself got diluted and therefore, the order of detention is, thus, bad in law.

25. For this, on the part of the respondents 1 and 2, it has been strenuously argued that the fire of communal violence litted by the petitioner was never exhumed and there was always a law and order problem in the locality since the supporters of the petitioner and the opposite party members were always clashing at one place or other, creating more and more law and order problems. It has been repeatedly submitted before us by the learned Additional Advocate General that even though the speech was delivered on 6.1.2008, the tense situation did not subside but persisted and as a result there was breach of law and order.

26. We are in conformity with the arguments advanced on the part of the respondents since the respondents have established before us by producing before us the material showing the series of law and order problems emanated in the State, for which the root cause lies with the provoking speech delivered by the petitioner. Further, it is also seen that when the petitioner was arrested on 5.7.2008, there was again disturbance of public order creating panic and fear in the minds of common public and owing to the alarming situation prevailing in the district and the neighbouring areas, the detention order was passed to inspire confidence of safety and security in the minds of public and to maintain public order, peace and tranquility. At this juncture, we feel it apt to quote the observations of the Honourable Apex Court in T.A. Abdul Rahaman Vs.

State of Kerala and others, , relied on by the learned Additional Advocate General, appearing for the respondents:

The question whether the prejudicial activities of a person necessitating to pass an order of detention is proximate to the time when the order is made or the live-link between the prejudicial activities and the purpose of detention is snapped depends on the facts and circumstances of each case. No hard and fast rule can be precisely formulated that would be applicable under all circumstances and no exhaustive guidelines can be laid down in that behalf. It follows that the test of proximity is not a rigid or mechanical test by merely counting number of months between the offending acts and the order of detention.

27. As has already been observed by us supra, the delay from the date of occurrence to the date of passing the order of detention has very well

been explained by the respondents and they have also substantiated the same by producing sufficient material before us that the communal violence

littered by the petitioner in the locality has never exhumed. Therefore, we have no hesitation to hold that the need to detain the petitioner under the

provisions of the National Security Act, as on the date of passing of the detention order, was still persisting. Therefore, the arguments advanced on

the part of the petitioner in this regard are also rejected.

28. The other ground urged on the part of the petitioner is that the Detaining Authority has heavily relied on the order of remand passed by the

learned Magistrate in Cr. No. 30 of 2008 and translated copies of some of the documents were not furnished to him. The learned senior counsel

for the petitioner would rely on a judgment of the Honourable Apex Court in Union of India v. Ranu Bhandari JT 2008 (10) SC 171, wherein it

has been held as follows:

The consistent view expressed by this Court in matters relating to preventive detention is that while issuing an order of detention, the Detaining

Authority must be provided with all the materials available against the individual concerned, both against him and in his favour, to enable it to reach

a just conclusion that the detention of such individual is necessary in the interest of the State and the general public. It has also been the consistent

view that when a detention order is passed all the material relied upon by the Detaining Authority in making such an order, must be supplied to the

detenu to enable him to make an effective representation against the detention order in compliance with Article 22(5) of the Constitution,

irrespective of whether he had knowledge of the same or not. These have been recognized by this Court as the minimum safeguards to ensure that

preventive detention laws, which are an evil necessity do not become instruments of oppression in the hands of the concerned authorities or to

avoid criminal proceedings which would entail a proper investigation.

29. There cannot be any controversy over the above observations of the Honourable Apex Court. But, each case has to be judged on its own

facts and circumstances. In the case on hand, on a thorough scrutiny of the entire materials placed on record, we are not able to agree with the

contention raised on the part of the petitioner that much reliance has been placed by the detaining authority on the remand report in Cr. No. 30 of

2008 passed against him. In the detention order, it has been mentioned that the petitioner has been arrested and remanded in Cr. No. 30/2008 and

that he also filed a bail petition which was posted to 11.7.2008 for hearing and that there is a real possibility of his coming out on bail and if he

comes out on bail, there are possibilities that he will indulge in such activities, prejudicial to the maintenance of public order. When a mere passing

remark has been offered by the detaining authority, without placing any reliance on the remand report, in our considered opinion, the said remand

report is not at all a relied on document, so as to be furnished to the petitioner.

30. Regarding the contention of the petitioner that he has not been supplied with translated copies of some of the documents, we are unable to

appreciate the same in the absence of any details or relevancy of the so called documents either explained or established by the petitioner as to

how such an alleged non supply of the documents has prejudiced him.

31. The fitting answer to the arguments advanced on the part of the petitioner lies in the judgment of the Honourable Apex Court in Powanammal

Vs. State of Tamil Nadu and Another, , wherein it has been held, in no uncertain terms, by a Three Judge Bench of the Honourable Apex Court,

that:

However, there is a distinction between a document which has been relied upon by the detaining authority in the grounds of detention and a

document which finds a mere reference in the grounds of detention. Whereas the non-supply of a copy of the document relied upon in the grounds

of detention has been held to be fatal to continued detention, the detenu need not show that any prejudice is caused to him. This is because the

non-supply of such a document would amount to denial of the right of being communicated the grounds and of being afforded the opportunity of

making an effective representation against the order. But, it would not be so where the document merely finds a reference in the order of detention

or among the grounds thereof. In such a case, the detenu's complaint of non-supply of document has to be supported by prejudice caused to him

in making an effective representation. What applies to a document would equally apply to furnishing a translated copy of the document in the

language known to and understood by the detenu, should the document be in a different language.

32. The other contentions raised on the part of the petitioner regarding the typographical errors in the detention order, have very well been

explained by the respondents in their counter, wherein we find no ground to cause our interference into the detention order.

