

(2006) 03 MAD CK 0324

In the Madras High Court

Case No : Habeas Corpus Petition No. 1297 of 2005

S. Srividhya

APPELLANT

Vs

The State of Tamil Nadu

RESPONDENT

Date of Decision : 13-03-2006

Acts Referred:

Citation : (2006) 03 MAD CK 0324

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

Bench : Division Bench

Advocate : L. Poompavai, for the Appellant; Abudu Kumar Rajarathinam, Government Advocate, for the Respondent

Final Decision : Allowed

Judgement

P. Sathasivam, J.—The petitioner herein challenges the impugned order of detention, dated 25.11.2005, detaining her husband by name Sivakumar 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 Government Advocate for the respondents.

3. At the foremost, learned counsel for the petitioner submitted that there was inordinate delay in receiving remarks on the representation of the detenu from the sponsoring authority. The particulars furnished by the learned Government Advocate show that the representation of the detenu was received from the Government on 08.12.2005. Subsequently, parawar remarks were called for from the sponsoring authority on the same day i.e., on 8-12-2005 and remarks were received from the sponsoring authority on 16-12-2005 and report sent to Government on 19-12-2005.

4. As rightly pointed out by the learned counsel for the petitioner, though the

parawar remarks were called for from the sponsoring authority on 8-12-2005, the same were received from the said authority on 16-12-2005. In the absence of proper explanation, even if we exclude the intervening holidays, we are of the view that the delay is on the higher side, which caused prejudice to the detenu in considering his representation effectively. On this ground, the impugned order of detention is quashed.

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