

---

**(2014) 08 MAD CK 0003**  
**In the Madras High Court**  
**Case No : H.C.P. (MD) No. 427 of 2014**

Ravichandran

APPELLANT

Vs

State of Tamil Nadu

RESPONDENT

---

**Date of Decision :** 01-08-2014

**Acts Referred:**

**Citation :** (2015) 1 MadWNCri 193

**Hon'ble Judges :** S. Manikumar and V.S. Ravi, JJ.

**Bench :** Division Bench

**Advocate :** N. Anandakumar, Advocate, for the Petitioner; C. Ramesh, Additional Public Prosecutor, for the Respondent

**Final Decision :** Allowed

---

## Judgement

S. Manikumar, J.&mdash;Mother has sought for a Writ of Habeas Corpus, to quash the Order of Detention passed by the Commissioner of Police, Tiruchirappalli City, Tiruchirappalli, in C. No. 14. Detention/C.P.O/T.C/2014, dated 26.3.2014, branding her son, as Goonda and to set him at liberty.

2. According to her on 16.2.2014, a case in Crime No.44/2014, for the alleged offences, under Sections 323 & 365, I.P.C., was registered on the tile of Government Hospital Police Station, Trichy, and that he was arrested, on 17.2.2014, and remanded to judicial custody. Grounds of Detention, dated 26.3.2014, reveals that an Adverse case in Sessions Court Police Station, Crime No. 315/2013, under Sections 324 & 506(ii), I.P.C., has been registered. Besides, a ground case in Crime No.44/2014 under Sections 323 & 365, later on, altered into Sections 147, 148, 342, 364, 294(b), 323, 326, 307 r/w 302, I.P.C., has also been registered. In the Adverse case, he was released on Bail. On the request of the sponsoring Authority, the Commissioner of Police, Tiruchirapalli City, Trichy, 2nd Respondent, branded him as Goonda.

3. Though several grounds were raised, assailing the correctness of the Order of Detention, inviting the attention of this Court, to the Observation Mahazar dated

16.2.2014, prepared by the Inspector of Police, Uraiyur Police Station, Trichy Metropolitan Police Station, enclosed at Page 31, in the Booklet, Rough Sketch, at Page 34, and the statement of Mr. C. Chidambaram Pillai Nadana Kumar, one of the witnesses. Mr. N. Anandakumar, learned Counsel for the Petitioner submitted that the alleged incident, referred to, in the ground case, took place in a remote Coconut Grove, and that the said place is situated, in village outskirts, and that is not a busy traffic area, as mentioned in the Grounds of Detention. He further submitted that the said statement, is contrary to the Mahazar and no such fact existed. He, therefore, submitted that "Public Order", was not all affected, warranting detention According to him, it was only a Law & Order problem, which does not warrant any action under Tamil Nadu Act 14 of 1982.

4. Referring to the recitals in Paragraph 3 of the Grounds of Detention that Kodiyalam Village public, who knew the incident, through several newspapers, spoke about the same and thereby, panic struck in their minds, and that they feared, even to go to that place, where the murder occurred and further inviting the attention of this Court to the conclusion of the Detaining Authority, that the students of the college, where the deceased studied, discussed about the incident, and that there was a panic, are only ipse dixit statements and that there are no materials in the booklet and served on the detenu. According to the learned Counsel for the Petitioner, the conclusion of the Detaining Authority that the place of crime was a busy traffic area, nearby a familiar Murugan Temple, and thereby, the detenu created a feeling of insecurity, in the minds of the people of the area, in which the occurrence took place, and thereby acted in a manner prejudicial to the maintenance of Public Order, is wholly incorrect, in the light of the contents of the Observation Mahazar, Statements and Rough Sketch The Petitioner has also raised other valid grounds.

5. Adverting to the above, and based on the Counter Affidavit filed by the Commissioner of Police, Tiruchirappalli City, Mr. C. Ramesh, learned. Additional Public Prosecutor submitted that witnesses have spoken to, about the tense situation, which prevailed in the said area, at the time of occurrence and according to him, the incident caused disturbance to the public of the locality. He further submitted that though the occurrence took place in a Coconut Grove, it is located near the main road and a Pilgrimage Centre of Vayalur Lord Murugan's temple, and 100 meters away from the scene of occurrence, there are residential areas. Therefore, it created panic in the locality.

6. On the basis of the above, the Prosecutor submitted that upon hearing the murder, not only the residential people, but also the pilgrims, felt insecurity to go near the place, and thus Public Order was attracted For the above said reasons, learned Prosecutor prayed to sustain the order.

7. Before adverting to the rival contentions let us consider few Judgments of the Apex Court as to what "Public Order" means:

(1) In *Revana Siddaiah v. State of Mysore*, AIR 1952 Mys 85 : 1952 Crl.L.J.

1526, it has been held that "Public Order" has a comprehensive meaning so as to include public safety in its relation to the maintenance of Public Order and maintenance of Public Order involves consideration of public safety. They are closely allied concepts.

(2) In *Menon, M.P. v. State*, AIR 1953 Tr & Coch 540 : 1953 Cr.L.J. 1786, it has been held that the "Public Order" in the State list must be interpreted to include public safety in its relation to maintenance of Public Order, as both of them being interdependent.

(3) The difference between the Law & Order and Public Order has been very succinctly stated in *Ram Manohar Lohiya (Dr.) v. State of Bihar*, AIR 1966 SC 740 : 1966 Cr.L.J. 608, wherein, it is stated that:

"It will thus appear that just as "Public Order" in the rulings of this Court (earlier cited) was said to comprehend disorders of less gravity than those affecting "security of State", "Law & Order" also comprehends disorders of less gravity than those affecting "Public Order". One has to imagine three concentric circles. Law & Order represents the largest circle within which is the next circle representing Public Order and the smallest circle represents security of State. It is then easy to see that an act may affect Law & Order but not Public Order just as an act may affect Public Order but not security of the State. But using the expression "maintenance of Law & Order" the District Magistrate was widening his own field of action and was adding a clause to the Defence of India Rules "

(4) In *Pushkar Mukherjee v. State of West Bengal*, 1969 (1) SCC 10 AIR 1970 SC 852, at Paragraph 14 & 15, the Apex Court, held as follows:

"Does the expression "Public Order " take in every kind of infraction of order or only some categories thereof. It is manifest that every act of assault or injury to specific persons does not lead to public disorder. When two people quarrel and fight and assault each other inside a house or in a street, it may be said that there is disorder but not public disorder. Such cases are dealt with under the powers vested in the Executive Authorities under the provisions of ordinary Criminal Law but the culprits cannot be detained on the grounds that they were disturbing Public Order. The contravention of any law always affects order but before it can be said to affect Public Order, it must affect the community or the public at large. In this connection we must draw a line of demarcation between serious and aggravated forms of disorder which directly affect the community or injure the public interest and the relatively minor breaches of peace of a purely local significance which primarily injure specific individuals and only in a secondary sense public interest. A mere disturbance of Law & Order leading to disorder is thus not necessarily sufficient for action under the Preventive Detention Act but a disturbance which will affect Public Order comes within the scope of the Act. A District Magistrate is therefore entitled to take action under Section 3(1) of the Act to prevent subversion of Public Order but not in aid of maintenance of Law & Order under ordinary circumstances."

(5) In *Arun Ghosh v. State of W.B.*, 1970 (1) SCC 98 : 1970 SCC (Cr) 67, it has been held that:

"the question whether a man has only committed a breach of Law & Order, or has acted in a manner likely to cause a disturbance of the Public Order, is a question of degree and the extent of the reach of the act upon society. The test is Does it lead to a disturbance of the even tempo of the life of the community so as to amount to a disturbance of the Public Order, or, does it affect merely an individual without affecting the tranquility of society ."

