

(2006) 04 MAD CK 0225

In the Madras High Court

Case No : Habeas Corpus Petition No. 80 of 2006

M. Kalandar Marakkayar

APPELLANT

Vs

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

RESPONDENT

Date of Decision : 10-04-2006

Acts Referred:

Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders,
Goondas, Immoral Traffic Offenders and Slum-Grabbers, Act, 1982 — Section 3(1)

Citation : (2006) 04 MAD CK 0225

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

Bench : Division Bench

**Advocate : K. Manivasakam, for the Appellant; Abudukumar Rajarathinam,
Government Advocate (Crl.), for the Respondent**

Final Decision : Allowed

Judgement

P. Sathasivam, J.—The petitioner by name Kalandar Marakkayar, who challenges the impugned order of detention dated 31.08.2005,

detaining his son Rowther Naina Mohammed @ Durai, as ""Goonda"" u/s 3(1) of the Tamil Nadu Prevention of Dangerous Activities of

Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders and Slum Grabbers Act, 1982 (in short ""Tamil Nadu Act 14

of 1982"").

2. Heard both sides.

3. Even at the foremost the learned counsel for the petitioner submitted that there was inordinate delay in considering the representation of the

detenu, which vitiates the ultimate order of detention. With reference to the said claim the learned Government Advocate has placed details, which

show that the representation of the detenu dated Nil was received by the Government on 14.10.2005; remarks were called on 17.10.2005, remarks were received on 15.11.2005. Even after receipt of the remarks, the same was dealt with by the Under Secretary on 15.11.2005 and the Deputy Secretary on 16.11.2005; order was passed by the Minister for Prohibition and Excise on 17.11.2005, rejection letter was prepared on 29.11.2005; the same was sent to the detenu on 30.11.2005 and the rejection letter was served on the detenu only on 03.12.2005. As rightly pointed out though the concerned Minister has passed an order on 17.11.2005, there is no explanation or reason for not forwarding the same to the detenu till 03.12.2005. In the absence of any explanation, we hold that the delay between 17.11.2005 and 03.12.2005 is enormous. On this ground, the impugned detention order is vitiated and the same is quashed; accordingly, this petition is allowed. The order of detention impugned in the petition is set aside and the detenu is directed to be set at liberty forthwith from the custody unless he is required in connection with any other case.