SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com

Shantha Kumar Vs. Collector of Customs

Shantha Kumar Vs. Collector of Customs

SooperKanoon Citation : sooperkanoon.com/727566

Court : Kerala

Decided On : Jul-04-1989

Reported in : 1990LC43(Kerala); 1990LC46(Kerala); 1990(47)ELT551(Ker)

Judge : V.S. Malimath, C.J. and; V. Bhaskaran Nambiar, J.

Acts : Customs Act - Sections 110(3); Passports Act - Sections 14

Appeal No. : W.A. No. 542 of 1989

Appellant : Shantha Kumar

Respondent : Collector of Customs

Advocate for Def. : None

Advocate for Pet/Ap. : M.N. Sukumaran Nair, Adv.

Disposition : Appeal dismissed

Judgement :

V.S. Malimath, C.J.

1. The appellant's passport has been seized by the Customs Officer, the appellant having been found with four gold biscuits when he came to India from abroad. It is on the ground of violation of the provisions of the Customs Act that his passport was seized. The appellant sought in the writ petition a direction to the authorities to

release the passport, to enable him to go back to Abudabi in connection with the employment which he has secured there. The learned Single Judge dismissed the writ petition holding that the authorities are entitled to seize and retain the passport under Section 110(3) of the Customs Act. In this connection the learned Single Judge has followed the judgment of Justice Sukumaran reported in 1986 K.L.T. 884 between Devadasan Devalal and Collector of Customs.

2. Section 110(3) of the Customs Act, in terms, empowers the proper officer to seize any documents or things which, in his opinion, will be useful for, or relevant to, any proceeding under the Act. It is on the basis of the passport, on the strength of which the appellant travelled to India and smuggled the gold in question, that proceedings have been initiated under the Customs Act. The proper officer has seized the passport on his forming the opinion that the passport will be useful or relevant for talcing further steps in proceedings under the Customs Act. That being the position, it is obvious that the seizure and retention of the passport under Section 110(3) of the Customs Act is justified. Learned Counsel for the appellant however submitted that when there is power under Section 14 of the Passports Act, the authorities should have invoked that power and not Section 110(3). We do not find any substance in this contention. Section 14 of the Passports Act can be invoked for the purpose of dealing with the offences or illegalities committed in regard to the issuance of passports or the misuse of the same. If the passport is seized on the ground that it is useful or relevant for the proceedings under the passport is seized on the ground that it is useful or relevant for the proceedings under the Customs Act, the proper action to be taken is under Section 110(3) of the Customs Act and not under Section 14 of the Passports Act. The jurisdiction of this Court, could not, in the circumstances, be invoked for stultifying the proceedings under the Customs Act. It is not possible to take the view that the passport is not useful or relevant for the proceedings against the appellant under the Customs Act. We, therefore, see no good ground to interfere. The appeal fails and is dismissed.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com