

(2006) 03 MAD CK 0193

In the Madras High Court

Case No : Habeas Corpus Petition No. 1222 of 2005

Mannu

APPELLANT

Vs

The State of Tamil Nadu

RESPONDENT

Date of Decision : 06-03-2006

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) 03 MAD CK 0193

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

Bench : Division Bench

Advocate : R. Subadra Devi, for the Appellant; Abudukumar Rajaratrinam, Government Advocate (Crl.), for the Respondent

Final Decision : Allowed

Judgement

P. Sathasivam, J.—The petitioner by name Mannu, challenges the impugned order of detention dated 29.10.2005, detaining him as "Boot-Legger" 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 11.11.2005 was received by the Government on 14.11.2005 and remarks were called on 15.11.2005, remarks were received on 21.11.2005. After receipt of the remarks, the same was dealt with by the Under Secretary and the Deputy Secretary on 22.11.2005; order was passed by the Minister for Prohibition and Excise on 23.11.2005, rejection letter was prepared on 29.11.2005; the same was sent to the detenu on 01.12.2005

and the rejection letter was served on the detenu only on 01.12.2005. As rightly pointed out though the concerned Minister has passed an order on 23.11.2005, there is no explanation or reason for not forwarding the same to the detenu till 29.11.2005. In the absence of any explanation, we hold that there is a delay between 23.11.2005 and 29.11.2005. On this ground, the impugned detention order is vitiated. It is made clear that because of the peculiar circumstances and factual position of this case, we are constrained to quash the impugned order on the ground of delay; 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. This order cannot be cited as a precedent for any other case.