

(2006) 04 MAD CK 0181

In the Madras High Court

Case No : Habeas Corpus Petition No. 58 of 2006

Chellamuthu

APPELLANT

Vs

The District Magistrate and District Collector and The
Secretary to Govt. of Tamil Nadu, Prohibition and Excise
Department, Government of Tamil Nadu

RESPONDENT

Date of Decision : 18-04-2006

Acts Referred:

Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders,
Goondas, Immoral Traffic Offenders and Slum-Grabbers, Act, 1982 — Section 3(1)

Citation : (2006) 04 MAD CK 0181

Hon'ble Judges : P. Sathasivam, J;J.A.K. Sampathkumar, J

Bench : Division Bench

**Advocate : K. Manivasakam, for the Appellant; Abudukumar Rajaratrinam,
Government Advocate (Crl.), for the Respondent**

Final Decision : Allowed

Judgement

P. Sathasivam, J.—The petitioner by name Chellamuthu, challenges the impugned order of detention dated 30.09.2005, detaining her

brother Padaiyappa @ Marudupondy @ Marudu Pondian, as ""Boot-Legger"" u/s 3(1) of the Tamil Nadu Prevention of Dangerous Activities of

Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders and Slum Grabbers Act, 1982 (in short ""Tamil Nadu Act 14

of 1982"").

2. Heard both sides.

3. The learned Counsel for the petitioner at the foremost submitted that the earlier bail order dated 08.09.2005 was sent to the detaining authority

by way of additional affidavit dated 29.09.2005. Inasmuch as the second dismissal order dated 30.09.2005 though available in the paper book

(page 76), there is no explanation how the said document was sent to the detaining authority. According to him, in the absence of a covering letter

or additional affidavit with reference to the said document, viz., dismissal of bail petition dated 30.09.2005, the ultimate order passed by the

detaining authority is liable to be quashed. In support of the above contention, he relied on an unreported decision of this Court dated 21.12.1999

made in HCP. No. 875 of 1999 (M. Kasinathan v. District Collector, Thiruvavur). In that decision, the said Division Bench, relying on an earlier

decision in HCP. No. 1298 of 1998, after finding that whenever any subsequent document is forwarded to the detaining authority by the

sponsoring authority subsequent to the filing of his affidavit, the same should be accompanied by a covering letter / additional affidavit, failing which

the order of detention cannot be sustained, allowed the habeas corpus petition and set aside the order of detention.

4. Now, in the light of the above position, we verified the materials placed. It is true that the order dated 30.09.2005 is available in the paper

book. It shows that the same was sent to the detaining authority. However, as rightly pointed out there is no covering letter or additional affidavit

forwarding the said order dated 30.09.2005. It is not in dispute that even in the affidavit dated 29.09.2005, there is no reference to the order

dated 30.09.2005. Obviously it cannot be, since the same was passed subsequent to the additional affidavit dated 29.09.2005. In the light of the

above factual position and in view of the decision relied on by the learned Counsel for the petitioner, we accept the contention raised by the

learned Counsel for the petitioner. On this ground, the impugned detention order is quashed; accordingly, this petition is allowed. The order of

detention impugned in the petition is set aside and the detenu is directed to be set at liberty forthwith from the custody unless he is required in

connection with any other case.