(6) In the above reported case, the Hon'ble Mr Justice Hidayatullah had an occasion to deal with the question of "Public Order" and "Law & Order". In this Judgment, by giving various illustrations, very serious effort has been made to explain the basic distinction between Public Order" and "Law & Order". The relevant portion reads as hereunder:

"3.. "Public Order was said to embrace more of the community than Law & Order Public Order is the even tempo of the life of the community taking the country as a whole or even a specified locality Disturbance of Public Order is to be distinguished from acts directed against individuals which do not disturb the society to the extent of causing a general disturbance of public tranquillity. It is the degree of disturbance and its effect upon the life of the community in a locality which determines whether the disturbance amounts only to a breach of Law & Order. Take for instance a man stabs another. People may be shocked and even disturbed, but the life of the community keeps moving at an even tempo, however much one may dislike the act. Take another case of a town where there is communal tension. A man stabs a member of the other community. This is an act of a very different sort. Its implications are deeper and it affects the even tempo of life and Public Order is jeopardised because the repercussions of the act embrace large sections of the community and incite them to make further breaches of the Law & Order and to subvert the Public Order. An act by itself is not determinant of its own gravity. In its quality it may not differ from another but in its potentiality it may be very different. Take the case of assault on girls. A guest at a hotel may kiss or make advances to half a dozen chamber maids. He may annoy them and also the Management but he does not cause disturbance of Public Order. He may even have a fracas with the friends of one of the girls but even then it would be a case of breach of Law & Order only. Take another case of a man who molests women in lonely places. As a result of his activities girls going to colleges and schools are in constant danger and fear Women going for their ordinary business are afraid of being waylaid and assaulted. The activity of this man in its essential quality is not different from the act of the other man but in its potentiality and in its affect upon the public tranquillity there is a vast difference. The act of the man, who molests the girls in lonely places causes a disturbance in the even tempo of living which is the first requirement of Public Order. He disturbs the society and the community. His act makes all the Women apprehensive of their honour and he can be said to be causing disturbance of

Public Order and not merely committing individual actions which may be taken note of by the Criminal prosecution agencies. It means therefore that the question whether a man has only committed a breach of Law & Order or has acted in a manner likely to cause a disturbance of the Public Order is a question of degree and the extent of the reach of the act upon the society."

(7) Distinguishing the aspects of "Law & Order" and "Public Order", in *Amiya Kumar Karmakar v. State of West Bengal*, 1972 (2) SCC 672 AIR 1972 SC 2259, the Apex Court held that the true distinction between the areas of "Law A Order" and "Public Order" lies not merely in the nature of quality of the act, but in the degree and extent of its reach upon society. Acts similar in nature, but committed in different contexts and circumstances, might cause different reactions. In one case, it might affect specific individuals only, and therefore, touches the problem of Law & Order only, while in another it might affect "Public Order".

(8) The Apex Court in *Babul Mitra v. State of W.B.*, 1973 (1) SCC 393, had an occasion to deal with the question of "Public Order" and "Law & Order". The Court observed that the true distinction between the areas of "Law & Order" and "Public Order" is one of degree and extent of the reach of the act in question upon society. The Court pointed out that the act by itself is not determinant of its own gravity. In its quality it may not differ but in its potentiality it may be very different.

(9) In *Dipak Bose v. State of W.B.*, 1973 (4) SCC 43, a Three-Judge Bench of the Supreme Court explained the distinction between "Law & Order" and "Public Order" by giving illustrations. Relevant portion reads as under: (SCC p. 46, Para 4) :-

"4 Every assault in a public place like a public road and terminating in the death of a victim is likely to cause horror and even panic and terror in those who are the spectators. But that does not mean that all of such incidents do necessarily cause disturbance or dislocation of the community life of the localities in which they are committed. There is nothing in the two incidents set out in the grounds in the present case to suggest that either of them was of that land and gravity which would jeopardise the maintenance of Public Order. No doubt bombs were said to have been carried by those who are alleged to have committed the two acts stated in the grounds. Possibly that was done to terrify the respective victims and prevent them from offering resistance. But it is not alleged in the grounds that they were exploded to cause terror in the locality so that those living there would be prevented flora following their usual avocations of life. The two incidents alleged against the Petitioner, thus, pertained to specific individuals, and therefore, related to and fell within the area of Law & Order. In respect of such acts the drastic provisions of the Act are not contemplated to be resorted to and the ordinary provisions of our penal laws would be sufficient to cope with them."

(10) In *Ram Ranjan Chatterjee v. State of West Bengal*, 1975 (4) SCC 143 : AIR 1975 SC 609 (611), the Hon<sup>ble</sup> Supreme Court held that the acts which "Law & Order" are not different from the acts which affect "Public Order". Indeed, a state of peace or orderly tranquility which prevails as a result of the observance or enforcement of internal laws and regulations by the Government, is a feature common to the concepts of "Law & Order" and "Public Order".

(11) The Apex Court in another important case *Ashok Kumar v. Delhi Admn.*, 1982 (2) SCC 403, clearly spelled out a distinction between "Law & Order" and "Public Order". In this case, the Court observed as under: (SCC pp. 409-10, Para 13)

"13. The true distinction between the areas of "Public Order" and "Law & Order" lies not in the nature of quality of the act, but in the degree and extent of its reach upon society. The distinction between the two concepts of "Law & Order" and "Public Order" is a fine one but this does not mean that there can be no overlapping. Acts similar in nature but committed in different contexts and circumstances might cause different reactions. In one case it might affect specific individuals only and therefore touch the problem of Law & Order, while in another it might affect Public Order. The act by itself therefore is not determinant of its own gravity. It is the potentiality of the act to disturb the even tempo of the life of the community which makes it prejudicial to the maintenance of Public Order.

17. It is the length, magnitude and intensity of the terror wave unleashed by a particular act of violence creating disorder that distinguishes it as an act affecting Public Order from that concerning Law & Order. Some offences primarily injure specific individuals and only secondarily the public interest, while others directly injure the public interest and affect individuals only remotely. The question is of the survival of the society and the problem is the method of control."

(12) In *Ajay Dixit v. State of I.P. and others*, 1984 (4) SCC 400, the Apex Court observed that the contravention "of law" always affects "order" but before it could be said to affect "Public Order", it must affect the community or the public at large. One has to imagine three concentric circles, the largest, representing "Law & Order", the next representing, "Public Order" and the smallest, representing "security of State". An act may affect "Law & Order" but not "security of the State". Therefore, the Apex Court observed that one must be careful in using these expressions.

(13) In *State of U.P. v. Hari Shankar Tewari*, 1987 (2) SCC 490, the majority opinion of the Judgment of the Allahabad High Court in *Ashok Dixit v. State*, (Full Bench) extracted in *Hari Shankar Tewari*'s case reads as follows:

"A solitary assault on one individual which may well be equated with ordinary murder can hardly be said to disturb public peace or place Public Order in jeopardy so as to bring the case within the purview of the Act. It can only raise a "Law & Order" problem and no more Assaulting an individual in a bus or train on account of empty may affect only certain individuals, but if the assault is made

indiscriminately in the bus or train and passengers are harassed indiscriminately, the same would be likely to endanger Public Order as this kind of incident is bound to have such impact that it will disturb the even tempo of life of the community. The act or incident which may be attributed to the detenu may be reprehensible and yet if it concerns only specific individuals and it has no impact on the general members of the community and has no potentiality of disturbing the even tempo of life of the people, it cannot be held to be an activity prejudicial to Public Order."

