



WEB COPY



WP.No.4741 of 2010

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09..01..2023

Coram

The Honourable Mr. Justice **P.N.PRAKASH**
and
The Honourable Mr. Justice **N.ANAND VENKATESH**

Writ Petition No.4741 of 2010

Madhani Shaik Lafif

..... Petitioner

-Versus-

- 1.State of Tamil Nadu,
Rep. by its Secretary to Government,
Department of Public (S.C.),
Fort St. George, Chennai-9.
- 2.Union of India,
Rep. by its Secretary to Government,
Ministry of Finance,
Department of Revenue (COFEPOSA Unit),
Central Economic Intelligence Bureau,
Janpath Bhavan 'B' Wing 6th Floor,
Janpath, New Delhi.
- 3.The Commissioner of Police,
Chennai City, Egmore, Chennai 60008.

.... Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the entire records pertaining to G.O.SR.1/570-2/2009 dated 14.10.2009 passed by the 1st respondent and to quash the same.



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For Petitioner : Mr.R.Sankarasubbu

*For Respondents : Mr.R.Muniyapparaj,
Addl. Public Prosecutor for
RR1 and 3
Mr.A.R.Sakthivel,
Senior Panel Counsel for R2*

ORDER

[Order of the Court was made by P.N.PRAKASH.J.,]

Challenging the Government Order in G.O.SR.1/570-2/2009 dated 14.10.2009 issued by the 1st respondent, the petitioner has come up with the present writ petition.

2. It is the case of the petitioner that he was arrested by the Department of Revenue Intelligence (for short, “**the DRI**”) on 02.08.2009 for an alleged offence u/s 135 of the Customs Act and was remanded to judicial custody on the same day.

3. Since the DRI was of the opinion that the petitioner would continue to involve himself in smuggling, it sponsored the detention of the petitioner under the COFEPOSA to the Government, pursuant to which, the State Government clamped an order of detention in G.O.SR.1/570-2/2009 dated 14.10.2009. The police authorities were not able to execute the order as the petitioner was stated to be in abscondence. The petitioner filed the present



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writ petition in March, 2010, challenging the order of detention on various grounds. This court granted an interim order staying the order of detention on 20.12.2011 and thereafter, it was extended from time to time and ultimately, the case records went missing. On we assuming this portfolio, we resurrected the case bundles and to our shock and surprise, this case has not seen the light of the day from 2010 onwards. Since the bundle had also gone missing, we directed the Registry to reconstruct the bundle and post the same before us for hearing. Under normal circumstances, we would have dismissed the writ petition with a direction to the petitioner to surrender and thereafter, challenge the order of detention. However, it has now been brought to our notice by the learned Senior Panel Counsel for the 2nd respondent that the ground case in which the petitioner was arrested and remanded to judicial custody has been closed in RR No.22 of 2009 on 29.04.2017 itself and the closure report has also been accepted by the learned Additional Chief Metropolitan Magistrate, EO-I, Egmore, Chennai, on 29.04.2017. In such view of the matter, after recording our displeasure and unhappiness, we are inclined to allow this writ petition.



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In the result, this Writ Petition is allowed and the order of detention dated 14.10.2009 passed by the 1st respondent against the petitioner herein in G.O.SR-1/570-2/2009 is hereby quashed.

(P.N.P., J.) (N.A.V.,J.)
09..01..2023

Index: Yes/No
kmk

To

- 1.The Secretary to Government, Department of Public (S.C.),
Fort St. George, Chennai-9.
- 2.The Secretary to Government, Ministry of Finance, Department of
Revenue (COFEPOSA Unit), Central Economic Intelligence Bureau,
Janpath Bhavan 'B' Wing 6th Floor, Janpath, New Delhi.
- 3.The Commissioner of Police, Chennai City, Egmore, Chennai 60008.



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