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**(2006) 08 MAD CK 0173**

**In the Madras High Court**

**Case No : Habeas Corpus Petition No. 586 of 2006**

Thangamani

APPELLANT

Vs

The State of Tamil Nadu

RESPONDENT

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**Date of Decision :** 22-08-2006

**Acts Referred:**

**Citation :** (2006) 2 LW(Cri) 773

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

**Bench :** Division Bench

**Advocate :** C. Ramkumar, for the Appellant; M. Babu Muthu Meeran Addl. Public Prosecutor, for the Respondent

**Final Decision :** Allowed

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## **Judgement**

P. Sathasivam, J.—The petitioner, who is the wife of the detenu by name Dhanasekaran @ Kadukkan, 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

23.03.2006, challenges the same in this Petition.

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

3. At the foremost, the learned counsel appearing for the petitioner, by taking us through paragraph 3(ii) of the grounds of detention, has

contended that the description relating to capacity of the bottle and the quantity of arrack collected for opinion amply show the non application of

mind on the part of the detaining authority. The relevant portion in paragraph

3(ii) reads as under:

Further he collected samples of arrack in four bottles about 375 ml in each bottle having capacity of 350 ml from the lorry tube and a white plastic

can and marked as A1, B1, A2, B2, sealed the bottles with the name and address of the accused.

4. The above reference makes it clear that it is impossible to collect 375ml of arrack in the bottle having capacity of 350 ml. Nodoubt the learned

Additional Public Prosecutor has pointed out that in the Chemical Analysis Report and Mahazar as well as in the Tamil version of grounds of

detention it has been correctly stated viz., the capacity of the bottle as 375 ml and arrack was collected in the said bottles to 350 ml. However,

there is no explanation for giving such wrong discrepancy in the English version of the grounds of detention. In the absence of proper explanation

by the person concerned, as rightly pointed out by the learned counsel for the petitioner, we hold that the detention order is vitiated due to non

application of mind on the part of the detaining authority. On this ground, the detention is liable to be quashed and accordingly, the same is

quashed.

5. 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.