

(2006) 03 MAD CK 0227

In the Madras High Court

Case No : Habeas Corpus Petition No. 1256 of 2005

Dhanalakshmi

APPELLANT

Vs

The State of Tamil Nadu

RESPONDENT

Date of Decision : 01-03-2006

Acts Referred:

Citation : (2006) 03 MAD CK 0227

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

Bench : Division Bench

Advocate : E. Kannadasan, for the Appellant; Abudukumar Rajarathinam, Government Advocate, for the Respondent

Final Decision : Allowed

Judgement

P. Sathasivam, J.—The petitioner is the wife of the detenu by name Chandran. She challenges the impugned order of detention dated 22.10.2005, 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. At the foremost, learned Counsel for the petitioner, by drawing our attention to the order of the Principal Sessions Judge, Vellore District, dated 03.10.2005, would contend that even in the said order, a statement has been made on behalf of the Sponsoring Authority that steps have already been taken to detain the accused/detenu under the Goondas Act. According to the counsel, though the affidavit of the Sponsoring Authority is dated 07.10.2005, he has conveyed the decision that action is to be taken under the Goondas Act, to the court even on 03.10.2005. According to the counsel, while passing the detention order, the Detaining Authority has not independently applied his mind de hors to the order

dated 03.10.2005.

4. It is stated that the Detaining Authority has relied upon the order dated 03.10.2005. In view of the information to the Court even on 03.10.2005 that steps are being taken to detain the accused/detenu under Act 14 of 1982 and in the absence of materials to show that the Detaining Authority has taken the decision independently, we are of the view that the ultimate order passed by him is vitiated.

5. Accordingly, the Habeas Corpus Petition is allowed and the impugned order of detention is set aside. The detenu is directed to be set at liberty forthwith from the custody unless he is required in some other case or cause.