

**(2013) 10 MAD CK 0197**  
**In the Madras High Court**  
**Case No : H.C.P (MD) No. 710 of 2013**

Kunjaram

APPELLANT

Vs

The State of Tamil Nadu

RESPONDENT

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**Date of Decision :** 30-10-2013

**Acts Referred:**

**Citation :** (2013) 10 MAD CK 0197

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

**Bench :** Division Bench

**Advocate :** S. Mahendrapathy, for the Appellant; C. Mayil Vahana Rajendran,  
Additional Public Prosecutor, for the Respondent

**Final Decision :** Allowed

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## Judgement

V. Dhanapalan

1. The petitioner is the mother of the detenu. The detenu has been branded as a "Goonda" as contemplated under Tamil Nadu Act 14 of 1982 and detained under the order of the 2nd respondent passed in No. 38/BDFGISSV/2013 dated 27.05.2013. The detenu came to adverse notice in the following cases:

S.No.

Police Station and Crime No.

Sections of Law

1

D2 Sellur Police Station

Crime No. 1135/2011

Sections 147, 148, 341, 302 I.P.C. and Section 3(2)(v) of SC/ST Act, 1989, @

Sections 147, 148, 506(ii), 302 r/w 149 I.P.C., Section 3(2)(v) of SC/ST (POA)

Act, 1989.

2

D2 Sellur Police Station

Crime No.1191/2012

Sections 294(b), 323, 307, 450, 427, 506(ii) I.P.C., and Section 3(1)(x) of SC/ST Act, 1989.

3

D2 Sellur Police Station

Crime No.1444/2012

Section 392 r/w Sections 397, 506(ii) I.P.C.

2. The ground case alleged against the detenu is one registered by the Sub Inspector of Police, D2 Sellur Police Station, Madurai City, in Crime No. 316 of 2013 for offences under Sections 392 read with 397 and 506(ii) I.P.C. Aggrieved by the order of detention, the present petition has been filed.

3. Though the learned Counsel for the petitioner raised several grounds to assail the impugned order of detention, he mainly focussed his arguments on the question of delay in consideration of the representation and the delay will prejudice his right to make effective redressal of his grievance in the manner as contemplated and he pointed out that there is a delay in disposal of the representation.

4. We have heard Mr. C. Mayil Vahana Rajendran, learned Additional Public Prosecutor on the question of delay in consideration of the representation and perused the materials available on record and the chart provided to this Court.

5. The impugned order of detention has been called for in question by the mother of the detenu as to the satisfaction arrived at by the detaining authority stating the following:

5. I am aware that Thiru. Selvakumar s/o Selvaraj is now in remand in the ground case in D2 Sellur PS Cr. No. 316/2013 for the offences u/s 392 r/w 397 and 506(ii) IPC and lodged in the Central Prison, Madurai. I am also aware that he had been granted conditional bail in all the three adverse cases by the courts concerned. I am also aware that his bail application filed in the said ground case was dismissed by the J.M. No. II, Madurai on vide CrI.M.P. No. 2036/2013 on 30.04.2013 and that his further bail application filed in the ground case is pending disposal in CrI.M.P. No. 472/2013 before the Vacation Sessions Court, Madurai. On consideration of the conditional bail granted by the Madurai Bench of Madras High Court vide CrI.OP(MD) No. 2235/2013 on 11.02.2013 to the same Tr. Selvakumar s/o. Selvaraj, concerned in the 3rd adverse case mentioned

above, which is similar to the above said ground case and his further bail application filed in the ground case which is pending disposal before the Vacation Sessions Court, Madurai, I am of the view that there is a "real possibility" of his coming out on bail from the ground case through bail application pending before the Court concerned, since in similar case bail has been granted by the concerned Court or higher court. If he comes out on bail he will indulge in future activities which will be prejudicial to the maintenance of public order. Further, the recourse to normal criminal law would not have the desired effect of effectively preventing him from indulging in such activities, which are prejudicial to the maintenance of public order. On the materials placed before me, I am satisfied that the said Thiru. Selvakumar s/o Selvaraj is a "Goonda" and there is a compelling necessity to detain him in order to prevent him from indulging in acts which are prejudicial to the maintenance of public order under the provisions of the Tamil Nadu Act 14 of 1982.

6. On a scrutiny of the entire records, it is seen that the above order of detention passed by the Commissioner of Police, Madurai City, on 27.05.2013, was served on the detenu and the same has been received by him and thereafter, the petitioner has made a representation on 10.06.2013 and it was received by the competent authority on 13.06.2013. Thereafter, remarks were called for on 14.06.2013 and it was received by them on 24.06.2013 and it was dealt with by the Under Secretary on 26.06.2013 and the Deputy Secretary also dealt with it on the same day and sent it to the Minister for Electricity and Prohibition and Excise and he dealt with the same on 01.07.2013 and the rejection letter was prepared on 04.07.2013 and served on the detenu on 10.07.2013.

7. While verifying with the dates and events in consideration of the representation, it could be seen that from the date on which remarks were called for, viz., 14.06.2013 and till the date on which remarks were received, viz., 24.06.2013, excluding the holidays, there is a clear delay of six days in considering the representation, which could be a factor definitely depriving the detenu's right guaranteed under the Constitution of India. Therefore, the said delay vitiates the impugned order of detention and the impugned order of detention is liable to be quashed on the ground of delay. Hence, the impugned detention order passed by the second respondent, detaining the detenu, namely, S. Selvakumar, son of Selvaraj, vide No. 38/BDFGISSV/2013 dated 27.05.2013, is quashed and the Habeas Corpus Petition is allowed. The above named detenu, who is detained in Central Prison, Madurai, is ordered to be set at liberty forthwith, unless his custody is required in connection with any other case. However, this order shall not confer any right on the detenu to claim anything before the regular Court and it is always open to the prosecution to contest the matter effectively in accordance with law.