

(2008) 12 MAD CK 0267

In the Madras High Court

Case No : Habeas Corpus Petition (MD) No. 628 of 2008

Devathal

APPELLANT

Vs

The State of Tamil Nadu

RESPONDENT

Date of Decision : 04-12-2008

Acts Referred:

Citation : (2008) 12 MAD CK 0267

Hon'ble Judges : R. Subbiah, J;R. Regupathi, J

Bench : Division Bench

Advocate : M. Saravanakumar, for the Appellant; D. Issac Mohanlal, Additional Public Prosecutor, for the Respondent

Final Decision : Allowed

Judgement

R. Regupathi, J.—The mother of the detenu challenges the order of detention dated 21.04.2008, detaining her son as "Goonda" as contemplated under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum Grabbers and Video Pirates Act, 1982.

2. Learned Counsel for the petitioner submits that a representation, dated 25.07.2008, sent by the detenu to the Government is not yet disposed of, therefore, the order of detention is vitiated.

3. Learned Additional Public Prosecutor for the respondents submits that no such representation has been received by the Government.

4. We have perused the materials available on record and considered the submissions made on either side.

5. In the counter affidavit filed on behalf of the second respondent, at Paragraph No. 9, it has been stated as follows:

It is submitted that the representation of the detenu was received from Government in this office on 31.07.2008. Remarks of the sponsoring authority

was obtained on 01.08.2008 and the remarks of this respondent was sent to government on 01.08.2008.

It is unfortunate that contradictory statements have made on behalf of the respondents when it has been positively admitted that a representation has been received on 31.07.2008 whereupon remarks were called for from the sponsoring authority and obtained on 01.08.2008 and on the same day, it was sent to the Government. In view of the prevaricating statement made on behalf of the Government, we have no other option but to set aside the impugned detention order.

6. In the result, the Habeas Corpus Petition is allowed and the order of detention passed by the second respondent in Detention Order in M. H. S. Confdl. No. 63/2008, dated 21.04.2008 is set aside. The detenu is directed to be set at liberty forthwith, unless his detention is required in connection with any other case or cause.