



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 23.09.2020**

**CORAM:**

**THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM  
and  
THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI**

**H.C.P. (MD) No.493 of 2020**

Kothandam

... Petitioner

-vs-

1.State of Tamil Nadu

Rep.by The Principal Secretary to Government  
Home, Prohibition & Excise Department  
Fort St.George, Chennai-600 009

2.The District Collector cum District Magistrate  
Pudukkottai District, Pudukkottai

3.The Superintendent of Police  
Central Prison,  
Trichy District, Trichy

4.The Inspector of Police  
Keeranur Police Station  
Pudukkottai District

... Respondents

**PRAYER :** Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Habeas Corpus by calling for the records relating to the impugned order of detention made in P.D.O.No.14/2020, dated 28.02.2020, on the file of the District Collector and District Magistrate, Pudukkottai, the second respondent herein, branding the detinue i.e.,the petitioner's son by name K.Raja, son of Kothandam, aged about 37 years, as "Goonda", who is now confined in Central Prison, Trichy District and quash the impugned order of detention and set him at liberty by producing him before this Court.

For Petitioner: Mr.R.Senthil Kumar

For Respondents:Mr.V.Neelakandan  
Additional Public Prosecutor



**O R D E R**

**(Order of the Court was made by K.KALYANASUNDARAM, J.)**

This habeas corpus petition has been filed by the father of the detenu, namely, K.Raja, aged 37 years, challenging the detention order in P.D.O.No.14/2020, dated 28.02.2020, passed by the second respondent, branding him as "Goonda" as contemplated under Section 2 (f) of Tamil Nadu Act 14 of 1982.

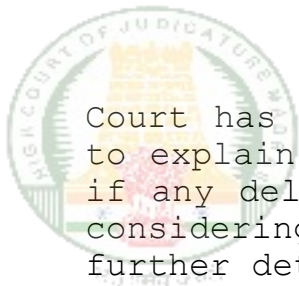
2. Mr.R.Senthil Kumar, learned counsel for the petitioner, would argue that even though the petitioner has raised several grounds, he has confined his arguments only to the delay in disposal of the petitioner's representation. It is submitted by the learned counsel for the petitioner that the procedural safeguards guaranteed under Articles 21 and 22 of the Constitution of India have not been followed in this case and there is unexplained and inordinate delay in disposal of the petitioner's representation, which would vitiate the impugned order of detention.

3. Mr.V.Neelakandan, learned Additional Public Prosecutor, while reiterating the counter affidavit filed by the second respondent, submitted that after satisfying with the materials placed by the Sponsoring Authority, the Detaining Authority has passed the detention order and there is no illegality or infirmity in the detention order. It is also stated that even if there is any delay in disposal of the representation, it has not caused any prejudice to the rights of the detenu and hence, prayed for dismissal of the habeas corpus petition.

4. Heard both sides and perused the materials available on record.

5. In the instant case, the proforma furnished by the learned Additional Public Prosecutor would indicate that as against the impugned detention order, the petitioner made a representation to the first respondent on 18.03.2020 and it was received on 16.04.2020. Remarks were called for on the same day i.e.16.04.2020 and it was received on 14.05.2020. The Deputy Secretary dealt with the matter on the same day i.e.14.05.2020. The concerned Minister dealt with the matter on 25.05.2020 and the representation came to be rejected on 26.05.2020. It is seen that in between 16.04.2020 and 14.05.2020, there was a delay of nineteen days, after excluding the Government Holidays of nine days, in considering the petitioner's representation.

6. At this juncture, it is useful to refer the decision of the Honourable Apex Court in the case of **Rajammal vs. State of Tamil Nadu and another**, reported in **1999 (1) SCC 417**, wherein the Apex



Court has observed and held that it is for the Authority concerned to explain the delay, if any, in disposal of the representation and if any delay was caused on account of nay indifference or lapse in considering the representation, such delay will adversely affect further detention of the prisoner.

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7. In the case on hand, as stated supra, the delay of nineteen days in considering the representation of the petitioner has not been properly explained by the respondents. Hence, in our considered view, the detention order is liable to be set aside solely on the ground of delay by following the decision of the Honourable Apex Court referred supra.

8. In fine, the Habeas Corpus Petition is allowed. The detention order in P.D.O.No.14/2020, dated 28.02.2020, passed by the second respondent, is set aside. Consequently, the detenu, namely, K.Raja, son of Kothandam, aged about 37 years, who is now detained at Central Prison, Trichy, is directed to be released forthwith unless his presence or custody or detention is required in connection with any other case.

Sd/-

Assistant Registrar (CO)

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Sub Assistant Registrar(CS )

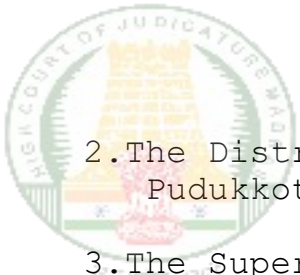
**Note :**

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

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To:

- 1.The Principal Secretary to Government,  
Home, Prohibition & Excise Department,  
State of Tamil Nadu,  
Fort St.George,  
Chennai-600 009.



2.The District Collector cum District Magistrate,  
Pudukkottai District, Pudukkottai.

3.The Superintendent of Police,  
Central Prison,  
Trichy District, Trichy.

4.The Inspector of Police,  
Keeranur Police Station,  
Pudukkottai District.

5.The Joint Secretary to Government,  
Public(Law & Order) Department,  
Fort St.George, Chennai.

6.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.

+1 CC to M/s.R. SENTHILKUMAR, Advocate ( SR-18026[F] dated  
24/09/2020 )

**H.C.P. (MD) No.493 of 2020**

**23.09.2020**

NR (07.10.2020) 4P 8C