
(2012) 02 MAD CK 0275
In the Madras High Court
Case No : H.C.P. (MD) No. 1 of 2012

Muruggavalli

APPELLANT

Vs

State

RESPONDENT

Date of Decision : 29-02-2012

Acts Referred:

Citation : (2012) 3 CTC 313

Hon'ble Judges : P. Devadass, J;N. Paul Vasanthakumar, J

Bench : Division Bench

Advocate : Veera kathiravan, for the Appellant; A. Ramar, Additional Public Prosecutor, for the Respondent

Final Decision : Allowed

Judgement

N. Paul Vasanthakumar, J.—This Habeas Corpus Petition is filed by the wife of the detenu, challenging the order of detention passed by the Second Respondent, by his proceedings in P.D. No. 37 of 2011, dated 20.12.2011, detaining the detenu as a "Goonda" u/s 2(f) of the Tamil Nadu Prevention of Dangerous Activities of Boot-leggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum Grabbers and Video Pirates Act, 1982 [for brevity "the Act"]. Now, he has been lodged at Central Prison, Trichy. Even though the learned Counsel for the Petitioner argued several points, he emphasized the ground that the Detention Order dated 20.12.2011 was approved by the Government on 30.12.2011. However, the representation submitted by the detenu before the Detaining Authority was rejected on 13.1.2012 by the very same Detaining Authority, which according to the Petitioner, is not proper and the Detaining Authority has no jurisdiction and he has to place the same before the Advisory Board, which met on 1.2.2012. The learned Counsel for the Petitioner also relied on the judgment of Division bench of this Court in the decision in Rajeswari v. The Secretary to Government Prohibition and Excise Department & another, 2006 (2) LW 369 and submitted that the Detaining Authority, after passing the Detention Order, can only forward

the representation, if any received, to the Government and he has no power to pass orders on the representation of the detenu. The rejection order passed by the District Collector dated 13.1.2012 is also enclosed in the additional typed set of papers at page No. 3. The Government has also issued G.O.Ms. No. 3008, Home, Prohibition and Excise (XV) Department, dated 30.12.2011, approving the detention of the detenu.

2. Similar issue was considered by the Hon''ble Supreme Court in the decision in Sri Anand Hanumathsa Katare Vs. Additional District Magistrate and Others, wherein, in Paragraph No. 10, it is held thus:

10. Therefore, the Detaining Authority becomes functus officio the moment the approval is accorded by the State Government.

3. Here, in this case, the State Government approved the Detention Order as early as on 30.12.2011. Hence, the rejection order passed by the Detaining Authority on 13.12.2012 is not valid. Applying the law laid down by the Hon''ble in the said judgment to the facts of the present case, this Habeas Corpus Petition is allowed and the impugned Detention Order passed by the Second Respondent, in his proceedings in P.D. No. 37 of 2011, dated 20.12.2011 is quashed. The detenu, by name, M. Rajini s/o Mannudaiyan, is ordered to be set at liberty forthwith, if he is not required for detention in connection with any other case.