(14) In *Angoori Devi v. Union of India*, AIR 1989 SC 371 : 1989 (1) SCC 385, the Hon"ble Apex Court held that if the act is confined to an individual without directly or indirectly affecting the tempo of the life of the community, it may be a matter of Law & Order only But where the gravity of the act is otherwise and likely to endanger the Public Order.

(15) In *Piyush Kantilal Mehta v. Commissioner of Police*, 1989 Supp. (1) SCC 322, at Paragraph 16, the Supreme Court held as follows:

"A person may be very fierce by nature, but so long as the public generally are not affected by his activities or conduct, the question of maintenance of Public Order will not arise. In order that an activity may be said to affect adversely the maintenance of Public Order, there must be materials to show that there has been a feeling of insecurity among the general public. If any act of a person creates panic or fear in the minds of the members of the public upsetting the even tempo of life of the community, such act must be said to have a direct bearing on the question of maintenance of Public Order. The commission of an offence will not necessarily come within the purview of "Public Order" ."

(16) In *Abdul Razak Nannekhan Pathan v. Police Commissioner, Ahmedabad*, 1989 (4) SCC 43, the Petitioner therein was clamped under the Detention Laws, describing him as a dangerous and terrible person, in the area. He was alleged to have committed offences, affecting human body in the area, by holding deadly weapons; robbing and demanded money in the area in drunken condition. Statement of four persons, residing in the area, were recorded by the Police. In some of the cases, the Petitioner therein was acquitted. Though statements were recorded, names and addresses of the witnesses, were disclosed, because they were afraid of damage to their person, and property and their safety. It was contended that the Petitioner therein had acted in a manner prejudicial to the maintenance of the Public Order. After observing that the cases registered against the Petitioner therein disclosed only particular persons, which has nothing to do with the maintenance of Public Order, the Supreme Court, at Paragraph 13, held as follows:

"The other three cases which are under investigation also relate to assault to private individuals and they have nothing to do with the disturbance of even tempo of the life of the community or of men of a particular locality nor does it affect the even flow of life of the public as a whole. Section 3(1) clearly

mandates that the Order of Detention can be made only when the State Government or its authorised officer has come to a subjective satisfaction that a person is required to be detained in order to prevent him from acting in any manner prejudicial to the maintenance of the Public Order. Sub-section (4) embodies a deeming clause to the effect that a person should be deemed to act in any manner prejudicial to the maintenance of Public Order when such person is engaged in any activities as a dangerous person which affect adversely or are likely to affect adversely the maintenance of Public Order. Explanation 2 Clause I further provides that for the purpose of this sub-section, Public Order shall be deemed likely to be affected adversely or shall be deemed likely to be affected adversely inter alia if any of the activities of any person referred to in this subsection directly or indirectly, is causing or is likely" to cause any harm, danger or alarm or feeling of insecurity among the general public or any section thereof or a grave or wide-spread danger of life, property or public health. Coming to this particular case, the Criminal cases mentioned in the grounds do not refer to any dangerous, harmful or adverse act or alarm which gives rise to a feeling of insecurity for the general public amongst the persons of a locality. The Criminal cases are confined to certain private individuals and it is merely a Law & Order problem and it has nothing to do with maintenance of Public Order. Its reach and effect is not so deep as to affect the public at large. It does not create or tend to create any panic in the mind of people of particular locality or public in general nor it affects adversely" the maintenance of Public Order. There is nothing to show that the above activities of the Petitioner have affected or tended to affect the even tempo of life of the community. An act may create a Law & Order problem but such an act does not necessarily cause an obstruction to the maintenance of Public Order "

(17) In *T. Devaki v. Government of Tamil Nadu and others*, 1990 (2) SCC 456, the Detenu threw a knife towards a Minister, which according to the State was with an intention to kill him, but he missed the target, later on, he was overpowered by the Police. A case under Sections 147, 148, 307 r/w Section 149, I.P.C and Section 27 of the Indian Arms Act was registered and that he was detained. One of the grounds alleged was that there is no Public Order and it was only a case of Law & Order. After extracting the incident as described in the Grounds of Detention, in Paragraph 17 of the Judgment, on the aspect, as to whether the said act falls within the parameters of Public Order, the Supreme Court, at Paragraphs 18 & 19, held as follows:

"18. The question which falls for consideration is whether single incident of murderous assault by the detenu and his associates on the Minister at the Seminar held at Dry Chilly Merchants" Association, Kalai Arangam Hall was prejudicial to the maintenance of Public Order. Any disorderly behaviour of a person in the public or commission of a Criminal offence is bound to some extent affect the peace prevailing in the locality and it may also affect Law & Order problem but the same need not affect maintenance of Public Order There is basic difference between "Law & Order" and "Public Order", this aspect has been

considered by this Court in a number of decisions, see: *Dr. Ram Manohar Lohia v. State of Bihar*, 1966 (1) SCR 709; *Pushkar Mukherjee & ors. v. The State of West Bengal*, 1969 (2) SCR 635; and *Shymal Chakraborty v. Commissioner of Police, Calcutta & anr.*, 1970 (1) SCR 762. In these cases it was emphasised that an act disturbing Public Order is directed against individuals which does not disturb the society to the extent of causing a general disturbance of public peace and tranquillity. It is the degree of disturbance and its effect upon the life of the community in the locality which determines the nature and character of breach of Public Order. In *Arun Ghosh v. State of West Bengal*, 1970 (3) SCR 288, the Court held that the question whether a man has only committed a breach of Law & Order, or has acted in a manner likely to cause disturbance of the Public Order, is a question of degree and the extent of the reach of the act upon the society. This view was reiterated in *Nagendra Nath Mondal v. State of West Bengal*, 1972 (1) SCC 498; *Sudhir Kumar Saha v. Commissioner of Police, Calcutta*, 1970 (3) SCR 360; *S.K. Kedar v. State of West Bengal*, 1972 (3) SCC 816; *Kami Biswas v. State of West Bengal*, 1972 (3) SCC 831; *Kishori Mohan v. State of West Bengal*, 1972 (3) SCC 845, and *Amiya Kumar Karmakar v. State of West Bengal*, 1972(2) SCC 672.

19. It is alleged that the attempted murderous assault on Thiru Dinar Murugan created scare and a feeling of insecurity in the minds of the persons present in the hall and the detenu's action interrupted the "proceedings of the Seminar for a while" (emphasis supplied). This shows that the detenu's activity disturbed the proceedings of the Seminar for a while but the Seminar appears to have continued later on. The incident did not and could not affect public peace and tranquillity nor it had potential to create a sense of alarm and insecurity in the locality. How could a single murderous assault on the Minister concerned at the Seminar could prejudicially affect the even tempo of the life of the community? No doubt, in Paragraph 4 of the grounds the Detaining Authority has stated that by committing this grave offence in public, in broad day light, the detenu created a sense of alarm, scare and a feeling of insecurity in the minds of the public of the area and there by acted in a manner prejudicial to the maintenance of Public Order, which affected even tempo of life of the community. Repetition of these words in the ground are not sufficient to inject the requisite degree of quality and potentiality in the incident in question. A solitary assault on one individual can hardly be said to disturb public peace or place Public Order in jeopardy so much as to bring the case within the purview of the Act. Such a solitary incident can only raise a Law & Order problem and no more. Moreover, there is no material on record to show that the reach and potentiality of the aforesaid incident was so great as to disturb the normal life of the community in the locality or it disturbed general peace and tranquillity. In the absence of such material it is not possible to hold that the incident at the seminar was prejudicial to the maintenance of Public Order. *Manu Bhusan Roy Prodhan v. State of West Bengal & ors.*, 1973 (3) SCC 663, this Court held that a solitary assault on one individual, which may well be equated with an ordinary murder which is not an uncommon occurrence, can

hardly be said to disturb public peace and its impact on the society as a whole cannot be considered to be so extensive, widespread and forceful as to disturb the normal life of the community, thereby shaking the balanced tempo of the orderly life of the general public. The Court held that the detention order which had been made for preventing the Petitioner from acting in a manner prejudicial to the maintenance of Public Order, was not sustainable in law. On a careful consideration of the matter in all its aspects and having regard to the circumstances in which the alleged incident took place on 29.7.1989, we are of the opinion that the solitary incident as alleged in the ground of detention is not relevant for sustaining the Order of Detention for the purpose of preventing the petitioner from acting in a manner prejudicial to the maintenance of Public Order."

