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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(CRL) 3329/2017**

BHUPENDRA THAKKAR Petitioner

Through: Mr. Ashish Batra, Advocate.

Versus

UNION OF INDIA & ANR. Respondents

Through: Mr. Ajay Digpaul, CGSC for UOI.

**CORAM: JUSTICE S.MURALIDHAR
JUSTICE I.S. MEHTA**

ORDER

% **29.01.2018**

W.P.(CRL) 3329/2017 & CrI.M.A. 19609/2017

1. In this writ petition, the main ground urged is that since the impugned detention order dated 13th October, 2003 was passed nearly 14 years ago, it should be quashed.

2. In response to the petition, it has been pointed out *inter alia* by the Respondents that the Petitioner cannot take advantage of the fact that the detention order has remained unexecuted for over 13 years. It is pointed out that the legal requirement is that the detinue must first surrender to the process of law before seeking legal remedies. He cannot be allowed to take advantage of his own conduct of evading the process of law.

3. It is further stated by the Respondents in reply to grounds 6 and 7 that the question of considering the plea of the Petitioner for revoking the order of detention would arise only if the Petitioner first surrenders.

4. The above stand of the Respondents does not seem to be unreasonable. The Petitioner cannot take advantage of the fact that he himself was evading the process of law and till date has not surrendered. Whether in a given case, a detention order should be revoked due to lapse of time is a call that should be taken by the Detaining Authority. There cannot be a *mandamus* issued in every case where there is a delay in executing the detention order that due to the lapse of time, it should be revoked. The conduct of the detainee would also be relevant factor. However, in a given case, where the detainee surrenders after a considerable lapse of time, the Detaining Authority may want to take a call as to whether any useful purpose would be served in continuing with the order of the detention.

5. In the present case that stage has not been reached since the Petitioner is yet to submit to the process of law. As and when the Petitioner does that, the Respondents can decide whether they need to continue with the order of detention taking into account all the relevant factors.

6. This Court is not inclined to grant the relief prayed for by the Petitioner, at this stage.

7. The petition and the application are accordingly dismissed.

S. MURALIDHAR, J.

I.S. MEHTA, J.

JANUARY 29, 2018/ 'anb'