
(2006) 02 MAD CK 0072

In the Madras High Court

Case No : Habeas Corpus Petition No. 1241 of 2005

M. Venkata Raman

APPELLANT

Vs

The State of Tamilnadu

RESPONDENT

Date of Decision : 28-02-2006

Acts Referred:

Citation : (2006) 02 MAD CK 0072

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

Bench : Division Bench

Advocate : R. Shivakumar, for the Appellant; Abudu Kumar Rajarathinam, Government Advocate, for the Respondent

Final Decision : Allowed

Judgement

P. Sathasivam, J.—The petitioner herein challenges the impugned order of detention, dated 07.11.2005, detaining his brother by name

Chennappan 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, 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 detenu, dated 16.11.2005, was received by the Government on 05.12.2005 and remarks were called for on 06.12.2005.

The particulars of the Collectorate show that the intimation was received from the Government on 07.12.2005 and remarks were, in turn, called

for from the Sponsoring Authority on the same day, however, the same were received from the Sponsoring Authority only on 15.12.2005, sent to

the Government on 22.12.2005 and received by it on the same day. The File was dealt with by the Under Secretary on 23.12.2005 and by the

Deputy Secretary on 26.12.2005. Finally, the Minister for Prohibition and Excise passed orders on 27.12.2005. The rejection letter was prepared

on 04.01.2006 and sent to the Superintendent, Central Prison, for service on 05.01.2006 and served on the detenu on 10.01.2006.

4. As rightly pointed out, though remarks were called for from the Sponsoring Authority on 07.12.2005, the same were received by the

Collectorate only after seven days, ie., on 15.12.2005. 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 detenu in considering his 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 detenu is directed to be set at liberty

forthwith from the custody unless he is required in some other case or cause.