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IN THE SUPREME COURT OF THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA

S.C. Application
No. 112/86.

In the matter of an application under
Article 126 of the Constitution of the
Democratic Socialist Republic of Sri
Lanka.

N.P.G. Siriyawathie,
Prisoner No. 586,
New Remand Jail,
Anuradhapura.

.. Petitioner

vs.

1. Siva Pasupathi Esq.
Attorney-General,
Colombo 12.

2. C.T. Jansz,
Commissioner of Prisons,
Colombo 8.

Respondents

Before:

Wanasundera, J.,
Atukorale, J., and
H.A.G. de Silva, J.

Counsel:

H.L. de Silva, P.C., with Anton Fernando,
(Miss) Lakmali de Silva and Chanaka de Silva
for the Petitioner.

Hector Yapa, D.S.G., for the Respondents.

Argued and
decided on:

28th April, 1987.

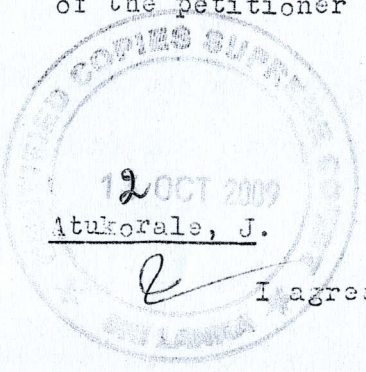
Wanasundera, J.

The petitioner was arrested on a charge of murder by the Anuradhapura Police and remanded by the Magistrate on the 25th of December 1979 in case number M.C. Anuradhapura 91763. She complains that up to date, that is for a period of 7 years, no indictment has been served on her and she is still languishing in jail.

Mr H.L.de Silva who appears for the petitioner has also brought to the notice of court that she has been detained in consequence of an order made by the Magistrate in terms of section 115(2) of the Criminal Procedure Code which permits remand of only for a period of 15 days (document 2R1A). The purported order of detention has been made sine die, which is not in accordance with the law. No warrant of commitment under section 159 of the Code, as is required by the law, has been issued in this case. The executive authorities concerned in this matter have also not taken any steps to rectify this situation which could have been done. On the face of it, the detention under 2R1A is bad and illegal. We accordingly direct the Commissioner of Prisons to have this petitioner produced forthwith before the Magistrate of Anuradhapura for her release. The Magistrate ~~##~~ is directed to release the petitioner without delay on her signing a personal bond.

We also award her compensation in a sum of Rs.15,000/- payable by the State for a violation of her rights.

We also direct the Registrar of the Supreme Court to send a copy of this order to the Judicial Service Commission to enable the Commission to ascertain to what extent the judges and court officers have by their acts or omissions contributed to the unlawful detention of the petitioner for a period of over seven years.



12 OCT 2009
Atukorale, J.
I agree.

H.A.G.de Silva, J.

R.W. Mananayake
JUDGE OF THE SUPREME COURT

S. Akshaya
JUDGE OF THE SUPREME COURT

CERTIFIED TRUE COPY
Order

best M.L. JAREENA BEHAM