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**(2004) 03 MAD CK 0218**

**In the Madras High Court**

**Case No : Habeas Corpus Petition No's. 1877 of 2003**

Petchiammal

APPELLANT

Vs

State

RESPONDENT

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**Date of Decision :** 17-03-2004

**Acts Referred:**

Constitution of India, 1950 — Article 226

**Citation :** (2004) 03 MAD CK 0218

**Hon'ble Judges :** S.R. Singharavelu, J;P. Sathasivam, J

**Bench :** Division Bench

**Advocate :** D. Veerasekaran, for the Appellant; A. Navaneethakrishnan, Assistant Public Prosecutor, for the Respondent

**Final Decision :** Allowed

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## **Judgement**

P. Sathasivam, J.—The wife of the detenu is the petitioner herein. The detenu was branded as a bootlegger and detained by the impugned proceedings dated 7.12.2003 u/s 2(b) of the Tamil Nadu Act 14 of 1982.

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

3. The learned counsel for the petitioner after taking us through the grounds of detention would contend that in the light of the fact that in all six adverse cases as well as the ground case which took place on 15.11.2003, the detenu was charged for possession of illicit arrack. He further points out that while so, the detaining Authority while passing the order of detention, has observed that the detenu was "selling arrack" mixed with poisonous substance. According to the learned counsel, in the light of the details mentioned in the adverse cases and the ground case, the detaining Authority has not applied his mind and on this ground, he prays that the detention order is liable to be quashed. In the light of the said contention, we verified all the six adverse cases wherein the detenu was charged for "possession" of arrack on different dates. Even in the ground case, it

is stated that the detenu was found in possession of 105 litres of illicit arrack. It is also stated that he was not having any licence or permit to possess the illicit arrack. In such circumstance, we are satisfied that the detaining Authority has not applied his mind and not considered the material as found in the adverse cases as well as the ground case relied on by him. On this ground, the detention order is liable to be set aside.

4. Under these circumstances, the impugned order of detention is set aside and the Habeas Corpus Petition is allowed. The detenu is directed to be set at liberty forthwith unless his detention is required in connection with any other case or cause.