

SUPREME COURT OF INDIA

Assistant Commissioner of Customs, Mumbai

Vs.

Francis Odillxo Roezer

S.L.P. (Crl.) Crimp 11799 of 2004

(B. P. Singh and Arun Kumar JJ.)

04.03.2005

ORDER

1. This Special Leave Petition is barred by time by 864 days. We have gone through the explanation furnished by the petitioner and we hardly find any explanation except for giving details of the movement of the file from one table to another.

2. In a case of this nature where a Tanzanian National was tried under the N.D.P.S. and convicted by the Trial Court but acquitted by the High Court, we expected the Department to be more vigilant and efficient in taking steps to get the order set aside rather than delaying the matter. We get the expression from the explanation furnished that the matter was deliberately delayed by interested persons in the concerned Department. We do not even know whether the respondent a Tanzanian National is still in this Country, or has left this Country for good. We are not informed till today whether the Respondent is within our territorial jurisdiction. Our experience tells us that in such cases, where the offender is a foreign national, he does not take more than 24 hours to leave the territory of this Country after acquittal, and this may have happened in this case as well. We, therefore, direct the petitioner to investigate the matter and file a clear affidavit to this Court as to whether the Respondent is still within the territorial jurisdiction of Court, or whether he has escaped from this Country. We also direct the Chief Commissioner of Customs, Mumbai, to conduct an inquiry or to get an inquiry conducted by an officer not below the rank of Commissioner of Customs and give a categorical report to this Court as to why the concerned authorities did not act with promptitude in filing the special leave petition which may have enabled the respondent to escape from this Country. There appears to be much more than what meets the eye.

3. This is a serious matter and we expect the Chief Commissioner of Customs, Mumbai to take the matter seriously and submit a report to us within four weeks from today. In the report responsibility must be fixed on the persons who are found responsible for the delay in filing the special leave petition. We may add that this is not the first time that we have come across a case of this nature.

4. Put up after four weeks.

5. Let a copy of this Order be communicated to the Chief Commissioner of Customs, Mumbai.