(18) In *Mageswari v. District Magistrate and District Collector of Salem*, 1991 (1) MWN (CrL.) 28, a Hon'ble Division Bench of this Court has held that. "An act disturbing "Public Order" is one which is directed against the society and not against an individual in the sense, that, it does not disturb the society to the extent of causing a general disturbance of public peace and tranquillity. It is the degree of disturbance which affects the life of the community in the locality which determines the nature and character of breach of Public Order."

(19) In *Harpreet Kaur (Mrs) Harvinder Singh Bedi v. State of Maharashtra and others*, 1992 (2) SCC 177, it was a case of bootlegging. It was alleged that in furtherance of his activities and escape from the clutches of law, he even tried to run over, by his speeding vehicle the Police party, which tried to signal him, to a stop, exhorting all the time that, he would kill any one, who come in his way, He continued to drive in a reckless speed and dashed against a pedestrian causing injuries to him, where again, he had exhorted that any one, who would come in his way, would meet death. Four witnesses, who agreed to give statements to the Police, on conditions of anonymity, clearly stated that they would not depose against the detenu, for fear of retaliation, as the detenu had threatened to do away with any one, who would depose against him. Evidence of these witnesses were taken into consideration, for arriving at the subjective satisfaction that the activities had impact on the members of the community. On the aspect, as to whether the above alleged objectional activities, had any prejudicial effect and whether they were prejudicial to the maintenance of Public Order, the Hon'ble Supreme Court, at Paragraphs 10, 13 to 16, 18, 24 & 25, held as follows:

"10. "Public Order" or "Law & Order" are two different and distinct concepts and there is abundance of authority of this Court drawing a clear distinction between the two. With a view to determining the validity or otherwise of the Order of Detention, it would be necessary to notice the difference between the two concepts."

After extracting the Judgments in *Ram Manohar Lohia v. State of Bihar*, AIR 1966 SC 740; and *Arun Ghosh v. State of West Bengal*, 1970 (1) SCC 98, the Apex Court considered the following decisions:

"13. A Constitution Bench *Madhu Limaye v. Ved Murti* 1970 (3) SCC 738, again dealt with the question and it was observed:

"In our Judgment the expression in the interest of Public Order" in the Constitution is capable of taking within itself not only those acts which disturb the security of the State or act within order publique as described but also certain acts which disturb public tranquillity or are breaches of the peace. It is not necessary to give the expression a narrow meaning because, as has been observed, the expression in the interest of Public Order" is very wide."

14. In *Kanu Biswas v. State of West Bengal*, 1972 (3) SCC [p. 756] 831, this Court opined:

"The question whether a man has only committed a breach of Law & Order or has acted in a manner likely to cause a disturbance of the Public Order,... is a question of degree and the extent of the reach of the act upon the society Public Order is what the French call "order publique" and is something more than ordinary maintenance of Law & Order. The test to be adopted in determining whether an act affects Law & Order or Public Order, as laid down in the above case, is Does it lead to disturbance of the current of life of the community so as to amount to a disturbance of the Public Order or does it affect merely an individual leaving the tranquility of society undisturbed ?"

15. In *Ashok Kumar v. Delhi Administration*, 1982 (2) SCC 403, this Court re-examined the question and observed:

"The true distinction between the areas of "Public Order" and "Law & Order" lies not in the nature or quality of the act, but in the degree and extent of its reach upon society. The distinction between the two concepts of "Law & Order" and "Public Order" is a fine one but this does not mean that there can be no overlapping. Acts similar in nature but committed in different contexts and circumstances might cause different reactions. In one case it might affect specific individuals only and therefore touch the problem of Law & Order, while in another it might affect Public Order. The act by itself therefore is not determinant of its own gravity. It is the potentiality of the act to disturb the even tempo of the life of the community which makes it prejudicial to the maintenance of Public Order."

16. In *Subhash Bhandari v. District Magistrate, Lucknow*, 1987 (4) SCC 685, a Division Bench of this Court has held:

"A solitary act of omission or commission can be taken into consideration for being subjectively satisfied, by the Detaining Authority to pass an Order of Detention if the reach, effect and potentiality of the act is such that it disturbs public tranquillity by creating tension or and panic in the society or a considerable number of the people in a specified locality where the act is alleged to have been committed. Thus it is the degree and extent of the reach of the act upon the society which is vital for considering the question whether a man has committed only a breach of Law & Order or has acted in a manner likely to cause

disturbance to Public Order "

18. From the law laid by this Court, as noticed above, it follows that it is the degree and extent of the each of the objectionable activity upon the society which is vital for considering the question whether a man has committed only a breach of "Law & Order" or has acted in a manner likely to cause disturbance to "Public Order". It is the potentiality of the act to disturb the even tempo of life of the community which makes it prejudicial to the maintenance of Public Order". Whenever an Order of Detention is questioned, the courts apply these tests to find out whether the objectionable activities upon which the Order of Detention is grounded fall under the classification of being prejudicial to "Public Order" or belong to the category of being prejudicial only to "Law & Order". An Order of Detention under the Act would be valid if the activities of a detenu affect "Public Order" but would not be so where the same affect only the maintenance of Law & Order". Facts of each case have, therefore, to be carefully scrutinised to test the validity of an Order of Detention.

24. Crime is a revolt against the whole society and an attack on the civilization of the day Order is the basic need of any organised civilized society and any attempt to disturb that order affects the society and the community. The distinction between breach of "Law & Order" and disturbance of Public Order" is one of degree and the extent of reach of the activity in question upon the society. In their essential quality, the activities which affects "Law & Order" and those which disturb "Public Order" may not be different but in their potentiality and effect upon even tempo of the society and public tranquility there is a vast difference. In each case therefore the Courts have to see the length, magnitude and intensity of questionable activities of a person to find out whether his activities are prejudicial to maintenance of "Public Order" or only "Law & Order".

25 Respect for law has to be maintained in the interest of the society and discouragement of a Criminal is one of the ways to maintain it. The objectionable activities of a detenu have, therefore, to be judged in the totality of the circumstances to find out whether those activities have any prejudicial affect on the society as a whole or not. If the society, and not only an individual, suffers on account of the questionable activities of a person, then those activities are prejudicial to the maintenance of "Public Order" and are not merely prejudicial to the maintenance of "Law & Order" "

(20) In *Kamlakar Shankar Patil v. B. Akashi*, 1994 Cr.L.J. 1870, it has been held that "Public Order" has a very wide connotation and the same is the basic need in any organised society. It implies to the orderly State of society and community in which citizens can peacefully pursue their normal activities of life.

