



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.02.2018

CORAM:

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**THE HONOURABLE DR. JUSTICE S.VIMALA
AND
THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI**

HCP [MD].No.1842 of 2017

Henri Tiphagne

: Petitioner

Vs.

1. Union of India,
Represented by its Secretary,
Ministry of External Affairs,
South Block, New Delhi - 110 011.
2. The Home Secretary,
Home Department, Secretariat,
Chennai 600 009.
3. The Director General of Police,
Office of the Director General of Police,
Beach Road, Chennai.
4. The High Commissioner,
Embassy of Nepal,
Baradhamba Road, Mandi House,
Vakil Lane, Mandi House,
New Delhi, Delhi - 110 001, India.
5. The Chief Immigration Officer,
Tiruchirappalli Airport,
Trichy - 620 007.
6. The Commissioner of Police,
City Police Commissioner Office,
Trichy.
7. The Inspector of Police,
Airport Police Station,
Tiruchirappalli Airport,
Trichy - 620 007.

: Respondents

PRAYER: Habeas Corpus Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Habeas Corpus to direct the respondents to produce the person or body of the detenu by name Mukunda Raj Kattel, S/o.Kattel, aged about 51 years before this Court and set him at liberty.



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For Petitioner

: Mr.Muthu Saravanan
for Mr.R.Karunanidhi

For R2, R3, R6 and R7

: Mr.C.Ramesh
Additional Public Prosecutor

For R1, R4 and R5

: Mr.V.Kathirvelu
Additional Solicitor General of India**ORDER**

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

This petition has been filed by the friend of the detenu seeking direction to the respondents to produce the body or the person of the detenu by name Mukunda Raj Kattel, S/o.Kattel, aged about 51 years before this Court.

2.It is stated in the affidavit that the petitioner is the Executive Director of People's Watch, a Human Rights Organization, situated at Madurai. The main grievance expressed in this petition is that when the detenu, hailing from Nepal, presently working as Director of Forum-Asia, a Developmental Organization in Bangkok, wanted to enter into India, he was prevented on the ground that lookout circular is pending against him and that he was detained by the Immigration Department.

3.The learned Additional Solicitor General of India appearing for the respondents 1, 4 and 5, has filed a counter affidavit raising two plea viz., the locus standi of the petitioner to file this petition as well as the maintainability of the Habeas Corpus Petition before this Court. The learned counsel would submit that the alleged detenu was never detained by the authorities concerned and that the ban entry on account of Look Out circular can be challenged only before the concerned Embassy and not before this Court. It is also submitted that whenever entry into India is prevented, the appropriate authority to redress the grievance is, only the Embassy of India, and that this Court is devoid of jurisdiction.

4. When the authority to redress the grievance of the detenu is vested with Embassy of India, we feel it appropriate not to go into the merits of the matter and that it would be appropriate to drive the party to the concerned authority. Therefore, giving liberty to the concerned person to approach the Indian Embassy at Nepal, this Habeas Corpus Petition is closed.

5. It is needless to point out that if the detenu feels that



sufficient remedy is not given to him, it is open to him to work out the remedy in a manner known to law.

Sd/-

Assistant Registrar (Crl.side)

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/True Copy/

Sub Assistant Registrar

To

1. The Secretary,
Union of India,
Ministry of External Affairs,
South Block, New Delhi - 110 011.
 2. The Home Secretary,
Home Department, Secretariat,
Chennai 600 009.
 3. The Director General of Police,
Office of the Director General of Police,
Beach Road, Chennai.
 4. The High Commissioner,
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 6. The Commissioner of Police,
City Police Commissioner Office,
Trichy.
 7. The Inspector of Police,
Airport Police Station,
Tiruchirappalli Airport,
Trichy - 620 007.
 8. The Additional Public Prosecutor
Madurai Bench of Madras High Court, Madurai.
- + 2 CC TO Mr.P.SUBBIAH, ADVOCATE IN SR No. 49088
+ 1 CC TO Mr.R.KARUNANIDHI, ADVOCATE IN SR No. 48415

RJ2/AR

TE/SV-MMS/SAR-2 : 21/02/2018 : 3P/12C