

(2006) 06 MAD CK 0110
In the Madras High Court
Case No : H.C.P. No. 219 of 2006

Raghupathy

APPELLANT

Vs

State of Tamilnadu

RESPONDENT

Date of Decision : 13-06-2006

Acts Referred:

Citation : (2006) 06 MAD CK 0110

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

Bench : Division Bench

Advocate : C.C. Chellappan, for the Appellant; M. Babu Muthu Meeran,
Addl.Public Prosecutor, for the Respondent

Final Decision : Allowed

Judgement

P. Sathasivam, J.—The petitioner herein challenges the impugned order of detention dated 20.01.2006, detaining him 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).

2. Heard learned Counsel for the petitioner, as well as learned Additional Public Prosecutor for the respondents.

3. At the foremost, the learned Counsel appearing for the petitioner submitted that in the representation dated 21.02.2006, the detenu has requested the first respondent to furnish a copy of the proceedings relating to Crime No. 788 of 2005. According to the learned Counsel, after considering the said representation, the Government in their letter dated 08.03.2006 addressed to the detenu, marking copy to the Detaining

Authority as well as the Sponsoring Authority agreed to supply the same. The grievance of the petitioner is that in spite of such order by the

Government, copy of the proceedings relating to Crime No. 788 of 2005 have not been supplied, which vitiates the detention order.

4. The counsel for the petitioner has relied upon the Division Bench Judgment of this Court reported in (2000) 1 LW (Cri.) 27 P. Muthuswamy v.

State, represented by the Secretary to Government, Prohibition and Excise Department, Fort St.George, Chennai-600 009 and another and an

unreported Judgment passed in H.C.P. No. 194 of 2004 dated 20.04.2004.

5. In those decisions, as in the case on hand, based on the representation of the detenu, the State Government agreed to supply the documents

claimed by the detenu. However, in spite of the Government's direction, the documents were not supplied. Considering the said aspect, the

Division Bench found that the detention order passed is illegal, as that would amount to refusal of an opportunity to the detenu to make an effective

representation. There is no dispute with regard to the proposition made in those decisions and it is not brought to our notice that any appeal is filed

against those decisions.

6. In view of the legal provision and also taking note of the fact that the Crime No. 788 of 2005 has been referred in remand requisition and of the

fact that the Government itself agreed to supply the copy of the same and failure to supply the same vitiate the detention order since the detenu lost

his remedy to make effective representation, the impugned order is liable to be quashed on such ground and is accordingly quashed.

7. The Habeas Corpus Petition is allowed and the order of detention is set aside and the detenu is directed to be set at liberty forthwith from the

custody unless he is required in connection with any other case.