

(2006) 01 MAD CK 0179

In the Madras High Court

Case No : Habeas Corpus Petition No. 976 of 2005

Silambayee

APPELLANT

Vs

State

RESPONDENT

Date of Decision : 17-01-2006

Acts Referred:

Citation : (2006) 01 MAD CK 0179

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

Bench : Division Bench

Advocate : N. Mohideen Basha, for the Appellant; Abudu Kumar Rajarathinam, Government Advocate, for the Respondent

Final Decision : Allowed

Judgement

P. Sathasivam, J.—The petitioner is the mother of the detainee, by name Malathi, 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 24.06.2005, 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 an inordinate delay in the disposal of the representation of the detainee dated 05.09.2005. Particularly, the particulars furnished by the learned Government Advocate show that the representation of the detainee was received by the Government on 08.09.2005 and remarks were called for on 09.09.2005 and the same were received by the Government on 16.09.2005. Thereafter, the file was submitted on 19 .09.2005 and the same was dealt with by the under Secretary and the Deputy Secretary on the same date and finally, the Minister for Prohibition and Excise passed orders on 20.09.2005. However, the rejection

letter was prepared only on 28.09.2005 and the same was sent to the detenue on 29.09.2005 and served to her on 03.10.2005. As rightly pointed out by the learned counsel for the petitioner, though the Minister for Prohibition and Excise passed an order on 20.09.2005, there is no explanation at all for taking time for preparation of rejection letter till 28.09.2005. In the absence of proper 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 detenue in disposal of her 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 detenue is directed to be set at liberty forthwith from custody unless she is required in some other case or cause.