

(2006) 03 MAD CK 0271
In the Madras High Court
Case No : HCP No. 1302 of 2005

Jeeva @ Jeevarathinam

APPELLANT

Vs

The District Magistrate and District Collector and The
Secretary to Government, State of Tamil Nadu, Prohibition
and Excise Department

RESPONDENT

Date of Decision : 20-03-2006

Acts Referred:

Citation : (2006) 03 MAD CK 0271

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

Bench : Division Bench

Advocate : K. Manivasakam, for the Appellant; Abudhukumar Rajarathinam,
Government Advocate, for the Respondent

Final Decision : Allowed

Judgement

P. Sathasivam, J.—The petitioner, who is the father-in-law of the detenu by name Irusappan, who was detained as a ""Goonda" 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 8.12.2005 was received by the Government on 12.12.2005 and remarks were called for on 14.12.2005. After the reminder dated 26.12.2005, the remarks were received by the Government on the same date,

i.e. on 26.12.2005 on which date, the File was also dealt with by the Under Secretary and the Deputy Secretary and finally, the Minister for Prohibition and Excise passed orders on 27.12.2005. The rejection letter was prepared on 04.01.2006 and the same was sent to the detenu on the same date i.e. on 04.01.2006 and served to him on 07.01.2006. As rightly pointed out by the learned counsel for the petitioner, though the Minister for Prohibition and Excise passed an order on 27.12.2005, there is no explanation at all for taking time for preparation of rejection letter till 04.01.2006. 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 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.