
(2006) 02 MAD CK 0056

In the Madras High Court

Case No : Habeas Corpus Petition No. 1187 of 2005

Kamatchi

APPELLANT

Vs

The State of Tamilnadu

RESPONDENT

Date of Decision : 24-02-2006

Acts Referred:

Citation : (2006) 02 MAD CK 0056

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

Bench : Division Bench

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

Final Decision : Allowed

Judgement

P. Sathasivam, J.—The petitioner, who is detained 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) by the impugned order of detention dated 09.09.2005, challenges the same in this Habeas Corpus 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 delay in disposal of the representation of the detinue, which vitiates

the ultimate order of detention. In respect of the same, learned Government Advocate has produced the particulars, which show that the

representation of the detinue, dated 10.10.2005, was received by the Government on 13.10.2005 and remarks were called for on 14 .10.2005.

The particulars of the Collectorate show that the intimation was received from the Government on 14.10.2005 and remarks were, in turn, called for from the Sponsoring Authority on 17.10.2005, however, the same were received from the Sponsoring Authority only on 02.11.2005, sent to the Government on 08.11.2005 and received by it on 11.11.2005. The File was dealt with by the Under Secretary and Deputy Secretary on the same day, ie., on 11.11.2005. Finally, the Minister for Prohibition and Excise passed orders on 14.11.2005. The rejection letter was prepared on 15.11.2005 and sent to the Superintendent, Central Prison, for service on 16.11.2005 and served on the detainee on 18.11.2005.

4. As rightly pointed out, though remarks were called for from the Sponsoring Authority on 17.10.2005, the same were received by the Collectorate only after a fortnight, ie., on 02.11.2005. There is no explanation at all for taking such a long time by the Sponsoring Authority for collecting the remarks. We hold that, in the absence of proper explanation by the person concerned, the delay is on the higher side, which caused prejudice to the detainee in considering her representation effectively. On this ground, we quash the impugned order of detention.

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