

**(2011) 01 KAR CK 0092**  
**In the Karnataka High Court**  
**Case No : Writ Petition (HC) No. 91 of 2010**

T. Mary

APPELLANT

Vs

Commissioner of Police and Others

RESPONDENT

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**Date of Decision : 07-01-2011**

**Acts Referred:**

Karnataka Prevention of Dangerous Activities of Bootleggers Drug Offenders Gamblers  
Goondas Immoral Traffic Offenders and Slum Grabbers Act, 1985 — Section 8

**Citation : (2011) 1 KCCR 611**

**Hon'ble Judges : K.L. Manjunath, J;H.G. Ramesh, J**

**Bench : Division Bench**

**Advocate : Chandrashekara K, for the Appellant; Indresa, A.G.A., for the  
Respondent**

**Final Decision : Allowed**

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## Judgement

K.L. Manjunath, J.—Heard the Counsel for the parties.

2. The Petitioner is challenging the order of detention of her husband by name Tirumaran @ Raja, S/o. Muniswamy, passed by the 1st Respondent vide order No. CRM (4)/DTN/06/2010 dt. 2.5.2010 which has been approved by the 2 Respondent by his order dt. 12.5.2010 which are produced as Annexures-A and C respectively, as illegal and void abinitio.

3. The facts leading to this case are as hereinder:

The Petitioner is the wife of one Tirumaran @ Raja. Respondent-1 by his order dt. 2.5.2010 invoking Section 8 of the Karnataka Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Gamblers, Goondas, Immoral Traffic Offenders and Slum Grabbers Act, 1985 passed an order to detain him.

4. The husband of the Petitioner submitted a representation on 25.5.2010 to consider his case and to release him on the ground that he is innocent of the offence alleged against him. The order passed by the 1st Respondent has also been confirmed by the 2nd Respondent. Later the matter was also placed before

the Advisory Committee of this Court as required under the law. The Advisory Committee has also concurred with the views of Respondent No. 1 and Respondent No. 2. On the ground that the order of detention is illegal and void abinitio, the present petition has been filed.

5. The main contention of the Petitioner before us is that the representation of the detenue dt. 25.5.2010 has not been considered within a reasonable time as required under the law. On the ground that there is an inordinate delay in not considering the representation dt. 25.5.2010, the Petitioner requests the Court to quash the order of detention

6. The Respondents have filed the counter.

7. We have heard the learned Counsel For the Petitioner and the learned Govt. Pleader for the Respondents.

8. The learned Counsel for the Petitioner taking us through the order sheet dt. 29.11.2010 and 30.11.2010 contends that inspite of directions issued by this Hon. Court, the Respondents did not consider the representation of the detenue dt. 25.5.2010 and after several directions at last the representation has been considered by the Respondents and rejected the representation by its order dt. 10.12.2010. In the circumstances relying upon the judgment of the Hon. Supreme Court in Jayanarayan Sukul Vs. State of West Bengal, , he requests the Court to allow the Writ Petition and quash the order of detention on the ground of delay and laches in not considering the representation of the detenue in accordance with law.

9. Though an attempt is made by the learned Govt. Pleader to support the order of rejection, but in view of the judgment of the Hon. Supreme Court, we have no other option than to quash the order of detention considering the conduct of the Respondents in not considering the representation within a reasonable time.

10. We have seen the order of detention. He has been detained for a period of 12 months commencing from 2.5.2010. As on today he has been in prison for more than 8 months and the representation of the detenue has not been considered within a reasonable time. In the circumstances, respectively following the aforesaid Judgment, we have to allow the Writ Petition.

11. Accordingly, the Writ Petition is allowed. The order of detention dt. 2.5.2010 passed by the 1st Respondent as per Annexure-A which has been confirmed by the 2nd Respondent as per Annexure-C are hereby quashed and we direct the Respondents to set the husband of the Petitioner to liberty forthwith, if he is not otherwise required in any other matter.

In view of the order passed on main petition, Misc. W. 6876/10 is rejected as it does not survives for consideration. Registry to communicate this order to the Central Prison, Bangalore.