
(2006) 02 MAD CK 0030

In the Madras High Court

Case No : Habeas Corpus Petition No. 1189 of 2005

M. Sakthivelu

APPELLANT

Vs

The Secretary to Government, Prohibition and Excise
Department and The Commissioner of Police

RESPONDENT

Date of Decision : 27-02-2006

Acts Referred:

Citation : (2006) 02 MAD CK 0030

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

Bench : Division Bench

Advocate : V. Parthiban, for G. Santhivinayagam, for the Appellant;
Abudukumar Rajarathinam, Government Advocate (Crl. Side), for the Respondent

Final Decision : Allowed

Judgement

P. Sathasivam, J.—The petitioner by name Sakthivelu, 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 02.08.2005, 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 appearing for the petitioner by drawing our attention to the details furnished in paragraph 4 of the grounds of

detention would contend that in the absence of remand extension order in respect of Crime No. 2240 of 2005 of F-5 Choolaimedu Police Station,

which relates to the second adverse case, the impugned order of detention passed by the detaining authority is liable to be quashed.

4. Since relevant material has not been taken note of with reference to the same, we verified the paper book supplied to the detenu. Though by an order dated 11.07.2005, the learned XVII Metropolitan Magistrate, Chennai has remanded the accused/detenu till 25.07.2005 in respect of

Crime No. 2240/2005 on the file of Choolaimedu Police Station, there is no subsequent order extending the remand in the said Crime No.

2240/2005, inasmuch as the same is a material, the detaining authority ought to have considered. In such circumstances, we are of the view that

failure to consider the same vitiates the ultimate order passed by the detaining authority. There is no dispute with regard to the same on the part of

the Government Advocate appearing for the respondent.

5. 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.