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JAFARIA

v.

UNION OF INDIA & ORS.

(Writ Petition (Criminal) No. 49 of 2009)

B

MARCH 22, 2010

[P. SATHASIVAM AND H.L. DATTU, JJ.]

Constitution of India, 1950:

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Articles 32 and 21 – Writ of habeas Corpus – Pakistani national, convicted by Court of Session in India – Continued to be in prison in India, after serving the full sentence – HELD: In view of specific information that the Government of India has taken a decision to repatriate the petitioner, no further direction is required – International Law – Repatriation.

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CRIMINAL ORIGINAL JURISDICTION : Writ Petition (Criminal) No. 49 of 2009.

Under Article 32 of the Constitution of India.

B.S. Billoria, Dinesh Kumar Garg for the Petitioner.

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Gopal Subramaniam, SG, Dr. Manish Singhvi, AAG, Aman Ahluwalia, S.N. Terdal, Devanshu Kumar Devesh, Vinay Kumar Sharma, Milind Kumar for the Respondents.

The following Order of the Court was delivered

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O R D E R

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1. According to the petitioner, he is a permanent resident of Chorewala, District Rahimiarkhan, Pakistan and has been illegally detained for the last three and a half years in Central Jail, Jaipur though he has undergone actual sentence of nine years awarded by Sessions Court in Sessions Case No. 228 of 1997 by judgement dated 16.01.2006. The present confinement, according to him, is contrary to Article 21 of the Constitution of India. In the writ petition he has also highlighted

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various details and finally prayed for issuance of a writ of Habeas Corpus to release him from Central Jail, Jaipur forthwith. A

2. Pursuant to the notice issued by this Court, State of Rajasthan has filed a counter affidavit stating that they have no objection in releasing the petitioner from Central Jail, Jaipur. B

3. On behalf of the Government of India, Deputy Secretary (Foreigners) in the Ministry of Home Affairs, filed an affidavit highlighting its stand. Mr. Gopal Subramaniam, learned Solicitor General appearing for the Union of India, by drawing our attention to paragraph 10 of the said affidavit submitted that in view of the decision taken by the Union of India, no direction is required from this Court. It is useful to refer paragraph 10 of the said affidavit which reads as under: C

'Most respectfully, it is further submitted that for the repatriation of all Pak nationals including Mr. Jafaria, who have completed their sentence and who have been confirmed by the Pakistani authorities as Pakistani nationals, this Ministry had sought 'No Objection' from the State Governments concerned (including Government of Rajasthan in respect of Mr. Jafaria). No objection from the Government of Rajasthan in respect of Mr. Jafaria has since been received. It has accordingly been decided to repatriate Mr. Jafaria to Pakistan on 25th March, 2010 through the Attari-Wagha border'. D E

4. In view of the specific information that the Government of India has taken a decision to repatriate the petitioner namely, Jafaria, to Pakistan on 25th March, 2010 through Attari-Wagha Border, no further direction is required except recording the above information. This Court appreciates the efforts made by the learned Solicitor General and the ultimate decision by the Government of India. F G

5. With the above observation, the writ petition is disposed of.

R.P. Writ Petition disposed of. H