

(2006) 03 MAD CK 0330

Madras High Court

Case No: Habeas Corpus Petition No. 1286 of 2005

Jayapaul

APPELLANT

Vs

The Secretary to the
Government,
Prohibition and Excise
Department and The
District Magistrate
and District Collector

RESPONDENT

Date of Decision: March 13, 2006

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

Bench: Division Bench

Advocate: D. Veerasekaran, for the Appellant; M.K. Subramanian, Government Advocate,
for the Respondent

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

P. Sathasivam, J.

The petitioner, who is the husband of the detenue by name Indira, who was detained as a "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 15.11.2005, 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 enormous delay in disposal of the representation of the detenue, which vitiates the ultimate order of detention. With reference to the above claim, learned Government

Advocate has placed the details, which show that the representation of the detenue dated 04.12.2005 was received by the Government on 07.12.2005 and remarks were called for on 08.12.2005. The particulars of the Collectorate show that the intimation was received by the Collectorate on 13.12.2005 and the parawar remarks were called for from the Sponsoring authority on the same date i.e. on 13.12.2005 and the remarks were received from the sponsoring authority on 15.12.2005 and the report was sent to the Government on 21.12.2005. The remarks were received by the Government on 23.12.2005. Thereafter, the File was submitted on 26.12.2005 and the same was dealt with by the Under Secretary and Deputy Secretary on 27.12.2005 and finally, the Minister for Prohibition and Excise passed orders on 28.12.2005. The rejection letter was prepared on 04.01.2006 and the same was sent to the detenue on 05.01.2006 and served to him on 07.01.2006. As rightly pointed out by the learned counsel for the petitioner, though the remarks were received from the sponsoring authority on 15.12.2005, the report was sent to the Government only on 21.12.2005 and there is no explanation at all for sending the report to the Government belatedly. Further it is also pointed out that though the Minister for Prohibition and Excise passed an order on 28.12.2005, there is no explanation at all for taking time for preparation of rejection letter till 04.01.2006. In the absence of any explanation by the persons concerned, 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 the custody unless she is required in some other case or cause.