(21) In *Darpan Kumar Sharma v. State of Tamil Nadu*, 2003 (1) CTC 382 (SC) : 2003 (1) Crimes 446 (SC) : AIR 2003 SC 832, the Petitioner therein robbed one person at knife point. He was detained under Act 14 of 2014. Three other cases, registered at various Police Stations, were also disclosed in the Order of

Detention. Alleging that the Petitioner therein would indulge in activities, prejudicial to the maintenance of the Public Order, he was detained. Upon considering the materials on record, the Supreme Court, at Paragraph 6, observed that:

"Therefore, there is no material on record to show that the reach and potentiality of the single incident of robbery was so great as to disturb the even tempo or normal life of the community in the locality or disturb general peace and tranquillity or create a sense of alarm and insecurity in the locality. Though in the Grounds of Detention the Detaining Authority had stated that by committing this offence in public the detenu created a sense of alarm, scare and a feeling of insecurity in the minds of the public of the area and thereby acted in a manner prejudicial to the maintenance of Public Order which affected even tempo of life of the community, but citation of these words in the Order of Detention is more in the nature of a ritual rather than with any significance to the content of the matter."

(22) In *Murugan (a) Senthilvel @ Kumar v. The District Collector, Kanyakumari District, Nagercoil and another*, 2004 (1) MWN (Cr.) 244 (DB), at Paragraph 22, this Court has held as follows:

22. This makes us to conclude that the last Adverse case and the Ground case have a solitary instance, upon which, the Order of Detention was clamped against the detenu. It was repeatedly held that there, should be material on record to show that the reach and potentiality of the single incident was so great as to disturb even the tempo or normal life of the community in the locality or to disturb the general peace and tranquility or create a sense of alarm and insecurity in the locality. Mere words in the nature of ritual in the Order of Detention may not be sufficient "

(23) In *Commr. of Police v. C Anita*, 2004 (7) SCC 467, this Court, again examined the issue of "Public Order" and "Law & Order" and observed thus: (SCC pp.471-72, Paras 7, 12 & 13)

"7. The crucial issue is whether the activities of the detenu were prejudicial to Public Order. While the expression "Law & Order" is wider in scope inasmuch as contravention of law always affects order, "Public Order"; has a narrower ambit, and Public Order could be affected by only such contravention which affects the community or the public at large. Public Order is the even tempo of life of the community taking the country as a whole or even a specified locality. The distinction between the areas of "Law & Order" and "Public Order" is one of the degree and extent of the reach of the act in question on society. It is the potentiality of the act to disturb the even tempo of life of the community which makes it prejudicial to the maintenance of the Public Order. If a contravention in its effect is confined only to a few individuals directly involved as distinct from a wide spectrum of the public, it could raise problem of Law & Order only. It is the length, magnitude and intensity of the tenor wave unleashed by a particular

eruption of disorder that helps to distinguish it as an act affecting "Public Order" from that concerning "Law & Order". The question to ask is:

"Does it lead to disturbance of the current life of the community so as to amount to a disturbance of the Public Order or does it affect merely an individual leaving the tranquillity of the society undisturbed?"

This question has to be faced in every case on its facts

12. The true distinction between the areas of Law & Order and Public Order lies not merely in the nature or quality of the act, but in the degree and extent of its reach upon society. Acts similar in nature, but committed in different contexts and circumstances, might cause different reactions. In one case it might affect specific individuals only, and, therefore, touches the problem of Law & Order only, while in another it might affect Public Order. The act by itself, therefore, is not determinant of its own gravity. In its quality it may not differ from other similar acts, but in its potentiality, that is, in its impact in society, it may be very different.

13. The two concepts have well-defined contours, it being well established that stray and unorganised crimes of theft and assault are not matters of Public Order since they do not tend to affect the even flow of public life. Infractions of law are bound in some measure to lead to disorder but every infraction of law does not necessarily result in public disorder. Law & Order represents the largest scale within which is the next circle representing Public Order and the smallest circle represents the security of State, "Law & Order" comprehends disorders of less gravity than those affecting "Public Order" just as "Public Order" comprehends disorders of less gravity than those affecting "security of State".

(24) In *Kausalya v. The District Collector*, 2005 (1) MLJ (Cri.) 612, a Manager of a Temple was brutally murdered, while he was in the office of the temple. Detention orders were issued, holding that crimes were committed in public place, which created fear and panic and a feeling of insecurity in the minds of the people of the area and thereby, acts committed were in the manner prejudicial to the maintenance of Public Order. Detention Orders were challenged on the grounds that there were no materials to support the same. After considering a catena of decisions, the Hon'ble Division Bench of this Court, at Paragraph 13 of the Judgment summarised the principles to be taken into consideration:

"(1) The maintenance of Law & Order relates to the crimes committed by private individuals. The maintenance of Public Order relates to the disturbance to the even tempo of the life and public tranquility and its effect upon the life of the community in a locality.

(2) Every assault in a public place, resulting in the death of a victim, may cause panic to those who are spectators, but that does not mean that the said incident would cause disturbance or dislocation of the community life of the locality, in the absence of the material that the act is committed in a public place to cause terror

to the people in the locality so that they would be prevented from following their usual avocations.

(3) The impact on "Public Order" and "Law & Order" depends upon the nature of the act, the place where it is committed and the motive force behind it (emphasis supplied). If the act is confined to an individual without affecting the tempo of the life of the community, it is a matter of Law & Order only and it may not fall within the orbit of Public Order.

(4) In order to bring the activity so as to show that it would affect the maintenance of Public Order, there must be material to show that there has been a feeling of insecurity among the general public.

(5) The mere words in the Grounds of Detention "by committing this grave offence in public, the detenu created a sense of alarm, scare and a feeling of insecurity in the minds of the public of the area" would not be sufficient to inject the requisite degree of quality and potentiality to show that the incident was so grave as to disturb the normal life of the community in the locality, in the absence of such materials."

Ultimately, at Paragraph 51, the Hon"ble Division Bench of this Court id as follows:

"51. To sum up: The Sponsoring Authority neither collected nor placed any material before the Detaining Authority to enable the authority to arrive at a subjective satisfaction to conclude that due to the ground incident which took place on 3.9.2004 in which Sankararaman, the Manager of the temple was done to death inside his office, there is a disturbance to the Public Order and even tempo of the life has been greatly affected, thereby the detenus created a sense of scare and a feeling of insecurity in the minds of the community in the locality. Even then, the Detaining Authority has mechanically passed the detention orders which are in question before this Court, although the incidents quoted in the Detention Orders do not attract the disturbance to the Public Order. The failure of the Detaining Authority to verify about the applicability of the disturbance to the Public Order in these cases would vitiate the Detention Orders and therefore, those Orders are held to be not legal and accordingly, the same are quashed."

(25) In the Judgment of the Hon"ble Apex Court, reported in K.K. Saravana Babu v. State of T.N., 2008 (9) SCC 89, in respect of Tamil Nadu Act 14 of 1982 the allegation against the detenu was with regard to land grabbing. In the said decision the Apex Court dealt with the distinction between "Public Order" and "Law & Order":

"15. This Court on several occasions examined the concepts of "Law & Order" and "Public Order". Immediately after the Constitution came into force, a Constitution Bench of this Court in Brij Bhushan v. State of Delhi, AIR 1950 SC 129, dealt with, a case pertaining to Public Order. The Court observed that "Public Order" may well be paraphrased, in the context as "public tranquillity".

16. Another celebrated Constitution Bench Judgment of this Court is in *Romesh Thappar v. State of Madras*, AIR 1950 SC 124. In this case, Romesh Thappar, a printer, publisher and editor of a weekly journal in English called *Cross Roads*, printed and published in Bombay, was detained under the Madras Maintenance of Public Order Act, 1949. The detention order was challenged directly in the Supreme Court of India by filing a Writ Petition under Article 32 of the Constitution. The allegation was that the detenu circulated documents to disturb the public-tranquillity and to create disturbance of Public Order and tranquillity". The Court observed: (AIR p. 127, Para 7)

"Public Order" is an expression of wide connotation and signifies that state of tranquillity which prevails among the members of a political society as a result of the internal regulations enforced by the Government which they have established, ... it must be taken that "public safety" is used as a part of the wider concept of Public Order".

