

(2006) 07 MAD CK 0036

In the Madras High Court

Case No : Habeas Corpus Petition No. 392 of 2006

Ilayaraja

APPELLANT

Vs

The State

RESPONDENT

Date of Decision : 03-07-2006

Acts Referred:

Citation : (2006) 07 MAD CK 0036

Hon'ble Judges : V. Dhanapalan, J;P. Sathasivam, J

Bench : Division Bench

Advocate : O.S. Thilak Pasumbadiyar, for the Appellant; M. Babu Muthu Meeran, Assistant Public Prosecutor, for the Respondent

Final Decision : Allowed

Judgement

P. Sathasivam, J.—The petitioner, who is the brother of the detenue by name Saratha, who is 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 27.02.2006, challenges the same in this Petition.

2. Heard learned Counsel for the petitioner as well as learned Additional Public Prosecutor 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 detenue, which

vitiates the ultimate order of detention. With reference to the above claim, learned Additional Public Prosecutor has placed the details, which show

that the representation of the detenue dated 04.04.2006 was received by the

Government on 06.04.2006 and remarks were called for on 07.04.2006 and the remarks were received by the Government on 17.04.2006 and the File was submitted on 20.04.2006 and the same was dealt with by the Under Secretary on the same day i.e. on 20.04.2006 and by the Deputy Secretary on 21.04.2006 and finally, the Minister for Prohibition and Excise passed orders on the same day i.e. on 21.04.2006. The rejection letter was prepared on 10.05.2006 and the same was sent to the detinue on 12.05.2006 and served to him on 16.05.2006. As rightly pointed out by the learned Counsel for the petitioner, though the Minister for Prohibition and Excise passed an order on 21.04.2006, there is no explanation at all for taking time for preparation of rejection letter till 10.05.2006. 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 preparation of rejection letter is on the higher side and we hold that the said delay has prejudiced the detinue in disposal of her 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 detinue is directed to be set at liberty forthwith from the custody unless she is required in some other case or cause.