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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:08.09.2015

CORAM:

THE HONOURABLE MR.JUSTICE **S.NAGAMUTHU**

**and**

THE HONOURABLE MR.JUSTICE **V.S.RAVI**

**H.C.P(MD)No.485 of 2015**

Annakkili

.. Petitioner

Vs.

1. The Government of Tamilnadu,  
Rep. by its Principal Secretary,  
Home, Prohibition and Excise Department,  
Secretariat, Chennai -9.

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

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus, to call for the entire records in detention order passed in M.H.S.Confdl. No.28/2015, dated 18.03.2015, on the file of the 2nd respondent herein and set aside the same as illegal and direct the respondents to produce the person or body of the petitioner's husband namely Vijayakumar, S/o. Thangapandi, aged about 37/2015, before this Court from Central Prison, Palayamkottai and set him at liberty.

For Petitioner : Mr.R.J.Karthick

For Respondents : Mr.T.Mohan

Additional Public Prosecutor.

### **O R D E R**

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[Order of the Court was made by **S.NAGAMUTHU, J**]

The petitioner is the wife of the detenu, namely Vijayakumar, S/o.Thangapandi, aged about 37 years. He has been detained under the Tamil Nadu Act 14 of 1982 as per the order of the second respondent in his proceedings in M.H.S.Confdl.No.28/2015, dated 18.03.2015, branding him as "Boot Legger". Challenging the same, the petitioner is before this Court with this Habeas Corpus Petition.

2.We have heard the learned counsel appearing for the petitioner and learned Additional Public Prosecutor appearing for the State.

3. Though several grounds have been raised in this petition,



the learned counsel for the petitioner would mainly focus his arguments on the ground there had been total non-application of mind on the part of the Detaining Authority in arriving at the satisfaction to detain the detenu under the Tamilnadu Act 14 of 1982. The learned counsel would point out that in the detention order, the second respondent has stated that the detenu is involved in a criminal case in Crime No.222 of 2014 on the file of the Kuruvikulam Police Station for the offence under Section 4(1)(A) of the Tamilnadu Prohibition Act. The learned counsel would further point out that as per the booklet furnished to him, the case in Crime No.222 of 2014, has been registered only for the offence under Section 4(1)(a) of the Tamilnadu Prohibition Act. This shows the total non-application of mind of the Detaining Authority, the learned counsel submitted.

4. The learned Additional Public Prosecutor would oppose this Habeas Corpus Petition. According to him, it is true that the case has been registered under Section 4(1)(a) of the Tamilnadu Prohibition Act, whereas in the order it is mentioned as 4(1)(A) of the Tamilnadu Prohibition Act, but the same has not caused any prejudice to the detenu, the learned Additional Public Prosecutor submitted.

5. We have considered the above submissions.

6. In our considered view, the above discrepancy in the nature of the offence would go to show that the Detaining Authority had not applied his mind. Without even knowing the nature of the offence, the detention order has been passed. This shows the non-application of mind, as rightly contended by the learned counsel for the petitioner. On this ground, we are inclined to set aside the impugned detention order.

7. In the result, this Habeas Corpus Petition is allowed and the impugned Detention Order, passed by the second respondent, in his proceedings in M.H.S.Confdl. No.28/2015, dated 18.03.2015, is quashed. The detenu, namely, Vijayakumar, S/o. Thangapandi, aged about 37/2015, is ordered to be set at liberty forthwith, if he is not required for detention in connection with any other case.

Sd/-

Assistant Registrar(C.O.)

/True Copy/

Sub Assistant Registrar

To

1. The Principal Secretary,  
Home, Prohibition and Excise Department,  
Secretariat, Chennai -9.



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

3.The Superintendent of Prison,  
Central Prison,  
Palayamkottai,  
Tirunelveli District.  
(In Duplicate for communication to the detenu)

4. The Joint Secretary to Government,  
Public (Law and Order), Fort St.George, Chennai -9.

5.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.

+1cc to Mr.R.J.Karthick, Advocate Sr.No.52775

akm/14.09.2015 /3p-8c/

ORDER MADE IN  
**H.C.P (MD) No. 485 of 2015**  
**08.09.2015**