

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.09.2015

C O R A M

THE HONOURABLE MR.JUSTICE C.T.SELVAM

AND

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

Habeas Corpus Petition No.1709 of 2015

Sithalinga
S/o.Chikkanna Setty

... Petitioner

-vs-

1.The State of Tamil Nadu
represented by its
Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George,
Chennai - 600 009.

2.The District Collector and District Magistrate,
Erode District,
Erode.

... Respondents

Writ petition under Article 226 of the Constitution of India filed praying for issuance of a writ of Habeas Corpus to call for the records pertaining to detention order passed by second respondent against the detenu Lingasetty @ Kullimaran @ Kulimadhan, S/o.Madhavsetty, Male, aged about 37 years, Presently confined in Central Prison, Coimbatore in Cr.M.P.No.1/Bootlegger/2015 C1 dated 23.01.2015, quash the same and consequently, to direct the respondents to produce the detenu before this Court and set him at liberty.

For Petitioner : Mr.C.Munusamy

For Respondents: Mr.M.Maharaja,
Additional Public Prosecutor

O R D E R

(The order of the Court was made by C.T.SELVAM, J.)

Petitioner is the brother-in-law of the detenu Lingasetty @ Kullimaran @ Kulimadhan, S/o.Madhavsetty, who has been branded as "Bootlegger" under the Tamil Nadu Act 14 of 1982 and detained under orders of second respondent passed in Cr.M.P.No.1/Bootlegger/2015 C1 dated 23.01.2015. Such order is under challenge herein.

2. The detenu came to adverse notice in the following cases:

Sl.No	Police Station and Crime No.	Section of law
1	Thalavadi Police Station Crime No.33 of 2008	4(1)(a) r/w 4(1-A) of Tamil Nadu Prohibition Act, 1937 (altered to 4(1)(a) of Tamil Nadu Prohibition Act, 1937)
2	Gobichettipalayam Prohibition Enforcement Wing Crime No.801 of 2013	4(1)(a) of Tamil Nadu Prohibition Act, 1937
3	Gobichettipalayam Prohibition Enforcement Wing Crime No.4 of 2014	4(1)(a) of Tamil Nadu Prohibition Act, 1937

The ground case has been registered against the detenu in Crime No.905 of 2014 on the file of Gobichettipalayam Prohibition Enforcement Wing for offences u/s.4(1)(a), 4(1-A) Tamil Nadu Prohibition Act, 1937.

3. Learned counsel for petitioner submits that the possibility or otherwise of the detenu being released on bail has not received the consideration of the detaining authority. It is submitted that the detaining authority has arrived at subjective satisfaction without entering upon objective consideration.

4. We have heard learned Additional Public Prosecutor on the above submissions.

5. Finding that the subjective satisfaction arrived by the detaining authority is erroneous and for the reasons put forth by learned counsel for the petitioner, this Court would allow the present petition.

This Habeas Corpus Petition is allowed. The detention order passed by second respondent against the detenu

Lingasetty @ Kullimaran @ Kulimadhan, S/o.Madhavsetty, made in Cr.M.P.No.1/Bootlegger/2015 C1 dated 23.01.2015, is quashed. The detenu is ordered to be set at liberty forthwith, unless his custody is required in connection with any other case.

sd/
ASSISTANT REGISTRAR(J)

/TRUE COPY/

SUB-ASSISTANT REGISTRAR

gm

To

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Fort St.George,
Chennai - 600 009.
- 2.The District Collector and District Magistrate,
Erode District,
Erode.
- 3.The Public Prosecutor
High Court, Chennai.
- 4.The Superintendent of Central Prison,
Coimbatore.

+1 CC to MR. C.Munusamy Advocate. SR.NO. 52990

सत्यमेव जयते

H.C.P.No.1709 of 2015

CO-TM
JD 16/11/2015

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