

(2014) 06 MAD CK 0248
In the Madras High Court
Case No : H.C.P. No. 2618 of 2013

Lakshmi

APPELLANT

Vs

State

RESPONDENT

Date of Decision : 09-06-2014

Acts Referred:

Constitution of India, 1950 — Article 21, 22(5)

Penal Code, 1860 (IPC) — Section 289, 336, 337, 341, 392

Citation : (2014) 06 MAD CK 0248

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

Bench : Division Bench

Final Decision : Allowed

Judgement

V. Dhanapalan, J.—The petitioner is the mother of the detenu. The detenu has been branded as a "Goonda" under the Tamil Nadu Act 14 of 1982 and detained under the order of the 2nd respondent passed in Memo No. 719/BDFGISSV/2013, dated 16.08.2013.

2. The detenu came to adverse notice in the following cases:

S.No.

Police Station and Crime No.

Sections of Law

1

R-10 MGR Nagar Police Station Crime No.720/2013

289, 337 IPC

2

R-10 MGR Nagar Police Station Crime No.1225/2013

392 IPC

R-10 MGR Nagar Police Station Crime No.1280/2013

392 IPC

The ground case alleged against the detenu is one registered on 31.07.2013 by the Inspector of Police, R-10 MGR Nagar Police Station in Crime No. 1313/2013 for offences under Sections 341, 336, 397 and 506(ii) IPC.

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 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 16.08.2013; the detenu made a representation to the detaining authority on 24.10.2013 and it was received by the competent authority on 30.10.2013; remarks were called on 30.10.2013 and only on 25.11.2013 remarks were received and file was submitted on 26.11.2013; the Under Secretary and Deputy Secretary dealt with it on 26.11.2013; on 03.12.2013, the Minister (Electricity, Prohibition and Excise) dealt with it and rejected it on 08.12.2013 and sent the rejection letter to the detenu on 09.12.2013.

6. Verification of the above dates and events would clearly show that there is unexplained delay of fifteen (15) days between 30.10.2013, the date on which remarks were called for and 25.11.2013, the date on which remarks were received, excluding holidays, i.e. on 1st, 2nd, 3rd, 9th, 10th, 16th, 17th, 23rd and 24th of November 2013. 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 first respondent in BDFGISSV No. 719/2013 dated 16.08.2013 is hereby quashed and the Habeas Corpus Petition is allowed. The detenu, namely Gunasekaran @ Kattupoonai in this case is set at liberty forthwith, unless his custody is required in connection with any other case.