

(2005) 08 MAD CK 0083
In the Madras High Court
Case No : H.C.P. No. 403 of 2005

B. Alamelu

APPELLANT

Vs

State of Tamil Nadu

RESPONDENT

Date of Decision : 01-08-2005

Acts Referred:

Madras Prohibition Act, 1937 — Section 4(1), 4(1A)
Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders,
Goondas, Immoral Traffic Offenders and Slum-Grabbers, Act, 1982 — Section 3(1)

Citation : (2005) 08 MAD CK 0083

Hon'ble Judges : P. Sathasivam, J;AR. Ramalingam, J

Bench : Division Bench

Advocate : R. Shivakumar, for the Appellant; Abudu Kumar Rajarathnam,
Government Advocate (Crl.) for Respondents 1 and 2, for the Respondent

Judgement

P. Sathasivam,J.,

1. The mother of the detenu, namely, Veeramani, challenges the impugned order of detention dated 31.03.2005, detaining him, as "Bootlegger" u/s 3(1) of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders and Slum Grabbers Act, 1982 (in short "Tamil Nadu Act 14 of 1982").

2. Heard both sides.

3. The learned counsel appearing for the petitioner by drawing our attention to the complaint made against the detenu and the remand order would submit that the impugned detention order is liable to be quashed on the ground of non-application of mind on the part of the detaining authority. It is seen that ground case has been filed in respect of offences under Sections 4(1)(i), 4(1)(aaa) r/w 4(1-A) of T.N.P. Act, 1937. But in the remand order dated 07.03.2005, which finds place at page Nos. 40 and 41 of the paper book, the learned Judicial Magistrate No. I, Mayiladuthurai, has recorded as, "Accused produced. No complaints. No prima facie case is u/s 4(1-A) TNP Act. Hence, remanded u/s 4(1)

(aaa) TNP Act only till 21.3.05."

A perusal of the above remand order, which is a relied on document show that the accused was remanded only for an offence u/s 4(1)(aaa) of TNP Act. This material aspect was not considered by the detaining authority while passing the impugned detention order. Therefore, there is non-application of mind. It is pointed out that the detaining authority should have called for a report in this respect and without calling for a report, the order of detention has been passed, as if the detenu has committed all the offences as has been registered against him in the First Information Report. This renders the detention illegal. Hence, the impugned detention order is quashed; accordingly, this petition is allowed and the detenu is directed to be set at liberty forthwith from the custody unless he is required in connection with any other case.