

(2006) 07 MAD CK 0128

In the Madras High Court

Case No : Habeas Corpus Petition No. 399 of 2006

R. Sakthivel

APPELLANT

Vs

The Secretary to Government, Prohibition and Excise
Department, Government of Tamil Nadu and The
Commissioner of Police

RESPONDENT

Date of Decision : 11-07-2006

Acts Referred:

Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders,
Goondas, Immoral Traffic Offenders and Slum-Grabbers, Act, 1982 — Section 3(1)

Citation : (2006) 07 MAD CK 0128

Hon'ble Judges : V. Dhanapalan, J;P. Sathasivam, J

Bench : Division Bench

Advocate : R. Subadra Devi, for the Appellant; M. Babu Muthu Meeran,
Assistant Public Prosecutor, for the Respondent

Final Decision : Allowed

Judgement

P. Sathasivam, J.—The petitioner by name R. Sakthivel, challenges the impugned order of detention dated 28.02.2006, detaining his sister

Ramayee, as "" Bootlegger"" u/s 3(1) of the Tamil Nadu Prevention of Dangerous activities of Bootleggers, Drug Offenders, Forest Offenders,

Goondas, Immoral Traffic Offenders, Slum Grabbers and Video Pirates Act, 1981 (Tamil Nadu Act 14 of 1982).

2. Heard both sides.

3. Even at the foremost the learned Counsel for the petitioner submitted that there was delay in considering the representation of the detainee,

which vitiates the ultimate order of detention. With reference to the said claim the learned Additional Public Prosecutor has placed details, which

show that the representation of the detainee dated 12.04.2006 was received by

the Government on 20.04.2006 and remarks were called on 21.04.2006, remarks were received on 04.05.2006. After receipt of the remarks, though the file was submitted to the Under Secretary and Deputy Secretary on 05.05.2006, the same was dealt with by both the authorities only on 22.05.2006. The Minister for Prohibition and Excise passed orders on 23.05.2006, rejection letter was prepared on the same day, i.e., on 23.05.2006; the rejection letter was sent to the detainee on 25.05.2006 and the rejection letter was served on the detainee only on 29.05.2006. As rightly pointed out though the file was submitted to the Under Secretary and Deputy Secretary on 05.05.2006, the authorities dealt with the same only on 22.05.2006; and there is no explanation or reason for the huge delay in considering the file. In the absence of any explanation, we hold that there is a delay between 05.05.2006 and 22.05.2006. On this ground, the impugned detention order is quashed; accordingly, this petition is allowed. The order of detention impugned in the petition is set aside and the detainee is directed to be set at liberty forthwith from the custody unless she is required in connection with any other case.