
(2008) 01 MAD CK 0067
In the Madras High Court
Case No : H.C.P. No. 1621 of 2007

Manimegalai

APPELLANT

Vs

State

RESPONDENT

Date of Decision : 08-01-2008

Acts Referred:

Madras Prohibition Act, 1937 — Section 4(1)
Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders,
Goondas, Immoral Traffic Offenders and Slum-Grabbers, Act, 1982 — Section 3(1)

Citation : (2008) 01 MAD CK 0067

Hon'ble Judges : R. Regupathi, J;P.D. Dinakaran, J

Bench : Division Bench

Advocate : O.S. Thilak Pasumbadiar, for the Appellant; N.R. Elango, Additional Public Prosecutor, for the Respondent

Final Decision : Allowed

Judgement

P.D. Dinakaran, J.—The order of detention dated 6.11.2007, clamped on the detenu by name Manivannan by the second respondent in

C3/D.O. No. 101/2007, branding him as a Bootlegger u/s 3(1) of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug

Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu

Act 14 of 1982), is being challenged in this writ petition by the daughter of the detenu.

2. The order of detention dated 6.11.2007 came to be passed based on the ground case said to have taken place on 14.10.2007, registered in

Vellore Taluk Police Station Crime No. 457 of 2007 for offences under Sections 4(1)i, 4(1)(aaa), 4(1-A)ii of the Tamil Nadu Prohibition Act and

328 IPC, complaint of which was lodged by one Murugan. It is alleged in the

complaint that the complainant purchased arrack from the detenu and after consuming the same, unable to withstand, he left the place and after some time, he felt giddiness and fell down and after regaining he again felt dizziness and irritation in eyes. Suspecting that the arrack would have been admixed with some poisonous substances in order to increase the intoxication, the complainant lodged the complaint, based on which, the detenu was arrested and on interrogation, he admitted that he has been indulging in selling illicit arrack. The detenu was later sent to Court for judicial remand and the sample of arrack, when sent for chemical analysis, was admixed with 6.9. mg.% w/v of atropine, which is a poisonous substance.

3. The detaining authority, taking note of the above ground case as well as six adverse cases of similar nature on the file of same police station, viz.

in Crime Nos. 27/2006, 544/2006, 148/2007, 302/2007, 340/2007 and 424/2007 and having come to the subjective satisfaction that there is a

compelling necessity to detain the detenu in order to prevent him from indulging in the activities which are prejudicial to the maintenance of public

order and public health, ordered his detention dubbing him as a Bootlegger.

4. The main contention of the learned Counsel for the petitioner is that even though a representation dated 14.11.2007 was sent by the learned

Counsel on behalf of the detenu within the statutory period of twelve days, the detaining authority rejected the same only on 7.12.2007, viz., after

the lapse of the statutory period of twelve days, and such delay in exercising the power conferred on the detaining authority in the manner known

to law vitiates the detention order.

5. We heard the submissions of both sides and perused the materials produced before us.

6. Concededly, the detention order was passed on 6.11.2007 and a representation was made on behalf of the detenu on 14.11.2007 to the

detaining authority within the statutory period of twelve days. The detaining authority, however, passed an order of rejection, rejecting the

representation made on behalf of the detenu, only on 7.12.2007, viz., after the expiry of the statutory period of twelve days, and there is no

convincing explanation for the said delay in considering the representation made on behalf of the detenu. We are, therefore, of the considered

opinion that the delay in exercising the power conferred on the detaining

authority in the manner known to law, vitiates the order of detention, for want of jurisdiction.

For the aforesaid reason, we are inclined to allow this petition. The order of detention dated 6.11.2007 is quashed. The detenu is directed to be set at liberty forthwith unless his presence is required in connection with any other case.