
(2004) 09 MAD CK 0125
In the Madras High Court
Case No : H.C.P. No. 666 of 2004

Chinnadurai

APPELLANT

Vs

State of Tamil Nadu

RESPONDENT

Date of Decision : 11-09-2004

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2004) 09 MAD CK 0125

Hon'ble Judges : P.K. Misra, J;K.P. Sivasubramaniam, J

Bench : Division Bench

Advocate : T. Madasamy, for the Appellant; Abudu Kumar Rajarathinam, Government Advocate (Crl. side), for the Respondent

Judgement

P.K. Misra, J.—Heard Mr. T. Madasamy, learned counsel for the petitioner and Mr. Abudu Kumar Rajarathinam, Government Advocate, (Criminal side).

2. The order of preventive detention dated 23.4.2004 is challenged in this Habeas Corpus Petition filed by the son of the detainee. The order of detention is on the allegation that the detainee is a bootlegger. Even though several contentions have been raised it is unnecessary to deal with all those contentions as in our opinion the non-placing of the representation dated 21.4.2004 made by the daughter of the detainee and addressed to the District Magistrate and District Collector for consideration before the Advisory Board has vitiated the order of detention. The materials on record indicate that the representation was sent by registered post acknowledgement due on 21.4.2004 and the order of the detention order was made on 23.4.2004. There is some doubt as to whether such pre-detention representation had been received by the detaining authority before the order of detention was made. However, undoubtedly, such representation was not subsequently forwarded by the detaining authority to the Advisory Board. Even if the representation had not been received before the order of detention has been passed, the detaining authority should have atleast forwarded the representation to the Advisory Board for consideration by such

Board. The materials on record indicate that such representation had not been forwarded. In such view of the matter, we are of the opinion that the detention of the detainee becomes vitiated.

3. Accordingly, the Habeas Corpus Petition is allowed and the order of detention is set aside. The detainee is directed to be set at liberty forthwith from the custody unless her custody is required in any other cause or cause.