
(2006) 01 MAD CK 0190

In the Madras High Court

Case No : Habeas Corpus Petition No. 991 of 2005

Vasanth

APPELLANT

Vs

The State of Tamil Nadu

RESPONDENT

Date of Decision : 17-01-2006

Acts Referred:

Citation : (2006) 01 MAD CK 0190

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

Bench : Division Bench

Advocate : R. Sankarasubbu, for the Appellant; Abudu Kumar Rajarathinam, Government Advocate, for the Respondent

Final Decision : Allowed

Judgement

P. Sathasivam, J.—The petitioner is the wife of the detenu by name Govindaraj, 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 21.07.2005, 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 by drawing our attention to paragraph 5 of the grounds of detention as well as the copy of the amendment dated 03.08.2005 received by the detenu on 05.08.2005 would submit that inasmuch as the amendment was served to the detenu beyond the prescribed period, the detention order cannot be sustained. With reference to the said contention, we verified paragraph 5 of the grounds of detention. The relevant sentence reads as follows:

I am therefore satisfied that an order of detention should be passed against the said Thiru Govindaraj, Son of Arumugam under Tamil Nadu Act 14/1982 with a

view....

It is clear that the detaining authority had not taken care whether his conclusion is based on the material etc. Though the learned Government Advocate has pointed out that all the required details viz., "with a view to prevent him from indulging in prejudicial activities in future" has been specifically stated in the next paragraph viz., para 6, we are of the view that the omission in para 5 makes it clear that the detaining authority has not applied his mind while passing the impugned order of detention.

4. As discussed above and in view of the fact that the detaining authority himself has issued the amendment to the original order dated 21.07.2005 on 03.08.2005, we are of the view that the omission at paragraph 5 amply proves the non application of mind on the part of the detaining authority. On this ground, we quash the impugned order of detention.

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