

Nallathambi Vs. the Union of India

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Court : Chennai

Decided On : Nov-08-2011

Judge : M.Jaichandren; V.Periya Karuppiah, Jj.

Appeal No. : H.C.P(MD)No.294 of 2011 and M.P.(MD) No.1 of 2011

Appellant : Nallathambi

Respondent : The Union of India

Judgement :

1. This petition has been filed by the petitioner praying that this Court may be pleased to issue a Writ of Habeas Corpus directing the respondents to produce the detenus, namely, 1.Victus (IC No.020288), aged 42 years, son of Xavier,

2.Anthoniraj (IC No.5027) aged 32 years, son of Francis, 3.Johnpaul (IC No.018126), aged 25 years, son of Nambikkai, 4. Marimuthu (IC No.5164), aged 32 years, son of Muthuramalingam, before this Court and to set them at liberty.

2. It has been stated that the detenus were fishermen, who were residing at Ottankuli, Thiruchuli, Virudhunagar District. When they had gone out to the sea for fishing, they went missing, from 2.4.2011. It had been stated that they would have been forcibly abducted by the personnel of the Sri Lankan Navy, as the Indian Cricket Team had defeated the Sri Lankan Cricket Team, during the recent World Cup Finals, on 2.4.2011. While so, the petitioner had preferred a representation to the 9th respondent seeking permission from the Indian, as well as the Sri Lankan

Governments, to send rescue boats and to permit the Indian fishermen to search for the missing fishermen in the Sri Lankan waters. However, there has been no response from the 9th respondent, for the representation submitted by the petitioner. Thereafter, various associations and organisations had given a number of representations to the authorities of the State Government, as well as the Central Government, for taking necessary steps to trace out the missing fishermen. Since, no concrete steps had been taken, pursuant to the representations made by the petitioner, he has preferred the present Habeas Corpus Petition, before this Court. A Miscellaneous Petition has also been filed by the petitioner to implead the proposed respondents, as Respondent Nos.10 and 11, in the present Habeas Corpus Petition.

3. At this stage of the hearing of the Habeas Corpus Petition, the learned Assistant Solicitor General of India, appearing on behalf of the respondents 1 to 3, and the learned Additional Public Prosecutor appearing on behalf of the respondents 4 to 9, had submitted that the four alleged detenus had died and their bodies had been handed over to the respective families. However, necessary steps have been taken to obtain the Post-Mortem Report of the detenu, namely, Victus (IC 020288), from the Sri Lankan Government. The said submissions made by the learned counsels appearing on behalf of the respondents had not been refuted by the learned counsel appearing on behalf of the petitioner.

4. In such circumstances, in view of the fact that the alleged detenus had died, this Court finds it appropriate to close the Habeas Corpus Petition, by directing the 8th respondent to conduct an effective investigation in the matter and to take necessary steps, thereafter, as per law. However, it is made clear that it would be open to the petitioner to move the appropriate forum or authority, for obtaining appropriate reliefs, if so advised, in the manner known to law. Accordingly, the Habeas Corpus Petition stands closed. Consequently, the connected Miscellaneous Petition also stands closed.