
(2006) 01 MAD CK 0159

Madras High Court

Case No: HCP. No. 992 of 2005

Ramamurthy Gounder

APPELLANT

Vs

The State of Tamilnadu

RESPONDENT

Date of Decision: Jan. 20, 2006

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

Bench: Division Bench

Advocate: R. Sankarasubbu, for the Appellant; M.K. Subramaniam, Government Advocate, for the Respondent

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

P. Sathasivam, J.

The petitioner is the father of the detenu by name Araselvam @ Arachelvam. He challenges the detention order dated 15.07.2005, detaining his son as "Goonda" 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 appearing for the petitioner would submit that in the absence of materials to show that there was a valid order of the learned Magistrate concerned, extending the remand of the accused/detenu, based on which the order of detention order has been passed, the impugned order of detention is liable to be quashed. In support of the above contention, he relied on a Division Bench decision of this Court reported in 1994 1 LW 266 (Balaraman v. State of Tamil Nadu rep. by the Secretary, Prohibition and Excise Department, Fort St. George, Madras-9 and Anr.).

4. Learned counsel appearing for the petitioner has brought to our notice that though an order was passed extending the remand till 28.07 .2005 on 14.07.2005, the same relates to Crime No. 716 of 2005 on the file of Villupuram Taluk Police Station. Insofar as the ground case, that is, Cr. No. 377 of 2005, though the detenu was remanded till 12 .07.2005, there is no order by the learned Magistrate, extending his remand. In such circumstances, as rightly observed by the Division bench, when there is no material available, it is not known as to how the Detaining Authority has stated in the grounds of detention that he was aware that the detenu was in remand on 15.07.2005. If the said statement is correct, he must have relied upon extraneous material not supplied to the detenu. In such circumstances, the impugned order of detention is quashed.

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 the custody unless he is required in some other case.