

Kamaladevi Chattopadhyay vs State Of Punjab And Anr. on 21 September, 1984

Equivalent citations: AIR1984SC1895, 1985CRILJ356, (1985)1SCC41, AIR 1984 SUPREME COURT 1895, 1985 (1) SCC 41, (1985) IJR 37 (SC), 1984 CRILR(SC MAH GUJ) 441, 1984 CURCRIJ 498, 1985 CRIAPPR(SC) 51, 1985 (1) SCWR 6, 1985 SCC(CRI) 37, 1985 (1) RECCRIR 50

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Bench: O. Chinnappa Reddy, V. Khalid

ORDER

O. Chinnappa Reddy, J.

1.Smt. Kamaladevi Chattopadhyay has petitioned to us under Article 32 of the Constitution complaining against the detention of several children in the central jails at Ludhiana and Amritsar, consequent to their being rounded up in the recent army action within the precincts of the Golden Temple, Amritsar. It was stated that they were kept in the jails along with the convicts. We felt not a little perturbed, and we made an order on 28-8-1984 directing the District Judge off Ludhiana and Amritsar to personally visit the jails and to verify whether any children were detained in the jails and if so to forthwith take steps for their removal from the jails and further to arrange for their safe custody and well being. We also directed notice to be issued to the State of Punjab and gave a direction to State of Punjab to take steps to trace the parents or relatives of the children. Though this order was made on August 28, 1984 we have no response from the State of Punjab till today, that is September 21, 1984. They have not cared to file any statement or affidavit before us. The Superintendent of the Central Jail Ludhiana has filed an affidavit annexing a list of the children who were at present detained in the Central Jail Ludhiana as well as the Special Security Jail. We also have the report of the learned District Judge Ludhiana before us. We are yet to receive a report from the District Judge Amritsar.

2. The report of the District Judge Ludhiana does reveal a sad state of affairs. We find from his report that among those detained are three mothers and their children, Smt. Swaran Kaur with her two daughters Rani aged 3 years and Babli aged 1 year, Smt. Surinder Kaur with her four Sons Paramjit Singh aged 14 years, Ranjit Singh aged 12 years, Iqbal Singh aged 9 years and Jiwan Singh aged 5 years and her sister-in-law Balwinder Kaur aged 16 years and Smt. Jamila Khatoon with her two brothers, Babu aged 10 years and Bashir aged 8 years and her two sisters, Nasima aged 12 years and Bano aged 9 years. It is quite obvious to us that these women and children must be devotees and pilgrims visiting the Golden Temple who have unfortunately been caught by circumstances in the

action that took place in the Golden Temple on June 5, 1984. Though there is a reference to some proceeding under Section 107 of Criminal Procedure Code, against Smt Swaran Kaur and Smt. Surinder Kaur, we do not think that there is the slightest justification to detain any of these persons in prison. They are directed to be set at liberty forthwith along with the children who are with them.

3. We also find from the report that the following children are detained in the Special Security Jails:

1. Dalip Singh s/o Jarnail Singh, aged 15 years.
2. Kuldeep Singh s/o Mohinder Singh, aged 15 years.
3. Rajinder Singh s/o Joga Singh, aged 15 years.
4. Lakha Singh s/o Milkha Singh, aged 16 years.
5. Harsharan Singh s/o Ram Swarup, aged 14 years.
6. Jaswant Singh s/o Nirmal Singh, aged 14 years.
7. Kewal Singh s/o Joginder Singh, aged below 16 years.
8. Tarsem Singh s/o Niranjana Singh, aged 12 years.
9. Ali Akbar s/o Dule Mian, aged 14 years.
10. Chotey Mian s/o Sadiq Mian, aged 15 years.
11. Mohammed Mustafa an old man aged about 72 years with three grand children Mohammed Isral alias Ismail aged 6 years, Mohammed Nadian, aged 4 years and Sonea, aged 2 years.
12. Fazal Haque s/o Aklun Mian, an old man and his daughter Shahzadi, aged 8 years.
13. Amir Hussain and his younger brother Mohammed Ismail, aged about 12 years.

Neither the affidavit of the Superintendent of the Central Jail nor the report of the learned District Judge indicates any reason for the detention of any of these persons. Apparently they have been rounded up in Golden Temple in the action that took place on June 5, 1984 and they have all been herded together in the jail since then. We are unable to find any justification for their detention. All of them are directed to be released forthwith.

4. Further orders will await the receipt of the report from the District Judge, Amritsar. The matter may be listed as soon as the report from the District Judge, Amritsar is received. The Superintendent, Central Jail Ludhiana is directed to report to us forthwith the authority under

which he is detaining the several children mentioned in Para 10 of the report of the District Judge. A copy of the report may be sent to him.