33. From the counter affidavit filed by the third respondent, it is clear that the representation submitted by Mrs.G.Latha, wife of the petitioner, the

representation dated 16.7.2008 from the M.P./MLA submitted on behalf of the petitioner and the representation dated 18.7.2008 submitted by

the wife of the petitioner were processed for consideration by the third respondent and after due consideration, the same was rejected on

8.10.2008. Therefore, the representations of the petitioner were properly considered and there is no illegality or irregularity in consideration and

rejection of the representations submitted on behalf of the petitioner.

34. A careful perusal of the entire materials placed on record would make it crystal clear that the Detaining Authority so carefully applied his mind

to all the aspects of the case and has arrived at an irresistible satisfaction about the need of detaining the petitioner in the interest of the country and

the welfare of the people. The Detaining Authority in para No. 6 of the grounds of detention has clearly stated that:

I am satisfied that the activities of Thiru J.Gurunathan @ Guru played a vital role in disrupting the public order. I am also aware of the need for the

preventive steps, to restrain the activities of Thiru J.Gurunathan @ Guru, failing which he would indulge in such activities in future, which will be

prejudicial to the maintenance of public order and tranquility.

35. From the materials placed on record, particularly from Page Nos. 16 to 42 of the paper book, we find that the news about the happenings

spread to other places and caused hindrance to the normalcy of life and even tempo of the society and the District Administration found it difficult

to bring everything under control and when the petitioner was arrested on 5.7.2008, there was again disturbance of public order creating panic and

fear in the minds of common public and owing to the alarming situation prevailed in the district and the neighbouring districts, the detention order

came to be passed against the petitioner to inspire confidence of safety and

security in the minds of public and to maintain public order, peace and tranquility. We find no illegality or irregularity in the entire procedure followed by the Detaining Authority and we find no ground to cause our interference into such a warranting order of detention passed against the petitioner, who has indulged in a grave offence of provoking the people to erupt communal violence and promoting enmity, hatred and ill-will between different classes of the society, breaching the peace and tranquility, which will have the impact of shaking the National Unity.

36. In fine and in a nutshell, our findings are narrated as follows:

(i) The meeting dated 6.1.2008, wherein the petitioner has delivered the speech at Geetha Mahal in Ariyalur is not an "indoor meeting" as has been claimed on the part of the petitioner, but it is a meeting attended to by all, including the Fourth Estate and other political party people also.

Therefore, it is nothing but a public meeting.

(ii) The petitioner has not at all denied his participation and even the contents of the speech, published in various newspapers on 7.1.2008. He has not also denied the translation of the speech made available by the respondents both in the grounds of detention and in the counter.

(iii) The speech delivered by the petitioner at the meeting conducted on 6.1.2008 was abnormal, inflammatory, fuelling passions, inciting and intimidatory and by his speech, he let loose a wave of terror of greater intensity and magnitude that the even tempo of the life of the community and the general public of Ariyalur and Perambalur districts and neighbouring areas was put in extreme peril and severe jeopardy and the people of the surrounding areas were panic stricken and by his speech, he posed a threat to the Unity and integrity of the country, by resorting to caste politics and asking the people who attended the meeting to wage a war against the fellow country men, including an Union Minister and an MLA and further with a view to destabilise the national peace and security and to erupt communal violence by promoting enmity and hatred between different classes of the Society, which should not be encouraged and should be dealt with iron hands.

(iv) There is no illegality or irregularity in the arrest of the petitioner in Cr. No. 30 of 2008 of Ariyalur Police Station, after his arrest in Cr. No. 111 of 2008 of Meensuritti Police Station.

(v) The petitioner was always playing tricks on the law implementing agency to avoid his arrest, pursuant to the speech dated 6.1.2008 and has failed to substantiate his contention that he was with the public always and has attended more than 100 public meetings, which were widely published in the newspapers and also in the TV channels, since not even a single paper has been produced before us showing any of his speeches published after 6.1.2008.

(vi) There is no delay of whatsoever in passing the impugned order of detention, since it has been passed on 10.7.2008, after the petitioner has been arrested in Cr. No. 30 of 2008 of Ariyalur Police Station on 6.7.2008 at 5.30 p.m. at Central Prison, Tiruchirappalli.

(vii) The Detaining Authority on scrupulously analysing all the materials placed on record and in due consideration of the facts and circumstances of the case has passed the impugned order of detention, after arriving at a subjective satisfaction of all the materials, wherein we find no illegality or irregularity to cause our interference.

(viii) No case has been shown as adverse case against the petitioner, even though a case in Cr. No. 111 of 2008 of Meensuritti Police Station is pending against him and only a passing remark has been offered about the said case and the impugned order of detention has been passed solely based on the case in Cr. No. 30 of 2008 of Ariyalur Police Station. Therefore, the contention advanced on the part of the petitioner that he is a "goonda" as defined under Act 14/82 and therefore the detention order should not have been passed under the provisions of the National Security Act, falls to the ground.

(ix) The representation submitted by Mrs.G.Latha, wife of the petitioner, the representation dated 16.7.2008 from the M.P./MLA submitted on behalf of the petitioner and another representation dated 18.7.2008 submitted by the wife of the petitioner were processed for consideration by the third respondent and after due consideration, the same were rejected on 8.10.2008. Therefore, the representations of the petitioner were properly considered and there is no illegality or irregularity in consideration and rejection of the representations submitted on behalf of the petitioner.

For all the above reasons, this Habeas Corpus Petition fails and the same is dismissed.