

(1998) 06 SC CK 0002

Supreme Court of India

Case No: Criminal Appeal No. 629 of 1998 (Arising out of SLP (Criminal) No. 1169 of 1998)

Mrs. Venmathi Selvam

APPELLANT

Vs

State of Tamil Nadu and Another

RESPONDENT

Date of Decision: June 10, 1998

Citation: (1998) 4 JT 393 : (1998) 2 OLR 329 : (1998) 4 SCALE 13 : (1998) 5 SCC 510 : (1998) 3 SCR 526

Hon'ble Judges: S. Saghir Ahmad, J; G. T. Nanavati, J

Bench: Division Bench

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

Nanavati, J

1. Leave granted. Heard learned counsel for the parties.
2. The appellant is the wife of one Selvam who has been detained as a Goonda under Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders and Slum Grabbers Act, 1982. The Commissioner of Police, Chennai City, on being satisfied that Selvam was involved in activities prejudicial to the maintenance of public order and with a view to preventing him from acting in the said prejudicial manner it was necessary to detain him, passed an order of detention on 23.8.97.
3. The appellant challenged that order before the High Court of Judicature at Madras but her petition failed. She has, therefore filed this appeal.
4. What is contended by the learned counsel for the appellant is that there was unreasonable delay on the part of the Government in considering the detenu's representation and, therefore, his continued detention is illegal. The detenu had made a representation on 7.10.97. The Governor's Secretariat received it on 14.10.97. It was despatched to the Government on 15.10.97. It called for remarks of

the detaining authority on 17.10.97. The detaining authority in his turn called for remarks of the sponsoring authority on 21.10.97. The sponsoring authority gave its remarks on 24.10.97 and they were forwarded by the Commissioner of Police to the Government on 28.10.97. The representation was rejected by the Government on 10.11.97. The State Government was required to explain how it dealt with the representation between 15.10.97 and 10.11.97. Except stating that it called for the remarks of the detaining authority on 17.10.97 the Government has failed to explain why it had become necessary for it to call for the remarks of the detaining authority. Even after an opportunity was given by this Court on 12.5.98 to the respondents to file a counter affidavit dealing with the contentions raised in the S.L.P the Government has failed to file any counter and explain why it had called for the remarks of the detaining authority and what was the reason for not taking up for consideration the representation of the detenu from 21.10.97 till 10.11.97. Though the delay is not long it has remained unexplained. Though the delay by itself is not fatal the delay which remains unexplained becomes unreasonable. In spite of the this well-settled legal position the State Government has failed to explain satisfactorily that it had dealt with the representation to the detenu as promptly as possible. It appears that oblivious of the correct legal position and its obligations in matters of preventive detention it has dealt with the representation of the detenu in a routine manner. This indifference of the Government is the cause for rendering the continued detention of the detenu illegal. We, therefore, allow this appeal, quash and set aside the impugned order of detention and direct that the detenu be released forthwith unless his presence in jail is required in connection with some other case.

sary for it to call for the remarks of the detaining authority. Even after an opportunity was given by this Court on 12.5.98 to the respondents to file a counter affidavit dealing with the contentions raised in the SLP the Government has failed to file any counter and explain why it had called for the remarks of the detaining authority and what was the reason for not taking up for consideration the representation of the detenu from 21.10.97 till 10.11.97. Though the delay is not long it has remained unexplained. Though the delay by itself is not fatal the delay which remains unexplained becomes unreasonable. In spite of this well-settled legal position the State Government has failed to explain satisfactorily that it had dealt with the representation of the detenu as promptly as possible. It appears that oblivious of the correct legal position and its obligations in matters of preventive detention it has dealt with the representation of the detenu in a routine manner. This indifference of the Government is the cause for rendering the continued detention of the detenu illegal. We, therefore, allow this appeal, quash and set aside the impugned order of detention and direct that the detenu be released forthwith unless his presence in jail is required in connection with some other case.