
(1989) 02 MAD CK 0006
In the Madras High Court
Case No : Writ Petition 9424/of 1989

Thangammal

APPELLANT

Vs

State of Tamil Nadu

RESPONDENT

Date of Decision : 08-02-1989

Acts Referred:

Constitution of India, 1950 — Article 22, 226

Citation : (1989) LW(Cri) 524

Hon'ble Judges : Janarthanam, J; David Annoussamy, J

Bench : Division Bench

Advocate : T.K. Sampath, for the Appellant; G.R. Edmund, Assistant Public Prosecutor, for the Respondent

Final Decision : Allowed

Judgement

David Annoussamy, J.—This is a petition by the mother of the detenu under Article 226 of the Constitution of India, for the issuance of a

writ of Habeas Corpus quashing the order of detention passed against the detenu and setting him at liberty.

2. The order of detention was passed by the Commissioner of Police, Madras City, on 21-6-1988 with the view to preventing the detenu from

acting in any manner prejudicial to the maintenance of public order as a bootlegger.

3. The main ground urged before us by the learned Counsel for the Petitioner is that her representation was not considered by the appropriate

authority. This position was gone into elaborately by us in *Elathe Mary v. Commissioner and Secretary to Government of Tamil Nadu Prohibition*

and Excise Dept. Madras W.P. 7269 of 1988 order dt. 24-1-1989. and again in a different perspective in *Easwaran v. State of Tamil Nadu W.P*

6085 of 1988 order dt. 30-1-1989.

4. As per Section 8 of the Tamil Nadu Act 14 of 1982, the representation from the detenu has to be made to the State Government, which implies

that it should be considered by the same. The State Government being a composite body works through any one of its human agency in conformity

with the rules of business. As per the rules of business which were in force at the time when the representation was considered and rejected, the

authority to deal with the same is the Advisor to the Governor.

5. In the present case, strangely enough, the representation was considered and rejected by the Special Commissioner and Secretary to

Government on 29-7-1988 on the foot of some sort of working arrangement made by the Advisor without any authority.

6. The consideration of the representation is an important guarantee of the right of the detenu under Article 22 of the Constitution of India and

when it is not considered by the proper authority, as in the present case, the order of detention becomes void.

7. In the result, the writ petition is allowed, and the order of detention is set aside.