(26) In *V. Jagadeeskumar v. Government of Tamil Nadu*, 2010 (1) MWN (Cr.) 278 (DB), this Court held as follows:

"16. The allegation made against the detenu is that he is indulging in activities prejudicial to the maintenance of public health and Public Order by way of advertisement in electronic media by giving false promise and collecting huge sums of money by inducing the patients."

The Court, on the facts and circumstances held that "The said activity, prejudicial to the maintenance of public health, will definitely come under the meaning of disturbance of Public Order." It is worthwhile to consider the decisions therein:

(a) In the decision reported in *Mustakmiya Jabbarmiya Shaikh v. MM Mehta*, 1995 (3) SCC 237, "Public Order" and "Law & Order" are explained by the Supreme Court in Paragraph 9, which reads thus:

"9. Further, sub-section (1) of Section 3 of the Act confers power on the State Government and a District Magistrate or a Commissioner of Police, under the direction of the State Government to detain a person on being satisfied that, it is necessary to do so, with a view to preventing him from acting in any manner prejudicial to the maintenance of "Public Order". The explanation attached to subsection (4) of Section 3 reproduced above, in the foregoing para contemplates that Public, Order" shall be deemed to have been affected adversely or shall be deemed likely to be affected adversely inter alia if any of the activities of any person referred to in subsection (4) directly or indirectly, are causing or is likely to cause any harm, danger or alarm or feeling of insecurity" among the general public or any section thereof or a grave or widespread danger to life, property" or public health. Subsection (4) of Section 3 also provides that for the purpose of Section 3, a person shall be deemed to be acting in any manner prejudicial to the maintenance of Public Order when such person is a "dangerous person" and engaged in activities which affect adversely or are likely to affect adversely the maintenance of Public Order. It, therefore, becomes

necessary" to determine whether besides the person being a "dangerous person" his alleged activities fall within the ambit of the expression "Public Order". A distinction has to be drawn between Law & Order and maintenance of Public Order because most often the two expressions are confused and Detention Orders are passed by the Authorities concerned in respect of the activities of a person which exclusively fall within the domain of Law & Order and which have nothing to do with the maintenance of Public Order. In this connection it may be stated that in order to bring the activities of a person within the expression of "acting in any manner prejudicial to the maintenance of Public Order", the nature and the extent and reach of the alleged activities must be of such a nature that they travel beyond the capacity of the ordinary law to deal with him or to prevent his subversive activities affecting the community at large or a large section of society". It is the degree of disturbance and its impact upon the even tempo of life of the society or the people of a locality which determines whether the disturbance caused by such activity amounts only to a breach of "Law & Order" or it amounts to Public Order. If the activity falls within the category of disturbance of "Public Order" then, it becomes essential to treat such a Criminal and deal with him differently than an ordinary Criminal under the law, as his activities would fall beyond the frontiers of Law & Order, disturbing the even tempo of life of the community of the specified locality. Judgment in *Arun Ghosh v. State of W.B.*, 1970 (1) SCC 98 : 1970 SCC (Cri) 67, is referred."

(b) In *Commissioner of Police, v. C. Anita*, 2004 (7) SCC 467, the meaning of "Law & Order" and "Public Order" were discussed and held as follows:

"7..... The crucial issue is whether the activities of the detenu were prejudicial to Public Order. While the expression "Law & Order" is wider in scope inasmuch as contravention of law always affects order, "Public Order", has a narrower ambit, and Public Order could be affected by only such contravention which affects the community or the public at large. Public Order is the even tempo of life of the community taking the country as a whole or even a specified locality. The distinction between the areas of "Law & Order" and "Public Order" is one of the degree and extent of the reach of the act in question on society. It is the potentiality of the act to disturb the even tempo of life of the community which makes it prejudicial to the maintenance of the Public Order. If a contravention in its effect is confined only to a few individuals directly involved as distinct from a wide spectrum of the public, it could raise problem of Law & Order only. It is the length, magnitude and intensity of the terror wave unleashed by a particular eruption of disorder that helps to distinguish it as an act affecting "Public Order" from that concerning "Law & Order". The question to ask is:

"Does it lead to disturbance of the current life of the community so as to amount to a disturbance of the Public Order or does it affect merely an individual leaving the tranquillity of the society undisturbed ?

This question has to be faced in every case on its facts."

The said decision is reiterated in *K.K. Saravana Babu v. State of Tamil Nadu*, 2008 (9) SCC 89.

(27) In *R.L. Ashokan v. State of Tamil Nadu*, 2011 (3) MWN (Cr.) 547 (DB), the occurrence was in the office of the Complainant. On the aspect as to whether it was prejudicial to the maintenance of Public Order, a Hon'ble Division Bench of this Court, after considering the reasons stated in the Grounds of Detention that the said acts, caused disruption to public peace and Public Order, at Paragraphs 13 to 15 held as follows:

13. It is also to be seen whether the detenu's activity had any impact on the local community or in other words, whether the act of the detenu has caused harm, danger, or alarm, or a feeling of insecurity among the general public, or any section thereof. The unlawful activities alleged on the part of the detenu, is against an individual namely the Complainant in the case, and the alleged occurrence took place inside the Office of the detenu. As per the averred facts, the unlawful activity on the part of the detenu, has no potentiality to disturb peace and tranquillity and it cannot be termed as causing any harm, danger, or alarm, or a feeling of insecurity among the general public.

14 According to the crystallised legal position, cases affecting the Public Order, are those which have great potentiality to disturb peace and tranquillity of a particular locality or in the words of Hidayatullah, J. disturb the even tempo of the life of the community of that specified locality ."

15. In the present case, the alleged act attributed to the detenu affects a specific individual namely the Complainant, and it is only a problem of Law & Order and it cannot be termed as one affecting Public Order. In such circumstances, the observation of the Detaining Authority, in Paragraph No -1 of the Grounds of Detention, that the detenu caused disruption to public peace and Public Order and was acting in a manner detrimental to its maintenance, is not based on any material and it vitiates the Order of Detention. For the above said reasons, the Order of Detention is liable to be set aside."

(28) In *Leema Rose v. District Magistrate*, H.C.P. No 1636 of 2011, decided on 29.3.2012), the alleged occurrence is said to have taken place inside the Mill premises, where except the Accused, Complainant, his Driver and Manager nobody else was present. No statement under Section 161. Cr.P.C. was recorded from the member of the public to the effect that public were terrorised. There were no materials in the Grounds of Detention as to how even tempo of the society was affected. However, by arriving at the subjective satisfaction that the detenu had created panic and feeling of insecurity in the minds of the public of that locality and thereby acted in a manner prejudicial to the maintenance of Public Order, detention was ordered. One of the contentions raised was that the alleged act did not attract Public Order and therefore, Detention Order should be set aside. Opposing the said contention, learned Public Prosecutor has submitted that though the occurrence had taken place inside the Mill premises, since the

detenu was involved in four other cases and was a habitual offender, and therefore, the Detaining Authority has come to the conclusion that he was a Goonda as defined under the Act 14 of 1982 and therefore, the above said facts are more than sufficient to pass an Order of Detention.

On the aspect as to whether the occurrence had created a Public Order, the Hon"ble Division Bench held that the facts disclose that the occurrence was inside the Textile Mill of the defacto Complainant and not in public place or in presence of public affecting peace of the locality-or localities and in such circumstances, it could not be said even tempo of public was affected in the area or areas concerned, attracting Public Order. On the materials considered the Hon"ble Division Bench further observed that the Detaining Authority has not, in detail, considered the particulars and materials relating to the crime numbers, and has not specifically mentioned in the Grounds of Detention, that (he acts committed by the detenu, in respect of the crime numbers, created panic in the mind of the public of that locality or the public were terrorised.

