

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3838 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

VASAN BHARATHI JIVAN BHARATHI

Versus

N VITTAL

Appearance:

MR AR THACKER for Petitioner

MR UA TRIVEDI, AGP for Respondent No. 1

CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 29/11/96

ORAL JUDGEMENT

1. The petitioner was detained by an order dated 19/06/87 under the provisions of section 3(1) of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974. The order of detention was challenged on number of grounds. However, Division Bench of this Court, by order dated 11/04/1988, quashed the order of detention on the single ground that, none of the members of his household had been informed of the

passing of detention order and the fact that the detenu had been taken into custody and also of the place where the detenu had been detained. The Union of India carried the matter to the Apex Court by way of appeal. The Supreme Court, by its judgement dated March 01, 1990, allowed the appeal and set aside the judgement of this Court and remanded the matter to this Court for consideration of other contentions raised by the detenu challenging the order of detention. The Supreme Court also directed that detenu shall not be taken into custody to serve out the unexpired period of detention till the matter is finally disposed of by this Court.

2. It is stated in amended para-12(A) that the petitioner was detained on July 03, 1987 and he remained in jail under detention till April 11, 1988. He was thereafter arrested by the custom authorities and was released on bail. Subsequently, the custom authorities filed a complaint against the petitioner in the Court of the Chief Judicial Magistrate, Junagadh. The petitioner has been acquitted in the criminal case filed by the custom authorities on the set of facts on which the detention order is based. It is stated that, out of one year, the petitioner has already remained under detention for a period of about nine months.

3. Considering the fact and circumstances of the case, I do not find any justification for further detention i.e. for the unexpired period of two months and 20 days, for the purpose of preventing him the activities for which the impugned order of detention was passed in the year 1987.

4. In view of the above, this Special Civil Applicat[ion is partly allowed. It is directed that the petitioner shall not be further detained under the impugned order of detention. Rule is made absolute to the aforesaid extent.

parmar*