

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.10.2007

CORAM

THE HONOURABLE MR.JUSTICE P.D.DINAKARAN
AND
THE HONOURABLE MR.JUSTICE R.REGUPATHI

H.C.P.No.1060 of 2007

Bhuvana

.. Petitioner

Vs

1. The Commissioner of Police,
Greater Chennai, Egmore,
Chennai.600 008

2. The Secretary,
Government of Tamil Nadu,
Prohibition and Excise Department
Fort St.George,
Chennai-600 009.

.. Respondents

Petition filed under Article 226 of the Constitution of India for issue of Writ of Habeas Corpus as stated therein.

For Petitioner : Mr.V.R.Velraj

For Respondents : Mr.N.R.Elango
Addl. Public Prosecutor

O R D E R

(Made by P.D.DINAKARAN,J.)

Aggrieved by the order of detention dated 19.4.2007 made in 172/bdfgissv/2007 passed by the first respondent under the provisions 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 of 1982) to detain one Shanthi, branding her as a Bootlegger, the petitioner, who is the daughter of the detenu, filed the above petition seeking to quash

the order of detention and to direct the respondents to produce the detainee, who is now confined at Central Prison for Women, Puzhal, Chennai, before this Court and set her at liberty.

2. On 6.4.2007, the Inspector of Police, Prohibition Enforcement Wing, Madhavaram Unit, found the detainee selling illicit arrack containing atropine of 8.3% m/v, as per the chemical analysis report. A case was registered in Crime No.33/2007 under Sections 4(1)(i), 4(1)(aaa) and 4(1-A) of the Tamil Nadu Prohibition Act.

3. The first respondent, taking note of the above case as a ground case and finding that there are three adverse cases, ordered her detention dubbing her as a bootlegger.

4. The learned counsel for the petitioner inviting our attention to the FIR and arrest memo, contends that there is no possibility of mentioning the crime number in the memo of arrest showing the time of arrest of the detainee at 8.00 hours on 6.4.2007, when the information itself was received at the police station only at 12.30 hours as per the FIR and therefore, the said discrepancy vitiates the order of detention.

5. We have heard the learned Additional Public Prosecutor on the above point and also perused the materials placed before us.

6. It is seen from the paper book placed before us that in the memo of arrest, found at page 37, the detainee was shown to have been arrested at about 8.00 hours on 6.4.2007 and it also contains the crime number as Cr.No.33 of 2007. But, in the F.I.R. found at page 21, it is stated that the information itself was received at the police station only at 12.30 hours. If that be so, the detaining authority has not applied their mind as to how the crime number of the case could be mentioned in the memo of arrest, when the information itself was received by the police at a later point of time, which, in our considered opinion, vitiates the order of detention.

In the result, the impugned order of detention is set aside. The detainee is directed to be set at liberty forthwith unless her presence is required in connection with any other case.

sra

Sd/
Asst.Registrar

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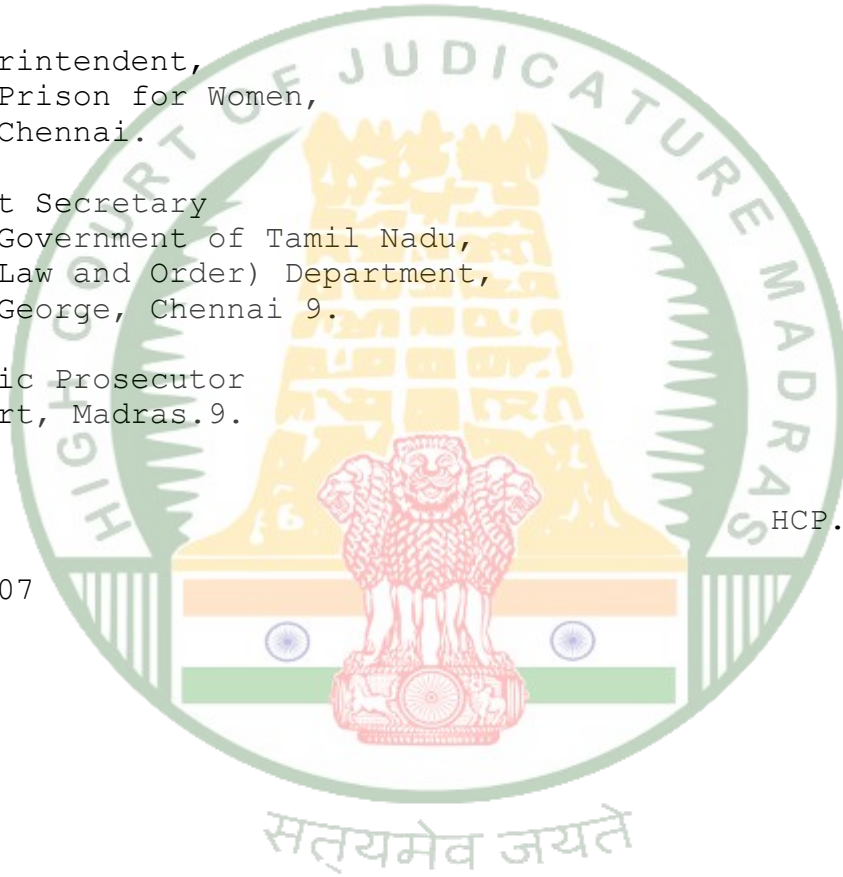
Sub Asst.Registrar

To

1. The Secretary to Government
Prohibition & Excise Department
Secretariat, Chennai 9.
2. The Commissioner of Police,
Greater Chennai, Egmore,
Chennai.
3. The Superintendent,
Central Prison for Women,
Puzhal, Chennai.
4. The Joint Secretary
to the Government of Tamil Nadu,
Public (Law and Order) Department,
Fort St George, Chennai 9.
5. The Public Prosecutor
High Court, Madras.9.

SCD(CO)
SR/13.11.2007

HCP.No.1060 of 2007



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