

(2006) 07 MAD CK 0150

In the Madras High Court

Case No : Habeas Corpus Petition No. 436 of 2006

S. Parimala

APPELLANT

Vs

The State of Tamil Nadu

RESPONDENT

Date of Decision : 05-07-2006

Acts Referred:

Madras Prohibition Act, 1937 — Section 4(1), 4(1)(A)

Citation : (2006) 07 MAD CK 0150

Hon'ble Judges : V. Dhanapalan, J;P. Sathasivam, J

Bench : Division Bench

Advocate : Abudhu Kumar Rajarathinam, 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 wife of the detenu by name Pappa @ Poongavanam, who is 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

31.03.2006, 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 appearing for the petitioner, by drawing our attention to para 3 of the grounds of detention, has contended that

when the detaining authority has concluded that he satisfied that the detenu is a Bootlegger habitually transporting and also found selling I.D.

Arrack mixed with the poisonous substance as against the provisions

contemplated under the Tamil Nad Prohibition Act, 1937, in the absence of any materials for selling I.D. Arrack, the ultimate conclusion and detained him as ""Bootlegger"" under Act 14 of 1982 , cannot be sustained.

4. In the light of the said contention, we have verified the relevant materials. It is seen that on the date and time, viz., 02.03.2006 at about 11

hours, the police party chased and apprehended one Pappa Poongavanam(Detenu herein) and he has admitted about transporting I.D. Arrack in

three lorry tubes in a motoercycle. Further based on the available materials, the detenu was charged u/s 4(1)(aaa) read with 4(1)(A) of the TNP

Act in Crime No. 110 of 2006 of PEW Poonamallee Unit. In such circumstances, when the materials are available only in respect of

transportation, we are of the view that the conclusion arrived at by the detaining authority that the detenu was also ""found selling I.D. Arrack"" has

no merit to substantiate the same. In such circumstances, the impugned detention order is liable to be quashed on the ground of non application of

mind and accordingly, the same is quashed.

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.