
(2006) 02 MAD CK 0199

In the Madras High Court

Case No : Habeas Corpus Petition No. 1053 of 2005

Periyasamy

APPELLANT

Vs

The State of Tamil Nadu

RESPONDENT

Date of Decision : 13-02-2006

Acts Referred:

Citation : (2006) 02 MAD CK 0199

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

Bench : Division Bench

Advocate : C.C. Chellappan, for the Appellant; M.K. Subramanian, Government Advocate (Crl. Side), for the Respondent

Final Decision : Allowed

Judgement

P. Sathasivam, J.—The petitioner by name Periyasamy, 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 1982) by the impugned detention order dated 29.08.20 05, challenges the same in this Petition.

2. Heard the learned counsel for the petitioner as well as learned Government Advocate for the respondents.

3. At the foremost, the learned counsel appearing for the petitioner by drawing our attention to the reference made in the mahazar, which is available at page 41 of the booklet relating to the number of samples taken for chemical examination and the statement made by the detaining authority in para 3 of the grounds of detention would contend that in view of discrepancy, the ultimate order passed by the detaining authority is liable to be quashed on the ground of non application of mind.

4. In the light of the said submission, we verified the police mahazar wherein it is stated that among the seizure, samples were taken in six bottles and the same

were sent to chemical examination. While so in para 3 of the grounds of detention, the detaining authority has stated that the Inspector of Police took samples of 500 ml in two bottles from each of the plastic bag totalling six bottles and the same were sealed and labelled at the spot. On going through the statement in the mahazar and the grounds of detention, we are of the view that the narration of facts in the grounds of detention does not reflect what is stated in the mahazar. This aspect has not been verified and considered by the detaining authority while passing the order of detention, which vitiates the ultimate order passed by him. On this ground, the impugned order of detention is liable to be quashed.

5. 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.