

Plaridel-O-Daysor and Another

Vs

State of Tamil Nadu and Others

Special Leave Petitions (Criminal) Nos. 791 and 825-27 of 1987

(B. C. Ray, A. P. Sen JJ)

01.05.1987

ORDER

1. The only contention advanced is that the petitioners who have been placed under detention under sub-section (1) of Section 3 of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 governed by declaration under Section 9 should not be kept under detention but served with deportation order and deported inasmuch as they are foreign nationals. We are not in the least persuaded by the submission. The Act has been enacted to effectively deal with smuggling activities and violations of Foreign Exchange Regulations as they have an increasingly deleterious effect on the national economy and thereby adversely affecting in serious measure the security of the State. The Act does not prescribe different procedures of detention for nationals and foreign nationals. The ground of detention clearly show that the detenus (Technical Engineer and the Second Officer) brought along with them on June 23, 1986, 750 gold bars weighing 87.5 kgs. They had gone to Taj Coromandel Hotel (Room No. 508) where detenu Osman was staying who is turn handed over the gold bars to detenu C. D. Chittaranjan staying at Room No. 10 in Woodlands Hotel. The entire gold was seized from Car No. TMZ 2857. In these circumstances there can be no doubt whatever that the petitioner were directly involved in smuggling of gold into the country contrary to the provisions of the Customs Act, 1962. The petitions are accordingly dismissed along with the applications for bail.

2. Our attention, however is drawn to the order passed by this Court in Writ Petition No. 8921 of 1986. In terms thereof we direct that if the challenge to the validity of Section 9(1) of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 is pending before a Constitution Bench the petitioners may move the court for necessary directions. If and when the said matter is taken up for hearing the petitioners may apply to the court for intervention.

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