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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.11.2019

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THE HON'BLE MR.JUSTICE K.RAVICHANDRABAABU

W.P.NO.16876 OF 2019

AND

W.M.P.NO.16464 OF 2019

Mrs.Patchaurt Punsakon

...Petitioner

Vs.

1. The Government of India
Ministry of Finance
Department of Revenue
Office of the Commissioner of Customs (AIRPORT)
Integrated Cargo Complex,
Meenabakkam, Chennai - 600027.
2. The State
Represented by its
The Intelligence Officer
Customs House
Rajaji Salai, Chennai - 600001.
3. The State
Represented by its
The Superintendent
Special Prison for Women
Puzhal, Chennai - 600056.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records of the first respondent and quash the same in O.S.No.21/08/-INT-AIR Order-in-Original No.4 of 2009 dated 06.03.2009.

For Petitioner : Mr.P.G.Perumal Pandian

For Respondents : Mr.V.Sundareswaran
Senior Standing Counsel [R1]
Mr.M.Santhanaraman
Senior Standing Counsel [R2]
Mr.R.P.Prathap Singh
Government Advocate [R3]



ORDER

This writ petition is filed challenging the Order-in-Original No.4 of 2009 dated 06.03.2009.

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2. The petitioner claims to be a citizen of Thailand. On 29.04.2008, she was intercepted by the officers of the Air Intelligence Unit at the Departure Hall of the Anna International Airport while she was bound for Kuala Lumpur. On search, the officials found the petitioner concealed and smuggled 4900 grams of Heroin. After going through other formalities and procedures and after issuing show cause notice dated 22.10.2008, the present impugned order was passed after affording an opportunity of personal hearing to the petitioner through her counsel. The Adjudicating Authority found the petitioner guilty and ordered absolute confiscation of 4900 grams of Heroin valued at Rs.4,90,00,000/- in international market. The petitioner was also imposed with the penalty of Rs.4,00,000/- under Section 114(i) of the Customs Act, 1962.

3. The said order passed on 06.03.2009, is put to challenge now after a period of 10 years before this Court, simply by saying that the petitioner is not aware of the domestic laws of this country and she is deprived of source of income to approach the Appellate Authority laid down under the Act.

4. I am not inclined to entertain the present writ petition without even going into the merits of the matter only on the reason that the writ petition is not maintainable not only on the ground of delay and laches and also on the ground of availability of alternate remedy.

5. There is no dispute to the fact that the petitioner has participated in the adjudication process by engaging an Advocate. It is also seen that in the criminal case where the petitioner was convicted, the petitioner was represented by an Advocate. A challenge made against the conviction in Criminal Appeal No.414 of 2013 resulted in dismissal, the petitioner was represented through a counsel. Therefore, it is not correct to contend that the petitioner was left with no legal remedy or advice, as what to do against the impugned order, immediately after the issuance of the same. Therefore, it is evident that the petitioner has slept over the matter for 10 years and now has chosen to file the present writ petition only by raising some sympathy grounds. Needless to state that in these kind of matters the Court cannot be cared over on the ground of sympathy more particularly, when the offence committed by the petitioner which ended in passing the impugned order and also conviction in criminal Court is very serious and thus, cannot be taken so lightly to show some indulgence.



6. Accordingly, I find no reason to entertain this writ petition and thus, the same is dismissed. No costs. Connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The Government of India
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Department of Revenue
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2. The Intelligence Officer
Customs House
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3. The State
Represented by its
The Superintendent
Special Prison for Women
Puzhal, Chennai - 600056.

+1cc to Mr.G.Karthikeyan, Advocate, S.R.No.97254
+1cc to Mr.M.Santhanaraman, Advocate, S.R.No.96627

W.P.No.16876 of 2019

CP(CO)
CS/27/11/2019