

**IN THE HIGH COURT OF MEGHALAYA**

**WP(Cr1.)(SH) No. 7 of 2012**

Ms. Anima Mann  
Aged about 45 years,  
D/o (L) DL Mann,  
R/o Bangalkata Village,  
P.O. & P.S. Phulbari,  
West Garo Hills, Meghalaya

..... **Petitioner**

**- versus -**

1. The Union of India,  
Through the Secretary to the  
Government of India, Ministry  
of Home, New Delhi.
2. The State of Meghalaya,  
Through the Secretary to the  
Government of Meghalaya,  
Home & Political Department,  
Shillong.
3. The Commissioner and Secretary  
to the Government of Meghalaya,  
Political Department,  
Meghalaya, Shillong.
4. The District Magistrate,  
West Garo Hills District, Tura,  
Meghalaya.
5. The Superintendent of District Jail, Tura  
West Garo Hills District, Meghalaya.

..... **Respondents**

**BEFORE  
THE HON'BLE MR JUSTICE SR SEN**

Advocate for the Petitioner	:Mr. H Abraham
Advocate for the Respondent	:Mr. R Gurung, Addl. PP
Date of Hearing	:22.08.13
Date of Judgment and Order	:22.08.13

## **JUDGMENT AND ORDER (ORAL)**

This instant petition is directed against the impugned Detention Order as well as the Grounds of Detention Order dated 30.09.11 passed by the District Magistrate, West Garo Hills, Tura.

2. The brief fact of the case in nut shell is that, on the 30.09.11 the nephew of the petitioner namely **Shri. Rajesh Kumar Mann** was booked under MPDA, 1995 by the learned District Magistrate, West Garo Hills, Tura vide Detention Order as well as Grounds of Detention Order dated 30.09.11.

3. Being aggrieved by the said order referred to above, the petitioner approached this Court by way of this instant petition for on behalf of the detinue challenging the Detention Order as well as Grounds of Detention Order dated 30.09.11.

4. Mr. H Abraham, the learned counsel appeared for on behalf of the petitioner argued that from the affidavit filed by the respondents, it apparent that the accused has been taken into custody on 1.09.11 in connection with Tura P.S. Case No. 225 (8) of 2011 u/S 384/511 IPC and Tura P.S. Case No. 223 (8) of 2011 u/S 365/34 IPC. Since then he was in custody and subsequently he has been placed under detention by invoking the power under MPDA, 1995. But the question remains that, from the Grounds of Detention which is at Annexure-2 (Page-27) are the offences committed by the detinue in the month of September, 2011.

5. On the other hand, Mr. R Gurung, the learned Addl. PP appeared for on behalf of the respondent submitted that, there may be some typographical mistakes. However, he agreed that some mistakes have already been committed by the Detaining Authority.

6. I have perused the Grounds of Detention at Annexure-2 (Page-27) and some of the vital parts are quoted below :

***“On 22<sup>nd</sup> September, 2011, you threatened Shri. Hujil Kr. Mann, prominent elder of Haldibari village that he will be getting a demand call from GNLA leader and soon after your threatening, unexpectedly to Shri. Hujil Kr. Mann received a SMS from one Shri. Chekan P. Marak, a senior GNLA cadre demanding Rs. 1,50,000/- (Rupees one***

**lakh and fifty thousand)only with dire consequences to comply with their demand.**

**During the last week of September, 2011, you along with the area commander of the Western Area and other GNLA cadres came to the house of Shri. Sotjeng A Sangma at Rajomkola under Selsella Police Outpost and chalked plans to kidnap some wealthy businessmen from Rajabala, Haldibari, Selsella and its adjoining areas. Subsequently, you have selected some prominent businessmen who are frequently visit their area and keeps vigil on their movements and passes the information to the senior leaders of the organization. As planned on 29.08.2011 while Md Abdul Rasid, a 1<sup>st</sup> class contractor of Rajabala came by his private Alto Car to Haldibari to look his working site as well as for labour payment and on reaching at Haldibari working site he was kidnapped at gun point by the GNLA cadres who were waiting there at the site. Later, the kidnappers took him towards Kalchengpara jungle by his Alto Car and deserted the car at Kalchengpara village.”**

7. On perusal of the Grounds of Detention as referred to above, it apparent to me that grounds for which the detenue was booked under MPDA, 1995 have been committed in the month of September 2011. Now looking back to the affidavit-in-opposition by the respondent No. 4 at (Para-6) which is reproduced below :

**“6. That in reply to para 2 of the writ petition, the Answering Respondent begs to state that the detenue’s arrest on 01/09/2011 in connection with Tura PS Case No. 223 (8) 2011 U/s 365/34 IPC and Tura PS case No. 225 (8) 2011 U/s 384/511 IPC are matter of records and hence admitted. However, the allegation of false implication in Tura PS case No. 225 (8) 2011 is hereby denied.”**

8. On bare perusal of Para-6 of the affidavit-in-opposition referred to above, it is apparent that the detenue has been taken into custody w.e.f. 1.09.11 in connection with the 2(two) Tura P.S. Cases referred to above. Now, the question came into my mind that, if the person is already in custody w.e.f. 1.09.11, how can he be charge to commit offences in the month of September, 2011. So I find that the Grounds of Detention are noting but whimsical observations and without application of judicial mind and completely ipse dixit in nature. As such I am unable to accept the Detention order as well as Grounds of Detention Order as a true fact.

9. Accordingly, the Detention order as well as Grounds of Detention Order dated 30.09.11 and its subsequent proceedings are hereby quashed and the Respondent Authority is directed to release the detenu forthwith from this instant detention case.

10. Before I part with this case record, I observed that the detenu has been kept in custody for almost 2(two) years without any grounds and which is definitely illegal detention. I also warn the authority concerned that in future they should not repeat such mistakes and should not apply any special law like MPDA in random without any sufficient and logical grounds. Nobody has the right to curtail the liberty of a person without sufficient and true reason which is a constitutional right of a person.

11. With these observations and directions, the instant petition is allowed and the matter stands disposed of.

12. Registry is also directed to communicate this order to the respondent concerned immediately for compliance.

JUDGE

V. Lyndem