

Madras High Court

Lakshmi vs The State Of Tamilnadu on 23 January, 2006

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 23/01/2006

Coram

The Hon'ble Mr. Justice P.SATHASIVAM

and

The Hon'ble Mr. Justice N. PAUL VASANTHAKUMAR

HCP. No.1090 of 2005

Lakshmi ... Petitioner

-Vs-

1. The State of Tamilnadu,
rep. By its Secretary to Govt.,
Prohibition & Excise Department,
Fort St. George, Chennai-600 009.

3.The Commissioner of Police,
Salem City. ..Respondents

Petition under Article 226 of the Constitution of India for the issuance of a Writ of Habeas Corpus to call for the entire records leading to the detention of the petitioner's husband namely Highspeed @ Arumugam son of Kuppusamy detained under Act 14/82, vide detention order dated 10.03.2005 on the file of the 2nd respondent herein made in the C.M.P.No.8/B.L./Salem City/2005 quash the same and consequently direct the respondents herein to produce the body and person of the said Detenu before the Court now and thereafter set him set him at liberty from Centrl Prison, Salem.

!For Petitioner : Mrs.R.Subadra Devi

^For Respondents : Mr.M.K.Subramanian,
Govt. Advocate (Crl. Side)

:0 R D E R

(Order of the Court was made by P.SATHASIVAM, J.) The petitioner who is the wife of the detenu by name Highspeed @ Arumugam challenges the impugned detention order dated 10.03.2005 detaining her husband 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), by the impugned detention order dated 10.03.2005, 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 was undue delay in disposal of the representation of the detenu, which vitiates the ultimate order passed by the detaining authority. With reference to the above statement, learned Government Advocate has produced the particulars which show that on receipt of the representation from the detenu on 28.09.2005, remarks were called for by the Government on 29.09.2005 and the same were received on 07.10.2005. Thereafter, the File was dealt with by the Under Secretary and Deputy Secretary on 10.10.2005 and finally, the Minister for Prohibition and Excise passed orders on 13.10.2005. However, the rejection letter was prepared on 20.10.2005. The said letter was sent to the Superintendent of Central Prison for service on 21.10.2005 and served to him on 25.10.2005.

4. As rightly pointed out by the learned counsel for the petitioner, even though the competent authority passed orders as early as on 13.10.2005, there is no explanation for taking time till 20.10.2005 for preparation of the rejection letter. In the absence of proper explanation by the person concerned, we hold that the delay has prejudiced the detenu in considering his representation effectively. 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 the custody unless he is required in some other case or cause.

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1. The Secretary to Govt., The State of Tamilnadu, Prohibition & Excise Department, Fort St. George, Chennai-600 009.

2. The Commissioner of Police, Salem City.

3. The Public Prosecutor, High Court, Madras.