
(2006) 01 MAD CK 0167
In the Madras High Court
Case No : H.C.P. No. 958 of 2005

Danam	Vs	APPELLANT
State of Tamil Nadu		RESPONDENT

Date of Decision : 19-01-2006

Acts Referred:

Tamil Nadu Prohibition Act, 1937 — Section 4(1)

Citation : (2006) 01 MAD CK 0167

Hon'ble Judges : P. Sathasivam, J;N. Paul Vasanthakumar, J

Bench : Division Bench

Advocate : Paulnoble Devakumar, for the Appellant; M.K. Subramanian, Government Advocate, for the Respondent

Final Decision : Dismissed

Judgement

P. Sathasivam, J.—The petitioner is the wife of the detenu by name Reagan. She challenges the detention order dated 23.08.2005 detaining her husband as "Bootlegger" as contemplated under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982).

2. Heard learned counsel for the petitioner as well as learned Government Advocate for the respondents.

3. Learned counsel for the petitioner, after taking us through the grounds of detention and all other connected materials, has raised the following contentions:-

- a. There is delay in disposal of the representation of the detenu.
- b. Certain documents supplied to the detenu are illegible and not readable.
- c. There is no imminent possibility of coming out by the detenu since he has not filed any bail petition and this aspect has not been considered by the Detaining

Authority.

d. In view of different versions relating to previous cases, in the absence of proper explanation by the Sponsoring Authority, the ultimate order passed by the Detaining Authority is liable to be quashed on the ground of non-application of mind.

e. The Detaining Authority has passed the impugned order of detention without adequate materials.

4. Learned Government Advocate appearing for the respondents met all the above contentions by placing the relevant records.

5. Coming to the first contention regarding delay, it is seen from the particulars furnished by the learned Government Advocate that the representation of the detenu was received by the Government on 09.09.2005, remarks were called for on 12.09.2005 and the same were received by the Government on 21.09.2005. Thereafter, the File was dealt with by the Under Secretary and Deputy Secretary on 22.09.2005. Finally, the Minister for Prohibition and Excise passed orders on 23.09.2005. Rejection letter was prepared on 28.09.2005 and the same was sent to the detenu on 29.09.2005 and served to him on 30.09.2005. If we exclude the intervening Holidays, we are of the view that the time taken by the authorities cannot be said to be abnormal as claimed by the counsel for the petitioner.

6. Coming to the second contention, we verified the relevant documents supplied to the detenu. We are satisfied that those copies are legible and readable and there is no substance in the contention.

7. Coming to the next contention, in paragraph No. 4 of the grounds of the detention, it is clearly stated that the Detaining Authority was aware that the detenu was in remand at the time of passing the detention order and he has moved a bail petition before the Principal Sessions Court, Chengalpattu, in Crl.M.P. No. 9590 of 2005 in respect of Crime No. 387 of 2005 and the same was dismissed. It further shows that he also moved a bail petition before this Court in Crl.O.P. No. 22 609 of 2005 and the said petition was also dismissed. Noting that by filing another bail application before the Sessions Court or before this Court, it would be possible for the detenu to come out on bail, and also taking note of all other materials, the Detaining Authority passed the impugned order of detention. The said conclusion cannot be faulted with.

8. With regard to the contention relating to non-application of mind, it is brought to our notice that in the order dated 11.08.2005, in Crl.M.P. No. 9590 of 2005, the learned Principal District and Sessions Judge, Chengalpattu, has mentioned that the detenu has 17 previous cases to his credit and that he is said to be a habitual offender. In the grounds of detention, it is stated that the detenu has 7 previous cases. By pointing out that there is no proper explanation by the authority concerned in respect of pendency of the previous cases, it is argued

that the Detaining Authority has not applied his mind to the relevant factors while passing the order of detention.

9. We are unable to accept the said contention. As rightly pointed out, the reference made in CrI.M.P. No. 9590 of 2005, ie., 17 previous cases, is by the learned Principal District and Sessions Judge and not by the Detaining Authority or the Sponsoring Authority. Even otherwise, it has been correctly stated in the grounds of detention with which alone we are concerned. In such circumstances, we are unable to accept the said contention.

10. A faint argument was advanced that there was no material for passing the order of detention. On going through the grounds of detention, it is seen that the detenu has 6 adverse cases to his credit and a ground case as well; Even as early as on 21.1.2003, he was convicted for an offence u/s 4(1)(i) of the TNP Act, 1937. We are satisfied that, based on required materials and after taking note of all the relevant aspects, the Detaining Authority has passed the impugned order of detention. Accordingly, we reject the said contention also.

11. In the light of what is stated above, we do not find any valid ground for interference. Habeas Corpus Petition fails and the same is dismissed.