

**(2013) 07 MAD CK 0354**

**Madras High Court**

**Case No:** Habeas Corpus Petition No. 705 of 2013

M. Lakshmanan

APPELLANT

Vs

Secretary to the Government,  
Home Prohibition and Excise  
Department and Another

RESPONDENT

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**Date of Decision:** July 31, 2013

**Citation:** (2014) CriLJ 1183 : (2013) 4 MLJ(Cri) 32

**Hon'ble Judges:** V. Dhanapalan, J; C.T. Selvam, J

**Bench:** Division Bench

**Advocate:** M. Raju, for the Appellant; M. Maharaja, Additional Public Prosecutor, for the Respondent

**Final Decision:** Allowed

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### **Judgement**

@JUDGMENTTAG-ORDER

V. Dhanapalan, J.

The petitioner is the husband of the detinue, who has been branded as a "Bootlegger" as contemplated under the Tamil Nadu Act 14 of 1982 and detained under order of the second respondent passed in BDFGISSV No. 7/2013 dated 22.04.2013. The detinue came to adverse notice in the following cases:--

The alleged ground case has been registered against the detinue on 25.03.2013, by the Inspector of Police, R.K. Pet PEW Police Station, in Crime No. 201 of 2013 for offences under Sections 4(1)(aa) r/w 4(1-A) Tamil Nadu Prohibition Act, 1937 r/w 328 IPC. Aggrieved by the order of detention, the present writ petition has been filed.

2. Though learned counsel for the petitioner has raised several grounds to assail the order of detention, he mainly focussed his argument on the ground that the detaining authority has failed to take into consideration the nature of the offence and consequential production of the accused before the Magistrate. However, the detaining authority, in paragraph No. 5 of the grounds of detention, has observed

that the detainee was produced directly before the Principal District and Sessions Court, Tiruvallur, which shows the total non-application of mind of the detaining authority in arriving at the subjective satisfaction.

3. We have heard the learned Additional Public Prosecutor on the above submissions and perused the documents available on record as well as the impugned detention order.

4. In any case, for the purpose of remand, the accused is to be produced before the Magistrate. However, in the present case, the detaining authority has arrived at the subjective satisfaction in total non-application of mind by observing that the detainee was directly produced before the Principal District and Sessions Court, Tiruvallur and was remanded and her remand was periodically extended upto 22.04.2013. For the aforesaid reasons, the impugned detention order is vitiated and the same is liable to be quashed.

5. Accordingly, the impugned detention order passed by the second respondent, detaining the detainee, namely, Poongodi, W/o. Lakshmanan, made in BDFGISSV No. 7/2013 dated 22.04.2013, is quashed and the Habeas Corpus Petition is allowed. The above named detainee is ordered to be set at liberty forthwith, unless her custody is required in connection with any other case. The present order is only for the purpose of disposal of this petition and shall not have any bearing upon connected criminal pending cases.