

(2005) 07 MAD CK 0135
In the Madras High Court
Case No : H.C.P. No. 364 of 2005

Murugesan

APPELLANT

Vs

The District Collector and District Magistrate and The
Secretary to Govt. of Tamil Nadu, Prohibition and Excise
Dept.

RESPONDENT

Date of Decision : 19-07-2005

Acts Referred:

Citation : (2005) 07 MAD CK 0135

Hon'ble Judges : P. Sathasivam, J;AR. Ramalingam, J

Bench : Division Bench

Advocate : K. Aivasakam, for the Appellant; Abudu Kumar Rajarathinam, (Crl. Side), for the Respondent

Final Decision : Dismissed

Judgement

P. Sathasivam, J.—The petitioner, who is the son of the detenue by name Kaliyammal, challenges the impugned detention order dated

28.02.2005, branding the detenue 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. Learned counsel appearing for the petitioner, after taking us through the grounds of detention and connected records, has raised the following

contentions,

(a) There was delay in disposal of the representation of the detenue, which vitiates the detention order.

(b) Pre-detention representation made on 26.2.2005, though received on

28.2.2005, has not been referred to in the grounds of detention.

(c) Certain portions in the grounds of detention and the copies supplied to the detainee are not properly translated, which affected the detainee in making effective representation.

(d) The Detaining Authority has not referred to the cogent materials for detaining the detainee as "Bootlegger".

(e) Family members of the detainee were not intimated about her arrest.

3. In so far as the first contention, namely, delay in disposal of the representation, particulars furnished by the learned Government Advocate show

that the representation of the detainee was received by the Government on 31.3.2005, remarks were c d for on 01.04.2005, remarks were

received on 12.04.2005, File was submitted on 13.4.2005, the same was dealt with by the Deputy Secretary on 13.04.2005 and finally, the

Minister for Prohibition and Excise passed orders on 15.04.2005. Rejection letter was prepared on 18.04.2005. The said letter was sent to the

detainee on 19.04.2005 and served to her on 21.04.2005 . According to the counsel for petitioner, though the Government had called for the

remarks even as early as on 01.04.2005, the same were supplied to the Government only on 12.04.2005, which according to him is abnormal.

Learned Government Advocate has also furnished details regarding the time taken by the Collectorate and the Sponsoring Authority. On going

through the details furnished, we are satisfied that there is no undue delay as claimed by the learned counsel for the petitioner.

4. Coming to the second contention relating to non-consideration of the pre-detention representation, it is brought to our notice that the

representation was made on 26.02.2005 to the Detaining Authority. It is also the claim of the petitioner that though the same had been

acknowledged by the Detaining Authority on 28.2.2005, there is no reference to the same in the detention order passed on the same date, that is,

on 28.2.2005. For this, the learned Government Advocate has brought to our notice that the representation dated 26.02.2005 was received on

28.2.2005 by the Detaining Authority and on considering the same, an order was passed and intimated to the sender.

He also produced the File, which shows that the rejection order was placed before the Government. The said order finds place at page No.77. On

going through those materials, we are satisfied that inasmuch as the representation was considered and rejected and the same was also forwarded to the Government, there is no need to refer the same in the grounds of detention.

5. As regards the variation in translation in respect of Tamil version in paragraph Nos.4 and 5 of the grounds of detention, on going through the same, we are satisfied that there is no variation as claimed by the learned counsel for the petitioner.

6. Coming to the claim that the Detaining Authority was not having cogent materials before passing the order of detention, a perusal of paragraph

No.5 of the grounds of detention amply shows that the Detaining Authority possessed all the required details, namely, the detainee was in remand

and her bail application has not been disposed of and in such circumstances, it would be possible for the detainee to come out on bail. Though

learned counsel for the petitioner vehemently contended that it cannot be inferred that bail application was pending on the date on which the

detention order was passed, a reading of the beginning of paragraph No.5 of the grounds of detention makes it clear that the Detaining Authority

was aware of the fact that the bail application of the accused was pending at the time of passing of the detention order and in that event, as rightly

stated by the Detaining Authority, it would be possible for the detainee to come out on bail at any time. Learned Government Advocate has also

brought to our notice that copy of the bail petition, which is available at page No.70 of the Booklet, was also supplied to the detainee. In such

circumstances, the said contention is liable to be rejected.

7. Coming to the last contention that there was no intimation regarding the arrest to the family members of the detainee, learned Government

Advocate has brought to our notice that even on 28.2.2005 the fact of arrest was intimated to the son and daughter of the detainee and both of

them acknowledged the same by putting their signature.

8. In the light of what is stated above, we do not find any valid ground for interference. Consequently, the Habeas Corpus Petition is dismissed.