

**(2006) 03 MAD CK 0157**

**Madras High Court**

**Case No:** Habeas Corpus Petition No. 1328 of 2005

K. Kumar

APPELLANT

Vs

State

RESPONDENT

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**Date of Decision:** March 20, 2006

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

**Bench:** Division Bench

**Advocate:** G.M. Shankar, for the Appellant; Abudhukumar Rajarathinam, Government Advocate (Crl. Side), for the Respondent

**Final Decision:** Allowed

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### **Judgement**

@JUDGMENTTAG-ORDER

P. Sathasivam, J.

The petitioner, who is the uncle of the detenu by name Elango, 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 11.11.2005, 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 detenu, 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 detenu dated 23.11.2005 was received by the Government on 24.11.2005 and remarks were called for on 25.11.2005. Thereafter, the remarks were received by the Government on 26.11.2005 and the File was submitted on 02.12.2005 and the same was dealt with by the Under Secretary and Deputy Secretary on the same date i.e. on

02.12.2005 and finally, the Minister for Prohibition and Excise passed orders on 05.12.2005. The rejection letter was prepared on 07.12.2005 and the same was sent to the detenu on the same day i.e., on 07.12.2005 and served to him on 12.12.2005. As rightly pointed out by the learned counsel for the petitioner, though the remarks were received on 26.11.2005, there is no explanation at all for taking time for submitting the file till 02.12.2005. In the absence of any explanation by the person concerned even after excluding the intervening holidays, we are of the view that the time taken for submitting the file is on the higher side and we hold that the said delay has prejudiced the detenu in disposal of his 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 detenu is directed to be set at liberty forthwith from the custody unless he is required in some other case or cause .