
(2006) 01 MAD CK 0050
In the Madras High Court
Case No : HCP. No. 1044 of 2005

R. Kaliammal

APPELLANT

Vs

The District Magistrate and District Collector and The
Secretary to Government of Tamil Nadu, Prohibition and
Excise Department

RESPONDENT

Date of Decision : 23-01-2006

Acts Referred:

Citation : (2006) 01 MAD CK 0050

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

Bench : Division Bench

Advocate : K. Manivasakam, for the Appellant; M.K. Subramanian, Government Advocate, for the Respondent

Final Decision : Allowed

Judgement

P. Sathasivam, J.—The petitioner is the mother of the detenu by name Barathiraja, who was detained 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), by the impugned detention order dated 14.09.2005, 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 unexplained delay in the disposal of the representation of the detenu,

which vitiates the ultimate order of detention. With regard to the above contention, learned Government Advocate has placed certain details, which

show that the representation of the detenu dated 22.09.2005 was received by the Government on 27.09.2005 and remarks were called for on the same date i.e. on 27.09.2005 and remarks were received by the Government on 10.10.2005. Thereafter, the file was submitted on the same date i.e. on 10.10.2005 and the same was dealt with by the Under Secretary and Deputy Secretary on 13.10.2005 and finally, the Minister for Prohibition and Excise passed orders on 14.10.2005. The rejection letter was prepared on 20.10.2005 and the same was sent to the detenu on 21.10.2005 and served to him on 24.10.2005. As rightly pointed out by the learned counsel for the petitioner, though the Minister for Prohibition and Excise passed an order on 14.10.2005, there is no explanation at all for taking time for preparation of rejection letter till 20.10.2005. In the absence of any explanation by the person concerned even after excluding the intervening holidays, we are of the view that the time taken for preparation of rejection letter is on the higher side and 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 custody unless he is required in some other case or cause.