
(2006) 04 MAD CK 0195

In the Madras High Court

Case No : Habeas Corpus Petition No. 100 of 2006

Munuswamy

APPELLANT

Vs

State of Tamil Nadu

RESPONDENT

Date of Decision : 18-04-2006

Acts Referred:

Citation : (2006) 04 MAD CK 0195

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

Bench : Division Bench

Advocate : S. Swamidoss Manokaran, for the Appellant; Abudu Kumar Rajarathinam, Government Advocate (Crl. Side), for the Respondent

Final Decision : Allowed

Judgement

P. Sathasivam, J.—The petitioner herein, who is the uncle of the detenu Annadurai, challenges the impugned order of detention, dated

17.01.2006, detaining him as "Boot-Legger" 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 20.01.2006, was received by the Government on 23.01.2006 and remarks were called for on 24.01.2006.

The particulars of the Collectorate show that the intimation was received from the Government on 23.01.2006 and remarks were, in turn, called for from the Sponsoring Authority on 30.01.2006, however, the same were received from the Sponsoring Authority only on 20.02.2006, sent to the Government on 22.02.2006 and the same was received by it on the same day. The File was submitted on 22.02.2006 and the same was dealt with by the Under Secretary on the same day i.e., on 22.02.2006 and by the Deputy Secretary on 23.02.2006. Finally, the Minister for Prohibition and Excise passed orders on 23.02.2006. The rejection letter was prepared on 24.02.2006 and sent to the Prison on 27.02.2006, and was served on the detenue on 01.03.2006.

4. As rightly pointed out, though remarks were called for from the Sponsoring Authority on 30.01.2006, the same were received by the Collectorate only on 20.02.2006. There is no explanation at all for taking time till 20.02.2006 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.