

Mehrunissa

Vs

State of Maharashtra

Criminal Writ Petition No. 354 of 1981

(O. Chinnappa Reddy, Baharul Islam JJ)

17.02.1981

JUDGMENT

CHINNAPPA REDDY, J. -

The principal submission made by Miss Rani Jethmalani, learned counsel for the petitioner, in this application for the issue of writ of habeas corpus is that copies of material documents referred to in the grounds of detention were not supplied to the detenu and he was thus prevented from making an effective representation. The documents about which the complaint is made are the panchnama dated January 15, 1980 said to have been made by the detenu in the enquiry under Section 108 of the Customs act on January 15, 1980. Miss Jethmalani relies upon the decisions of this Court in *Lacchu Devi Choraria v. Union of India* and *Shalini Soni v. Union of India*. No counter has been filed on behalf of the State of Maharashtra, but Shri O. P. Rana, learned counsel for the State of Maharashtra, urges that the copies of the documents were not supplied to the detenu as the detenu was already aware of the contents of the documents. That is hardly an answer to the submission made on behalf of the detenu. The detenu was entitled to be supplied with copies of all material contents intended to have to rely upon his memory in regard to the copies of such documents. The failure of the detaining authority to supply copies of such documents vitiated the detention, as has been held by this Court in the two cases cited by counsel. The detenu is, therefore, entitled to be released. He is accordingly directed to be released forthwith. The petition is allowed.

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