8. Reverting back to the case on hand, the above limited challenge made is addressed as follows:

To ascertain as to whether the alleged occurrence, has taken in a busy traffic area, near a familiar Murugan Temple and thus a feeling of insecurity was created in the minds of the people of the area and thereby, the detenu bad acted in a prejudicial manner, to the maintenance of Public Order. We have gone through the materials in the booklet. There are two Observation Mahazars and two sketches. We have perused the Observation Mahazars prepared by the Inspector of Police, Uraiyur Police Station, in the presence of the witnesses. The first Mahazar is at Page 31, wherein, after describing the location, the Inspector of Police, Uraiyur Police Station, Trichy Metropolitan City, has recorded as follows:

"rk;gt nlkhdJ mjpgf \$d elkhI;IKk;, mjpgf Bghf;Ftuj;Jk; ny;yhj xU bjd;de;Bjhg;g[ Mfk;."

9. Sketch enclosed at Page 34 of the Booklet does not tally with the details of the First Observation Mahazar. But it tallies with the second observation Mahazar at Page 36. This Sketch has been prepared with reference to an incident which is alleged to have occurred on 15.2.2014. Statement recorded under Section 161(3), from Mr. C. Chidambaram Piliai Mariana Kumar, enclosed at Page 52 of the Booklet shows that the Inspector of Police, Uraiyur Police Station, Trichy Metropolitan City, has requested the above said deponent to come to Coconut Grove, and when he went there, along with others, he saw the deceased with several cut wounds. Relevant portion of his Statement recorded under Section 161(3) of the Criminal Procedure Code is extracted hereunder:

"jw;BghJ ciwa{h; nd;!;bgf;lh; mth;fs; jd;id bjhiyBgrpapy; bjhlh;g[ bfhz;L rpd;dfUg;g{hpypUe;J bfhoahyk; bry;Yk; Buhl;od; bjw;Bf cs;s bghpa J]A;F Kq;rp kuj;jpw;F vjpBu cs;s bjd;de;Bjhg;gpw;F tubrhd;djhfbhrhd;dhh;. cIBd ehDk; rptBd!;thp, mtuJ cwtpdh;fs; kw;Wk; rpyUld; nd;!;bgf;lh; tu brhd;d nlj;jpw;F

brd;W ghh;j;j BghJ mA;F tpJud; clypy; gy nIA;fspy; btl;L fhaA;fSld; nwe;J fple;jhd;."

10. Thus, as rightly pointed out by Mr. N. Anandakumar, learned Counsel for the Petitioner, the conclusion of the Detaining Authority that the alleged crime has taken place in a busy traffic area, nearby, a familiar Murugan Temple and thus, the detenu had created a feeling of insecurity, in the minds of the local people of the area, in which, the offence took place and thereby, acted in a manner prejudicial to the maintenance of Public Order, is a statement, not supported by either, the Observation Mahazar or the Rough Sketch or the Statement recorded under Section 161(3) of the Criminal Procedure Code from the above said witness, in other words, it is a ipse dixit statement.

11. While damping the detenu, under the Prevention Laws, the Detaining Authority, has observed that Kodiyalam Village public, who knew the incident, through several Newspapers, spoke about this incident, and that the students of the college, where the deceased studied, also discussed the said incident, and both the villagers and students, got panic and thus, the Detenu had created a feeling of insecurity, in the minds of the public of the area. Thus, Newspaper Reports appeared to have been taken into consideration and had a bearing in the mind of the Detaining Authority. First of all, such facts taken into consideration by the Authority are not supported by any material, and thus to be construed as extraneous and non-existent material which weighed the mind of the Detaining Authority to clamp the detenu under the Prevention Laws. Secondly, Newspaper Reports have no evidentiary value. At this juncture, this Court deems it fit to consider a Division Bench decision of this Court in A.S.M. Kumar v. State of Tamil Nadu, 2008 (5) MLJ 399, to which, one of us, is a party, as to the evidentiary value of Newspaper Reports, has considered the following Judgments.

"8. The question of admissibility of the Newspaper Reports came up for consideration in Samaut N.Balkrishna and another v. George Fernandez and others, 1969 (3) SCC 28 at Paragraph 26, the Apex Court observed that:

"A Newspaper item without any further proof of what had actually happened through witnesses is of no value. It is at best a second hand evidence. It is well known that Reporters collect information and pass it on to the editor who edits the news item and then publish it. In this process truth might get perverted or garbled Such news items cannot be said to prove themselves although they may be taken into account with other evidence if the other evidence is forcible."

9. As regards nature and admissibility of a Newspaper Report, the Supreme Court in Lakmi Raj Shetty and another v. State of Tamil Nadu, 1988 (3) SCC 319, opined that:

" We cannot take judicial notice of the facts stated in a news item being in the nature of hearsay secondary evidence, unless proved by evidence aliunde. A report in a newspaper is only hearsay evidence. A Newspaper is not one of the documents referred to in Section 78(2) of the Evidence Act, 1872 by which an

allegation of fact can be proved. The presumption of genuineness attached under Section 81 of the Evidence Act to a Newspaper Report cannot be treated as proved of the facts reported therein."

10.....

11. The Supreme Court dealing with a "pro bono publico " litigation in B.P Singhal v. State of Tamil Nadu and others, 2004 (13) SCC 673, wherein the Petitioner sought for a transfer of an investigation from Tamil Nadu State Police to the Central Bureau of Investigation, opined that:

"the Petition is lacking in material particulars .All the averments made in the petition are based, by and large, on News Reports anti not on personal knowledge. The Petition does not state that the Petitioner has taken any care to verify himself the correctness of the averments made."

12. In yet another decision in Dr. B. Singh v. Union of India (UoI) and others, 2004 (3) SCC 363, dealing with a Public Interest Litigation, challenging the propriety of the Third Respondent therein for being considered for appointment as a Judge, the Supreme Court while expressing its anguish found that:

"The Petitioner has no where stated that he has personal knowledge of the allegations made against R3. He does not even aver that he made any effort to find out whether the allegations have any basis. He only refers to the representation of Ram Sarup and some other paper cuttings of News items. It is too much to attribute authenticity or creditabidity to any information or fact merely because, it found publication in a Newspaper or Journal or Magazine or any other form of communication, as though it is gospel truth. It needs no reiteration that Newspaper Reports per se do not constitute legally acceptable evidence "

12. There is another Rough Sketch at Page 36 of the Booklet, which describes, the place of occurrence. In this Rough Sketch, Coconut Grove is shown. There are no materials in the Booklet to indicate as to how the Detaining Authority came to the conclusion that the crime took place, at a busy traffic area, nearby a familiar Murugan Temple. Actual crime reported in the ground case, is alleged to have taken place in a Coconut Grove.

13. Pages 35 & 36 of the Booklet is yet another Observation Mahazar prepared by the very same Inspector of Police, wherein, he has recorded that prior to the actual occurrence, which resulted in the ground case, there was another incident, which occurred in a public place Here, in the second Observation Mahazar, the witnesses are different. In the first Observation Mahazar, enclosed at Page 31 of the Booklet, the Inspector of Police has stated that Mr. Rajkumar, Village Administrative Officer, Kodyakarai Village and Mr. Sivagnanam, Village Assistant of the same village, were present, at the time of preparation of the first Observation Mahazar, at the scene of occurrence of murder. Whereas, in the second Observation Mahazar, at Page 35 of the Booklet, the Inspector of Police

has mentioned the names of one Mr. Subburaj and K Dhanushkodi, as witnesses, to speak about the prior incident.

