

(2006) 03 MAD CK 0317
In the Madras High Court
Case No : HCP No. 1306 of 2005

P. Lakshmanan

APPELLANT

Vs

The State of Tamil Nadu

RESPONDENT

Date of Decision : 14-03-2006

Acts Referred:

Citation : (2006) 03 MAD CK 0317

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

Bench : Division Bench

Advocate : A. John Britto, for the Appellant; Abudhukumar Rajarathinam, Government Advocate, for the Respondent

Final Decision : Allowed

Judgement

P. Sathasivam, J.—The petitioner, who is the father of the detenu by name Muthamizh @ Muthamizhan, who was detained as a ""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 19 82), by the impugned detention order dated 01.12.2005, challenges the same in this Petition.

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 is enormous delay in disposal of the representation of the detenu, which vitiates the ultimate order of detention. With reference to the above claim, learned Government Advocate has placed the details, which show that the representation of the detenu was received by the Government on 16.12.2005 and remarks were called for on 19.12.200 5. After the reminder, the remarks were received by the Government on 26.12.2005. Thereafter, the File was submitted on 27.12.2005 and the same was dealt with by the Under Secretary and Deputy Secretary on

28.12.2005 and finally, the Minister for Prohibition and Excise passed orders on 29.12.2005. The rejection letter was prepared on 04.01.2006 and the same was sent to the detenu on 06.01.2006 and served to him on 09.01.2006. As rightly pointed out by the learned counsel for the petitioner, though the Minister for Prohibition and Excise passed an order on 29.12.2005, there is no explanation at all for taking time for preparation of rejection letter till 04.01.2006. In the absence of any explanation by the person concerned, we hold that the said delay has prejudiced the detenu in disposal of his representation. On this ground, we quash the impugned order of detention.

4. Accordingly, the Habeas Corpus Petition is allowed and the impugned order of detention is set aside. The detenu is directed to be set at liberty forthwith from the custody unless he is required in some other case or cause.