
(2006) 03 MAD CK 0275
In the Madras High Court
Case No : HCP No. 1272 of 2005

G. Vivekanandan	Vs	APPELLANT
The State of Tamil Nadu		RESPONDENT

Date of Decision : 20-03-2006

Acts Referred:

Citation : (2006) 03 MAD CK 0275

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

Bench : Division Bench

Advocate : P.Venkatasubramanian, for the Appellant; Abudu Kumar Rajarathinam, Government Advocate, for the Respondent

Final Decision : Dismissed

Judgement

P. Sathasivam, J.—The petitioner herein challenges the impugned order of detention, dated 15.11.2005, detaining his friend by name Salam Basha 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 submitted that there was delay in disposal of the representation of the detenu. The particulars furnished by the learned Government Advocate show that the representation of the detenu was received by the Government on 29.11.2005 and on the same day, remarks were also received. The File was submitted on 30.11.2005 and it was dealt with by the Under Secretary and Deputy Secretary on 01.12.2005. The Minister for Prohibition and Excise passed orders on 02.12.2005. The rejection letter was prepared on 07.12.2005, sent to the Central Prison for service on 08.12.2005 and served to the detenu on 12.12.2005.

4. Learned counsel for the petitioner submitted that though the Minister for Prohibition and Excise passed orders on 02.12.2005, there is no reason for taking time till 07.12.2005 for preparation of the rejection letter. On the other hand, learned Government Advocate has brought to our notice that though the decision was taken by the Minister on 02.12.2005, in view of the intervening holidays on 03.12.2005 and 04.12.2005, the Rejection Letter was prepared only on 07.12.2005, i.e., on the third working day. Hence, according to him, there is no undue delay as claimed by the learned counsel for the petitioner.

5. We verified the particulars. In view of the intervening holidays, viz., 03.12.2005 and 04.12.2005, and of the fact that the Rejection Letter was prepared on the third working day, i.e., on 07.12.2005, we are unable to accept the contention made by learned counsel for the petitioner.

6. Learned counsel for the petitioner next submitted that in view of the information given by the Public Prosecutor before the Principal Sessions Court, Salem, while hearing the bail application in C.M.P. No. 6445 of 2005, the ultimate order of detention cannot be sustained. We verified the order of the learned Principal Sessions Judge, Salem, dated 21.11.2005. It is not in dispute that the detention order was passed by the Detaining Authority, viz., Commissioner of Police, Salem, on 15.11.2005, much earlier to the order of the learned Sessions Judge dated 21.11.2005. In such circumstances, we are of the view that the statement of the Public Prosecutor that action is being taken for detaining the accused/detenu under Tamil Nadu Act 14 of 1982 has nothing to do with the decision already taken by the Detaining Authority on 15.11.2005.

7. 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.