

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 31.10.2007

Coram:-

The Hon'ble Mr. Justice P.D.DINAKARAN
and
The Hon'ble Mr. Justice R.REGUPATHI

Habeas Corpus Petition No.1066 of 2007

Magesh

... Petitioner

vs.

1. The State of Tamilnadu,
Rep. by its Secretary, Prohibition and Excise Department,
Fort St. George, Chennai.

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

Petition under Article 226 of the Constitution of India for the issuance of a writ of Habeas Corpus to call for the records of the order of detention dated 07.06.2007, made in S.C. No.9 of 2007 on the file of the 2nd respondent, quash the same, direct the respondents herein to produce before Court the body of detenu Sampath, who is detained in the Central Prison, Salem, and set him at liberty.

For Petitioner : Mr.UM.Ravichandran
For Respondents : Mr.N.R.Elango,
Additional Public Prosecutor.

सत्यमेव जयते
O R D E R

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

The petitioner challenges the impugned order of detention, dated 07.06.2007, whereby, her husband by name Sampath has been detained as 'Bootlegger' as contemplated under 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).

2. From the grounds of detention, it is seen that on 17.05.2007 at 1 P.M., one Mohan of Pallipatti Village appeared before the Inspector of Police, A.Pallipatti Police Station and gave a complaint to the effect that on 16.05.2007, he consumed two tumblers of arrack by purchasing the same from the detenu, who was selling arrack at the northern side of the burial ground at Tholanoor village and after consumption of the same, he felt irritation in throat, blurring in vision and giddiness; however, somehow he managed himself and reached his house and after taking water, he vomited and thereafter took some native medicine. As he suspected that the detenu might have mixed some poisonous substance in the arrack and to prevent others from consuming the same, he requested the Inspector of Police to take necessary action. On such complaint, the Inspector registered a case in A.Pattlipatti P.S. Crime No.151 of 2007 for offences under Sections 4(1)(i) read with 4(1-A) of the Tamil Nadu Prohibition Act, 1937 and took up the investigation. On 17.5.2007 at 15.00 Hours, he took the complainant and two witnesses along with him and conducted a prohibition raid at the spot and found the detenu selling arrack there and on seeing the police, the detenu and others tried to escape however, the Inspector apprehended the detenu. Chemical examination of the sample of the arrack revealed that it was found to contain 4.6 mg of atropine per 100 ml. and that if the same is consumed, it would cause irritation in eyes and stomach, vomiting and depending upon physical conditions, it may also lead to loss of life. The Detaining Authority, taking note of three adverse cases pending against the detenu and considering his activities prejudicial to the maintenance of public health, clamped the detention order on him.

3. Learned counsel appearing for the petitioner submits that in the paper book supplied to the detenu, the document available at Page No.63 thereof, which is the Register in respect of materials seized from the accused at the time of examination, is illegible and non-furnishing of legible copy of such document would go to the root of the detention order.

4. On perusing the Paper Book with reference to the ground raised by the learned counsel for the petitioner, we find that one cannot understand the contents of the said document at page No.63 as it is totally illegible. As rightly pointed out by the learned counsel for the petitioner, non-furnishing of legible copy of such a vital document has prevented the detenu from making an effective representation. In such view of the matter, we hold that the order of detention is liable to be quashed.

5. Accordingly, the Habeas Corpus Petition is allowed and the order of detention passed by the second respondent in the proceedings dated 07.06.2007 against the detenu is quashed and the detenu is directed to be set at liberty forthwith from custody unless he is required in connection with any other case or cause.

JI.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. Secretary to Govt., Prohibition & Excise Department, Secretariat, Chennai 9.
2. The District Magistrate and District Collector, Dharmapuri District.
3. The Public Prosecutor, High Court, Madras.
4. The Superintendent, Central Prison, Salem.
5. The Joint Secretary to the Government of Tamil Nadu, Public (Law and Order) Department, Fort St George, Chennai 9.

+ 1 cc to Mr. V. M. Ravichandran, Advocate SR No. 65682

TS(CO)

SR/15.11.2007

HCP No.1066 of 2007.

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