

(2006) 10 MAD CK 0062

In the Madras High Court

Case No : Habeas Corpus Petition No. 706 of 2006

Palani

APPELLANT

Vs

The State of Tamil Nadu

RESPONDENT

Date of Decision : 09-10-2006

Acts Referred:

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

Citation : (2006) 10 MAD CK 0062

Hon'ble Judges : S. Tamilvanan, J; P. Sathasivam, J

Bench : Division Bench

Advocate : L. Srileka, for the Appellant; M. Babu Muthu Meeran, Assistant Public Prosecutor, for the Respondent

Final Decision : Allowed

Judgement

P. Sathasivam, J.—The petitioner, who is the brother of the detenu, by name Balu, who is detained as a ""Bootlegger"" as contemplated u/s

3(1) of 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 14.07.2006,

challenges the same in this Petition.

2. Heard learned Counsel for the petitioner as well as learned Additional Public Prosecutor for the respondents.

3. At the foremost, learned Counsel for the petitioner, by drawing our attention to the reference made in respect of contraband as well as Yamaha

motor cycle seized under a cover of mahazar, has contended that though form-95, which is available at page 47 of the booklet supplied to the

detenu refers seizure of two 750 ml capacity of bottles with 500 ml of arrack each, there is no reference to Yamaha motor cycle with registration

No. TN 09 0312. She also contended that there is no material to show that Yamaha motor cycle was brought to the Court by way of valid

document. In such circumstances, according to the learned Counsel for the petitioner, the description of both contraband as well as Yamaha motor

cycle in paragraph 3 of the grounds of detention would go to show the non application of mind on the part of the detaining authority.

4. In the light of the said contention, we have verified necessary averments in para 3 of the grounds of detention as well as Form-95, which is

available at page 47 of the paper book supplied to the detenu. Though the learned Additional Public Prosecutor has brought to our notice that both

the contraband and Yamaha motor cycle were seized under the mahazar dated 24.06.2006, admittedly Form-95 refers only two 750 ml. capacity

of bottles with 500 ml of arrack each. In such circumstances, in the absence of any document to show that Yamaha motor cycle was also brought

to the Court concerned, we are of the view that the description of the same in the grounds of detention amply show the non application of mind on

the part of the detaining authority and we accept the contention raised by the learned Counsel for the petitioner. 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.