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W.P.Crl.No.27 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.06.2026

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.Crl.No.27 of 2026
WPMP.Crl.No.5 of 2026

Mokariya Dhanji Aryan
Mafatiya Para,
Ranavav, PO Ranavan,
Porbandar, Gujarat 360 550.

..Petitioner(s)

Vs

1. The State Rep. by
The Deputy Superintendent of Police
Office of the CBCID,
No. 1000/1, Avinashi Road,
Coimbatore- 18.
2. The Joint Secretary of Government of India
(Foreigners)
Ministry of External Affairs , (foreign
Division),
Major Dhyan Chand National Stadium,
India Gate Circle,
New Delhi 110 001.
3. The Section Officer (Cons.I), CPV Division
Ministry of External Affairs,
Patiala House Annexe,
New Delhi 110001.
4. Principal Secretary to Government
Public (Foreigners -II) Department,
Sarvari, Iyppasi-24,
Thiruvalluvaraandu 2051

..Respondent(s)



W.P.Crl.No.27 of 2026

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the details pertaining to the impugned order vide G.O (1D) No. 405 dt. 09.11.2020 issued by the 4th respondent and quash the same and consequently direct the respondents to produce the detainee before the Court and set her at liberty.

For Petitioner : Mr.Rahul Jagannathan
For Respondents
For R1 & R4 : Mr.R.John Sathyan,
Public Prosecutor,
Assisted by Mr.R.Ganesh Kumar
Counsel for Government of Tamil Nadu
(Criminal Side)
For R2 & R3 : Mr.J.Madanagopal Rao,
Central Government Standing Counsel

ORDER

This Writ Petition has been filed challenging the order passed by the first respondent in GO(1D) No.405 Public (Foreigners-II) Department dated 09.11.2020, thereby directing the petitioner to reside in the special camp identified and located by the district collector, Tiruchirappalli, in view of the petitioner's release from the jail, till his deportation.

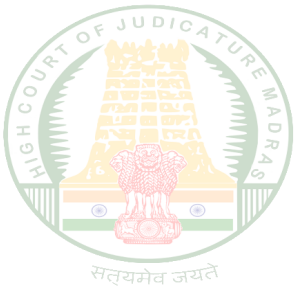
2. The petitioner is a Srilankan national and he came down to India through tourist visa. While he was stayed in India, he involved in a Crime No.1717 of 2020 on the file of the first respondent registered for the offences punishable under Sections 177 & 201 of IPC. After



W.P.Crl.No.27 of 2026

completion of investigation, the first respondent filed a final report and the same has been taken cognizance in C.C.No.242 of 2023 on the file of the Chief Judicial Magistrate, Coimbatore. After due trial, the Trial Court acquitted the petitioner from all the charges and directed the District Collector, Tiruchirappalli, to deport the petitioner to his country. However, by the impugned order, the petitioner was directed to reside in the special camp identified and located by the District collector of Tiruchirappalli, in view of his release from the prison, till his deportation. Challenging the above said order, the petitioner filed the present Writ Petition.

3. The learned counsel appearing for the petitioner submitted that the Hon'ble Supreme Court of India in the case of ***Frank Vitus Vs. NCS & ors.***, reported in ***(2024) 8 SCC 415*** held that, while imposing bail conditions, the constitutional rights of an accused who is ordered to be released on bail, can be curtailed only to the minimum extent required. Even an accused convicted by a competent Court and undergoing a sentence in prison, is not deprived of all his rights guaranteed by the Article 21 of the Constitution of India. However, the petitioner, even after acquitted from all the charges, was directed to stay in special camp at Tiruchirappalli.



W.P.Crl.No.27 of 2026

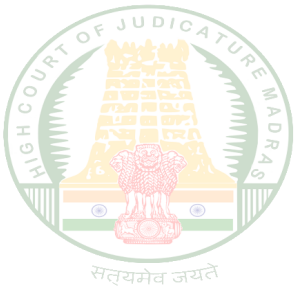
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4. Per contra, the learned Public Prosecutor appearing for the respondents submits that the petitioner is a Srilankan national and he involved in a crime for the offences punishable under Sections 177 & 201 of IPC. Though the Trial Court acquitted the petitioner from all the charges, the first respondent preferred an appeal and it is pending. Therefore till the disposal of the appeal, the petitioner shall reside in the special camp identified by the District Collector, Tiruchirappalli.

5. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

6. The very same issue was dealt with by the Hon'ble Division Bench of this Court in the case of ***Kalavathy & ors Vs. State of Tamil Nadu***, reported in ***1995-2-L.W.(Crl.) 620(2)***, in which the Hon'ble Division Bench of this Court held as follows :-

“24. There is no absolute prohibition to move from one place to another. The orders of say that the inmates shall not leave the camp except with permission of the District Collector. In other words, they can move on grant of permission. The dimensions of freedom to move throughout the territory of India avail-able for a citizen,



W.P.Crl.No.27 of 2026

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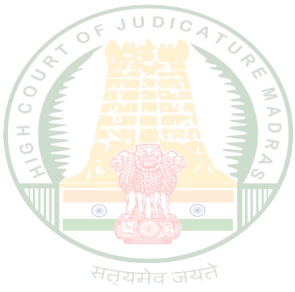
is not the same for a foreigner. Having regard to the particular explosive situation prevalent in the country, it is only reasonable that restrictions of this sort are sought to be imposed. Such imposition can never be stated to be arbitrary or capricious if- exercise of power, violating the mandate of Articles 14 and 21 of the Constitution. As already stated, there is a fallacy in the argument that the orders become bad in the absence of old fixation of definite periods of stay in the special refugee camps, for each order is not one of detention but only one of reasonable restriction.”

Thus it is clear that, such restriction had been violating the mandate of Articles 14 and 21 of the Constitution of India. The order is not one of detention but only one of reasonable restriction.

7. In another judgment, the Hon’ble Division Bench of this Court, in H.C.P.No.971 of 2021 dated 14.11.2003 in the case of ***Yogeswari Vs. State of Tamil Nadu***, reported in ***(2003) 1 LW (Cri) 352***, held as follows :-

“29. Assuming that the legality of the order as set out above can be sustained, on merits, we find that the order is vitiated on many counts :

i) The impugned order did not take note of the bail order passed by the learned Principal Sessions Judge, Tiruchirapalli in Crl.M.P. No.211 of 2001 dated 1.2.2001



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with a condition that the detenu should reside at Chengalpattu and report before the Judicial Magistrate, Chengalpattu everyday.

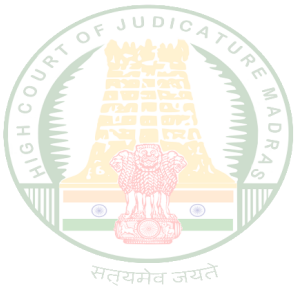
ii) Even though the counter affidavit says that the bail order was taken note of, the admission in the counter is that since a case is pending against the detenu, he cannot be allowed to leave the Special Camp and it is also stated that the detention order is passed only because of the pendency of the case and nothing else.

iii) The learned Additional Public Prosecutor, in the orders extracted above, has maintained that the Government has no objection in sending the detenu back to Sri Lanka and that the impugned order was passed only because of the pendency of the criminal case against the detenu. If that is so, then, regulating the presence of the detenu under the Foreigners Act, 1946 can only be in a place set apart for residential purpose and not in a Special Camp which is meant for keeping persons who have entered into India unauthorizedly and as refugees.

iv) Insofar as the detenu in this case is concerned, he has entered into India along with the petitioner herein authorizedly, has complied with all the formalities and also has a residence in India ever since 1983.

Therefore, the impugned order clearly amounts to a detention and confinement.

30. In this context, the judgment of the Division Bench in KALAVATHY's case is clearly distinguishable on facts. The Division Bench, in that case, was concerned

