

(2006) 03 MAD CK 0228

In the Madras High Court

Case No : Habeas Corpus Petition No. 1257 of 2005

Sumithra

APPELLANT

Vs

The District Magistrate and District Collector and The
Secretary to Govt. of Tamil Nadu, Prohibition and Excise
Dept.

RESPONDENT

Date of Decision : 01-03-2006

Acts Referred:

Citation : (2006) 03 MAD CK 0228

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

Bench : Division Bench

Advocate : K. Manivasakam, 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 11.11.2005, detaining her mother by name Chinnammal 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 delay in disposal of the representation of the detinue, which vitiates the ultimate order of detention. In respect of the same, learned Government Advocate has produced the particulars, which show that the representation of the detinue, dated 19.11.2005, was received by the Government on 01.12.2005 and remarks were called for on 02.12.2005. The particulars of the Collectorate show that the intimation was received from the Government on 05.12.2005 and remarks were,

in turn, called for from the Sponsoring Authority on the same day, however, the same were received from the Sponsoring Authority only on 09 .12.2005, sent to the Government on 10.12.2005 and received by it on 12.12.2005. The File was dealt with by the Under Secretary Deputy Secretary on 13.12.2005. Finally, the Minister for Prohibition and Excise passed orders on 14.12.2005. The rejection letter was prepared on 16.12.2005 and sent to the Prison for service on the same day and served on the detainee on 19.12.2005.

4. As rightly pointed out, though remarks were called for from the Sponsoring Authority on 05.12.2005, the same were received by the Collectorate only on 09.12.2005. There is no explanation at all for taking time till 09.12.2005 by the Sponsoring Authority for collecting the remarks. We hold that, in the absence of proper explanation by the person concerned, the delay is on the higher side, which caused prejudice to the detainee in considering her representation effectively. On this ground, we quash the impugned order of detention. We make it clear that due to the peculiar factual details, we are constrained to quash the impugned order and this cannot be a precedent for other cases.

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