

(2003) 12 MAD CK 0135

In the Madras High Court

Case No : Habeas Corpus Petition No. 1601 of 2003

Selvi

APPELLANT

Vs

State

RESPONDENT

Date of Decision : 23-12-2003

Acts Referred:

Citation : (2004) 1 LW(Cri) 396

Hon'ble Judges : P.D. Dinakaran, J;M. Thanikachalam, J

Bench : Division Bench

Advocate : D. Veerasekaran, for the Appellant; V.M.R. Rajendran, Additional Public Prosecutor, for the Respondent

Final Decision : Allowed

Judgement

P.D. Dinakaran, J.—The Petitioner is the wife of the detenu Elumalai, who had been incarcerated by the order of detention dated 25.9.2003 passed by the first Respondent herein, branding him as a 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 (for short "the Tamil Nadu Act 14 of 1982").

2. The order of detention came to be passed by the second Respondent on the basis of the ground case said to have taken place on 11.9.2003 within the jurisdiction of the Inspector of Police, Prohibition and Enforcement Wing, Thirukoilur. It is stated that the detenu was found to be in possession of two lorry tubes each containing 50 litres of illicit distilled arrack, totalling 100 litres of illicit distilled arrack and a sample of the same was sent for chemical analysis. On examination, it was disclosed that the said illicit distilled arrack contained 2.89 mg of atropine, which, in the opinion of the medical officer would cause death if the person consumed is not given treatment immediately. The order of detention is also supported with three adverse cases bearing Crime Nos. 1308/2003 and 1417 of 2003 on the file of Thirukoilur P.E. Wing and Crime No. 30/2003 on the File of Kandachipuram Police Station.

3. Concededly, the Petitioner made a representation on 3.10.2003, which was, after consideration, rejected by the detaining authority, by proceedings dated 16.10.2003, as evident from the averments stated in the counter affidavit. However, when the papers were placed before the advisory Board, it is apparent on the face of the record that neither the representation dated 3.10.2003 made on behalf of the detenu before the detaining authority nor the reply given by the detaining authority on 16.10.2003 have been placed before the Advisory Board, which, in our considered opinion, vitiates the impugned order of detention. Hence, the same is quashed and the detenu Elumalai is directed to be released forthwith, unless he is required in connection with any other case.

The habeas corpus petition is allowed.