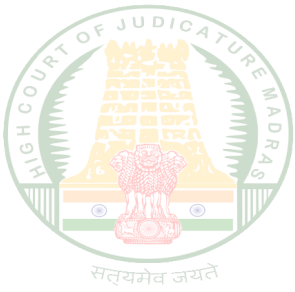


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W.P.Crl.No.27 of 2026

with persons who had close links with L.T.T.E. and they had posed a danger to the security of the State. Apart from there being members belonging to various militant groups, the petitioners in that case were all of that category and therefore, this decision will not apply to the case of other foreigners. The argument of the learned Additional Public Prosecutor in that case was that the enquiry revealed that the respective foreign nationals were having illegal connections with L.T.T.E. Those foreign nationals were not in possession of any legal documents and they were having close links with L.T.T.E. It is only those internees who are kept in Special Camps, at the rate of four persons per cell, by locking up the inmates from 6 am to 6 pm with certain relaxation. It was argued that the petitioners in those cases had engaged themselves in anti-social activities like smuggling of arms and explosives unauthorizedly, exporting fuel and other essential commodities to Sri Lanka, besides committing offences against the local public, apart from getting involved in Rajiv Gandhi's assassination. It was further argued by the learned Additional Public Prosecutor in that case that Sri Lanka nationals were being permitted to stay in this country subject to the condition that they would not indulge in activities prejudicial to the interests of this country in any manner. If they had their own plans to settle in peace, they can follow the said plan or in the alternative, accept the plans of the Central and State Governments to settle



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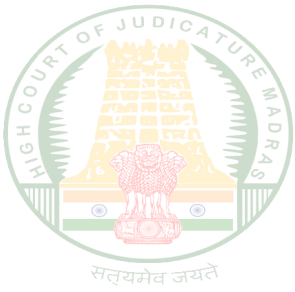
W.P.Crl.No.27 of 2026

themselves in this country peacefully. The State Government never intended to detain or regulate the movements of stay or peace. However, persons who belonged to various militant groups had to be segregated and their movements regulated not only in the interests of the State, but also for the welfare of those militants who were inimically disposed to each other. It was specifically stated by the learned Additional Public Prosecutor in that case as follows :-

"Except that reasonable restrictions have been imposed on those foreigners who have entered into India without any valid document and had indulged in activities which are prejudicial to the security, safety and territorial integrity of India, their liberty has not been taken away."

31. In that context, the Division Bench accepted the case that the detenu were neither arrested nor detained. The Division Bench, after considering these arguments, found from the facts narrated that only a small percentage of Sri Lankans who had been entertained as refugees were said to have been detained in the Special Refugee Camps "in view of the information available to the State Government that they belong to militant groups and have close links not only with the L.T.T.E. Organisation, but some of them had a role to play in the Rajiv Gandhi's assassination

32. The facts, set out above in the said case are totally in contrast with the facts of the case on hand and



W.P.Crl.No.27 of 2026

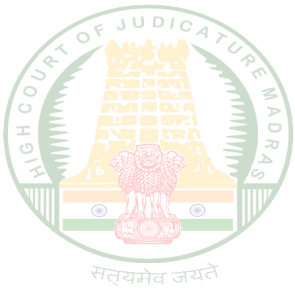
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hence, the decision of the Division Bench that a special refugee camp cannot be termed as an internment camp thereby justifying the order passed under Section 3(2)(e) of the Foreigners Act, 1946 will not apply to the facts of this case. The detenu in this case will not come under any of the categories referred to by the Division Bench in the said judgment. He is a Sri Lankan citizen living in India as a foreigner and therefore, his internment as contemplated under Section 4 of the Foreigners Act, 1946, in the facts and circumstances of the case, is nothing but an order of detention and confinement."

Thus, the Hon'ble Division Bench of this Court held that the order of stay in special camp is nothing but detention and confinement.

8. It is also relevant to rely upon the another judgment of the Hon'ble Division Bench of this Court in ***H.C.P.No.1038 of 2003***, dated 14.11.2003 in the case of ***Premavthy @ Rajathi Vs. State of Tamil nadu***, which held as follows :-

"39. We would not go into that question. However, what concerns us is the complaint made by the learned counsel that once they are put in the Special Camp, that is almost a one-way ticket for them in the sense that they cannot go out. In our opinion, it would be better if the Government is directed to take up the review in each individual case, atleast twice a year. For this purpose,

