

(2006) 04 MAD CK 0179

In the Madras High Court

Case No : Habeas Corpus Petition No. 115 of 2006

Guna

APPELLANT

Vs

The State of Tamil Nadu

RESPONDENT

Date of Decision : 18-04-2006

Acts Referred:

Citation : (2006) 04 MAD CK 0179

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

Bench : Division Bench

Advocate : V. Parthasarathy, for the Appellant; Abudhukumar Rajarathinam, Government Advocate (Crl. Side), for the Respondent

Final Decision : Allowed

Judgement

P. Sathasivam, J.—The petitioner, who is the wife of the detenu by name Mahalingam, who was detained as a "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), by the impugned detention order dated

01.12.2005, challenges the same in this Petition.

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 is enormous delay in disposal of the representation of the detenu, which

vitiates the ultimate order of detention. With reference to the above claim, learned Government Advocate has placed the details, which show that

the representation of the detenu dated 30.01.2006 was received by the

Government on 31.01.2006. The said representation was received by the Collectorate also on the same date i.e. on 31.01.2006 and the parawar remarks were called for from the Sponsoring authority on 07.02.2006 and the remarks were received from the sponsoring authority on 15.02.2006 and the report was sent to the Government on 17.02.2006. The remarks were received by the Government also on the same date i.e. on 17.02.2006 and thereafter, the file was submitted on 20.02.2006 and the same was dealt with by the Under Secretary and Deputy Secretary on the same date i.e. on 20.02.2006 and finally, the Minister for Prohibition and Excise passed orders on 21.02.2006. The rejection letter was prepared on 24.02.2006 and the same was sent to the detenu on 27.02.2006 and served to him on 01.03.2006. As rightly pointed out by the learned Counsel for the petitioner, though the parawar remarks were called for from the sponsoring authority on 07.02.2006, the remarks were received from the sponsoring authority by the Collectorate only on 15.02.2006 and there is no explanation at all for sending the remarks to the Collectorate belatedly. In the absence of any explanation by the person concerned even after excluding the intervening holidays, we are of the view that the time taken for sending the remarks is on the higher side and the said delay has prejudiced the detenu in disposal of his representation. On this ground, we quash the impugned order of detention.

4. 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.