

**Jayalakshmi. Vs. State of Tamil Nadu, and anr.**

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**Court :** Chennai

**Decided On :** Sep-28-2010

**Judge :** M.CHOCKALINGAM; M.SATHYANARAYANAN, JJ.

**Acts :** Constitution Of Indian - Article 226

**Appeal No. :** H.C.P.No.1108 of 2010

**Appellant :** Jayalakshmi.

**Respondent :** State of Tamil Nadu, and anr.

**Advocate for Def. :** Mr.Babu Muthu Meeran, Adv.

**Advocate for Pet/Ap. :** Mr.S.Ragupathi, Adv.

**Judgement :**

1. This petition challenges an order of the second respondent dated 5.4.2010, whereby the husband of the petitioner by name R.Arivazhagan was ordered to be detained under Act 14/82 branding her as a Goonda as defined under the provisions of that Act.

2.The Court heard the learned Counsel for the petitioner and all the materials and in particular, the order under challenge were scrutinized.

3.It is not in controversy that pursuant to the recommendations made by the sponsoring authority that the detenu was involved in three adverse cases namely (1) J3 Guindy PS Cr.No.869/2008 under Sections 341, 324 and 506(2) IPC; (2) Thazhambur PS Cr.No.167/2009 under Sec.302 IPC and (3) J3 Guindy PS Cr.No.75/2010 under Sections 341, 384, 307, 336 and 506(2) IPC and also in one ground case registered by J3 Guindy PS in Crime No.158/2010 under Sections 341, 336, 307, 392 r/w 506(2) IPC for an occurrence that has taken place on 28.3.2010, the detaining authority on scrutiny of the materials has made the order under challenge after recording the subjective satisfaction that the activities of the detenu were prejudicial to the maintenance of the public order.

4.Advancing arguments on behalf of the petitioner, the learned Counsel raised two points. Firstly, as regards the ground case, it was actually registered in Crime No.158/2010 for an occurrence that has taken place at 11.30 A.M., and the case came to be registered at about 12.30 P.M., as could be seen from the first part of the order. But throughout the order and all the materials placed would show as if the occurrence has taken place in the evening, and thus there is a vital discrepancy on the material particulars and under the circumstances, a clarification should have been called for, but not done so. Secondly, the special report did not contain the date, and hence it has got to be set aside.

5.The Court heard the learned Additional Public Prosecutor on all the above contentions and paid its anxious consideration on the submissions made.

6.As could be seen above, the detenu was involved in four cases namely three adverse cases and one ground case. From the perusal of the materials available, it would be quite clear that the ground case was registered in Crime No.158/2010 for an occurrence that has taken place at about 11.30 A.M. As could be seen from the materials available, the said case came to be registered at 12.30 P.M. But, it is pertinent to point out that the other part of the order and all the materials would show as if it was registered in the evening, and thus there was a vital discrepancy in that regard. In such circumstances, the detaining authority should have called for a clarification, but not done so. That apart, the special report did not contain the date on which it was made. Both these grounds, in the considered opinion of this Court, would suffice to set aside the order.

7.In the result, this habeas corpus petition is allowed setting aside the order of detention passed by the second respondent. The detenu is directed to be set at liberty forthwith unless his custody is required in connection with any other case.

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