14. Pages 38 to 41 of the Booklet speak about the recovery of bloodstained in the mud and other objects, in the presence of Mr. Rajkumar, Village Administrative Officer, Kadiyakarai Village (Incharge, Anthanallur VAO), and Mr. Sivagnanam, Village Assistant, Kadiyakurichi Village. In the first Observation Mahazar, the date, time and the place of occurrence, relating to the ground case, are mentioned as 16.4.2014, at 10.05 A.M. in a Coconut Grove owned by one Suppan and Velu.

15. Perusal of the statements of Mr. Rajkumar, Village Administration (Officer, Kadiakurichi Village, (Incharge, Anthanallur Village), Srirangam Taluk, Trichy District and Mr. Sivagnanam, Village Assistant, Kadiakurichi Village, (Incharge, Anthanallur Village), Srirangam Taluk, Trichy District, enclosed, at Pages 62 & 63 of the first Booklet, shows that the Observation Mahazar was prepared between 10.00 am on 16.2.2014 (i.e.), in respect of the Ground case. Whereas, Statements of one Subburaj and K. Dhanushkodi, enclosed at Pages 56 & 57 of the Booklet, speak about the preparation of the Observation Mahazar, at 4-3/4 p.m., alleging that the deceased was beaten up in the front of a Grocery Shop.

16. The actual place of occurrence of the alleged occurrence, in relation to the ground case was in a Coconut Grove, and that it was not a busy traffic area. Even Mr. Subburaj and Mr. K. Dhanushkodi, have not described the place of prior occurrence (i.e) on 15.2.2014, as a busy area. There is absolutely, no material to indicate that the crime has occurred in a busy traffic area and thus, a feeling of insecurity was created in the minds of the people of the area and thereby, the detenu had acted in a manner prejudicial to the maintenance of the Public Order. Incident of murder, has not occurred in a public place.

17. Materials considered by the Detaining Authority should disclose that as to whether the acts alleged against, the detenu, had the propensity and potentiality, to disturb, the even tempo of normal life, of the people, in the locality, or to disturb the general peace and tranquility, or create a sense of alarm and insecurity. Mere words of ritual in the Order of Detention are not sufficient. Whether Public Order is likely to be affected or it was a mere Law & Order problem, is a matter, which depends upon not only the place of occurrence but, also on several other factors, such as background and the impact, which it may have on the even tempo of life.

18. Public Order lies, not in the nature and quality of act, but in the degree and extent, of its reach upon the society. It is not the gravity of the act, but how it has disturbed, the even tempo of the life of the community, which act, makes it prejudicial to the maintenance of Public Order. Panic and insecurity amongst the residents of a particular locality of the area, where the offence was allegedly committed and whether the alleged act has adversely affected the even tempo of the life of the people in the locality, are to be supported by relevant materials. An

act may create a Law & Order problem, but the effect of such act, should be so deep to affect the public at large Any disorderly behaviour of a person, in public, or commission of offence is bound to some extent affect the peace prevailing in the locality and it may also affect Law & Order problem, but the same need not affect maintenance of Public Order. Public Order should encompass an act, and other relevant materials, which would disturb the public peace and tranquillity Degree of disturbance and its effect upon the life of the community in the locality, are the determinative factors Mere violation of any penal provision does not constitute Public Order, but the question is how deep and to what extent, it has reached upon the society, to affect the even tempo of the public.

19. A solitary incident of murder, which is not a uncommon occurrence, cannot be said to have disturbed the Public Order, and had an impact on the society as a whole, thereby shaking the balanced even tempo of the life of the people in the locality or area, unless there are relevant materials to support the same Gravity of an act by itself is not the determinative factor and the test is whether, it lead to the disturbance of the life of the community What is relevant to be considered is not only the potentiality of the act, but also, how it has affected the even tempo of the life of the country. To arrive at a conclusion, facts of each case has to be considered, whether the magnitude and intensity of the activities of a person, has really caused disturbance to the even tempo of the society, are the vital aspects to be considered.

20. In the absence of any relevant material, an act, which may concern only specific individuals and which may not have any potentiality of disturbing the public, cannot be brought under the definition of "Public Order". If the society at large, suffers on account of the activities of a person, then those activities are prejudicial to the maintenance of the Public Order, and not merely prejudicial to the maintenance of Law & Order.

21. Public Order would embrace more of the community than Law & Order. Public Order is the even tempo of the life of the community taking the country as a whole or even a specified locality. Disturbance of Public Order is to be distinguished from acts directed against individuals which do not disturb the society to the extent of causing a general disturbance of public tranquillity. Implications of Public Order, are deeper and it affects the even tempo of life and Public Order is jeopardized because the repercussions of the act embrace large sections of the community and incite them to make further breaches of the Law & Order and to subvert the Public Order .An act by itself is not determinant of its own gravity. In its quality, it may not differ from another, but in its potentiality it may be very different.

22. In order that an activity may be said to affect adversely the maintenance of Public Order, there must be material to show that there has been a feeling of insecurity among the general public. If any act of a person creates panic or fear in the minds of the members of the public upsetting the even tempo of life of the community, such act must be said to have a direct bearing on the question of

maintenance of Public Order. The commission of an offence will not necessarily come within the purview of Public Order which can be dealt with under ordinary general law of the land.

23. The crucial issue is whether the activities of the detenu were prejudicial to Public Order. While the expression "Law & Order" is wider in scope inasmuch as contravention of law always affects order, "Public Order", has a narrower ambit, and Public Order could be affected by only such contravention which affects the community or the public at large. Public Order is the even tempo of life of the community taking the country as a whole or even a specified locality. If a contravention in its effect is confined only to a few individuals directly involved as distinct from a wide spectrum of the public, it could raise problem of Law & Order only. It is the length, magnitude and intensity of the terror wave unleashed by a particular eruption of disorder that helps to distinguish it as an act affecting "Public Order" from that concerning "Law" & Order".

24. Public Order if disturbed, must lead to public disorder. Every breach of the peace does not lead to public disorder. The contravention of law always affects order but before it can be said to affect Public Order, it must affect the community or the public at large. Every assault in a public place like a public road and terminating in the death of a victim is likely to cause horror and even panic and tenor in those, who are the spectators. But that does not mean that all of such incidents do necessarily cause disturbance or dislocation of the community life of the localities in which they are committed.

25. In the case on hand, the Investigating Officer has prepared a Mahazar relating to an incident, which allegedly occurred on 15.2.2014 in a public place, prior to murder in the Coconut Grove, which resulted in the ground case. Occurrence in the Ground case in the grove, is unlikely to disturb the even tempo of life and moreso, when there are no relevant materials to indicate that it would be an infringement to Public Order. At the most, it could be an infringement to Law & Order. If there are materials to support, then there could be a case for consideration.

26. Considering the intention and need, it could be deduced that there is total non-application of mind on the part, of the Detaining Authority, in advertent to Public Order and Law & Order, which are conceptionally different, in the context, when preventive laws are invoked. There are no relevant materials to indicate that the detenu posed a threat to maintenance of Public Order. Power to pass an Order of Detention stem from the satisfaction of the Detaining Authority with respect to any person, with a view to prevent him from indulging in activities prejudicial to the maintenance of Public Order. An act committed in a grove, not in a public place and when there are no material to indicate that the magnitude and intensity has spread fears and caused panic in the mind of the locality and affected the even tempo of the public, it cannot be said to have affected Public Order.

27. Though the Petitioner has raised several other valid grounds, as the Detention Order does not satisfy the Test of Reasonableness in arriving at the subjective satisfaction, on the ground of Public Order, we do not propose to delve into other grounds.

28. For the reasons, stated *supra*, the impugned Order of Detention is set aside and the Habeas Corpus Petition is allowed.