

(2006) 03 MAD CK 0216

In the Madras High Court

Case No : Habeas Corpus Petition No. 1254 of 2005

Kasiammal

APPELLANT

Vs

The State of Tamil Nadu

RESPONDENT

Date of Decision : 01-03-2006

Acts Referred:

Citation : (2006) 03 MAD CK 0216

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 herein, who is the wife of the detenu by name Govindasamy, challenges the impugned order of detention, dated 02.09.2005, detaining her husband 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 17.11.2005. Subsequently, remarks were called for on 18.11.2005 and the same were received on 28.11.2005. The File was dealt with by the Under Secretary and Deputy Secretary on 30.11.2005. Finally, the Minister for Prohibition and Excise passed orders on 01.12.2005. However, the rejection letter was prepared only on 07.12.2005. The said letter was sent to the Central Prison for service on

08.12.2005 and served to the detenu on 12.12.2005.

4. As rightly pointed out by the learned Counsel for the petitioner, though the competent authority, viz., Minister for Prohibition and Excise, passed orders on 01.12.2005, there is no reason for taking time till 07.12.2005 for preparation of the rejection letter. In the absence of proper explanation, even if we exclude the intervening holidays, we are of the view that the delay is on the higher side, which caused prejudice to the detenu in considering his representation effectively. On this ground, the impugned order of detention is quashed.

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