

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.02.2015

CORAM:

THE HONOURABLE MR.JUSTICE M.JAICHANDREN
AND
THE HONOURABLE MRS.JUSTICE ARUNA JAGADEESAN

HCP.No.2455 of 2014

Saridha

..Petitioner

Vs

1.The State of Tamil Nadu by its Secretary to Government
Home, Prohibition & Excise Department, Fort St.George
Chennai 600009

2.The District Collector and District Magistrate
Kancheepuram District , Kancheepuram. ...Respondents

Prayer:- This Habeas Corpus Petition is filed, under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, to call for the records, in BDFGISSV No.73/2014 dated 01.09.2014, passed by the 2nd Respondent, detaining the detenu, Uliyan @ Govindhan, aged 33 years, Son of Bala Pillai, under the Tamil Nadu Act 14 of 1982, branding him as a "Bootlegger", in the Central Prison, Vellore and to quash the same and to direct the Respondents to produce the body of the detenu and set him at liberty forthwith.

For Petitioner : Mr.E.Kannadasan

For Respondents : Mr.C.Emalias, APP

सत्यमेव जयते
ORDER

The Petitioner, being the wife of the detenu, Uliyan @ Govindhan, aged 33 years, Son of Bala Pillai, against whom the impugned detention order, dated 01.09.2014, has been passed, under Section 3(1) of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14/1982), branding him as a "Bootlegger", has challenged the impugned detention order, in this Habeas Corpus Petition.

2. The Petitioner has challenged the impugned detention order on the ground that there is unexplained delay in depositing the sample of the alleged arrack to the Court for chemical analysis and the impugned detention order has been passed in total non application of mind. On a perusal of the paper book filed by the Respondents, it is seen that although the detenu was produced before the learned Judicial Magistrate-II, Kancheepuram, on

19.08.2014, but the sample was deposited to the court for chemical analysis only on 21.08.2014. There is absolutely no satisfactory explanation for the said delay of 3 days. This delay in depositing the samples to the Court for chemical analysis would make the sample to lose its real character. As such, the impugned detention order has been passed by the Detaining Authority in total non application of mind, which would vitiate the impugned detention order and the impugned detention order is liable to be set aside.

3. For the above said reasons, this Habeas Corpus Petition is allowed. The impugned detention order is set aside. The detenu is directed to be released forthwith, unless his presence is required in connection with any other case.

Sd/-
Assistant Registrar
Dated:13.3.15

True Copy

Sub Assistant Registrar

To:

- 1.The Secretary to Government,
Home, Prohibition & Excise Department, Fort St.George, Chennai
600009.
- 2.The District Collector and District Magistrate,Kancheepuram
District
Kancheepuram.
- 3.The Superintendent, Central Prison, Vellore.
- 4.The Joint Secretary to Government,
Public (L&O) Fort st.George,Chennai.
- 5.The Public Prosecutor, Madras High Court, Madras

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