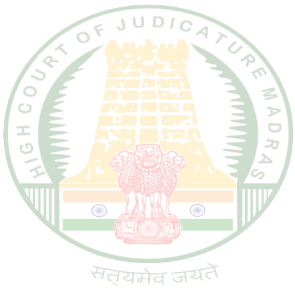


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W.P.Crl.No.27 of 2026

the concerned persons can be given an opportunity to make representations and to show the change of circumstances. We also feel that such persons, who are not potentially dangerous or whose life itself is not in danger on account of their connections with the militant organisations could be allowed to go out atleast once a week for making purchases, etc. of course, under a proper police escort so that they do not take any undue advantage of the facility given. It is suggested by the learned counsel that whenever an application is made for going out on some occasions like, marriage, family functions, funeral, etc. such applications are not considered in time. We would expect the Government to dispose of these applications expeditiously and not beyond a period of four weeks, if they are made to a proper authority. This will, of course, be subject to the Government's right to make bi-annual review in case of each such person. We are also of the opinion, that the facility of meeting with the relations should be in a more relaxed manner so that they are able to meet their relatives and other persons (not necessarily only those whose names have been earlier given). Similarly, we have already taken a note of the argument by the learned Public Prosecutor that these persons would not be kept in the Special Camps the moment the requirement of their being lodged in the Special Camp comes to an end like when they are acquitted of the charge or when they are convicted and served out their sentences. We would also



W.P.Crl.No.27 of 2026

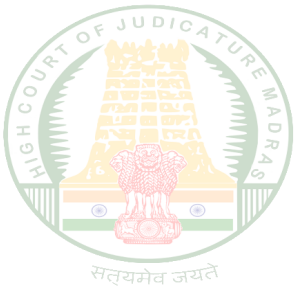
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expect that the State Government and the Public Prosecutors in the criminal cases pending against these persons would be more vigilant and their criminal cases should be disposed of with top priority. Accordingly, a general direction shall issue that all those persons who are lodged in the Special Camp on account of a pending criminal prosecution, such criminal case should be disposed of giving top priority to that case. All the concerned courts shall be informed of this direction.”

Thus, the government was directed to take up review in each individual case, atleast twice a year and consider their respective request.

9. Thereafter, the issue was referred to a Larger Bench to resolve the conflicts between the Hon'ble Division Benches decisions. The Larger Bench of this Court in ***H.C.P.No.1138 of 2006*** in the case of ***Sree Latha Vs. Secretary to Government, Government of Tamil Nadu & ors***, reported in ***2007 SCC OnLine Mad 1699***, held as follows :-

“19. According to Concise Oxford Dictionary, 10th Edition, the expression confine means, to keep or restrict someone or something within certain limits of space. In a general sense, directing a foreigner to remain within a Special Camp and not allowing him to move out of such Special Camp may amount to his confinement within such Special Camp as such person is to remain within certain limits of space. However, it can be also said to be



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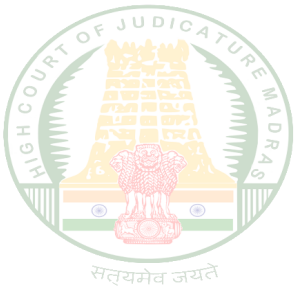


W.P.Crl.No.27 of 2026

compatible with Section 3(2)(e)(1) and (ii) inasmuch as the foreigner is asked to reside in a particular place, namely, the Special Camp, along with further imposition of restriction in his movement in the sense that his movement is restricted within the space available in the Camp during day time and he is further restricted to a particular cell during night time. Section 4 (2) contemplates that any foreigner, a person on parole may be subjected to other conditions as to discipline.

Having regard to all these aspects, we are unable to accept the submission made by the petitioner and, in our considered opinion, the Division Bench decision of this Court in (1995) 2 LW (Cri) 690 (2) (KALAVATHY v. STATE OF TAMIL NADU) had been correctly decided.

We are also unable to accept as correct the ratio of the subsequent decision in (2003) 1 LW (Cri) 352 (YOGESWARI v. THE STATE OF TAMIL NADU, REP. BY ITS SECRETARY TO GOVT., PUBLIC (SC) DEPARTMENT, CHENNAI) as such an order directing a foreigner to stay within a Special Camp with certain inevitable restriction regarding on his movement would amount to an order of preventive detention as envisaged under the National Security Act, 1980 and an order of arrest and detention or confinement within the meaning of Section 3(2)(g) of the Foreigners Act. Though it would have been more appropriate for the subsequent Division Bench in the unreported decision in Premavathy's case to refer the matter to a larger Bench for resolving such



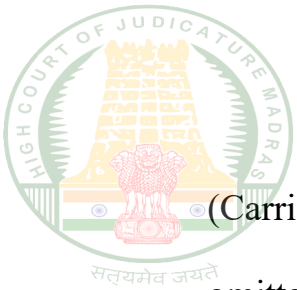
W.P.Crl.No.27 of 2026

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conflict, the ultimate conclusion was correct. Since we have approved the ratio of the decision in Kalavathy's case, it is not necessary to consider in detail the submission of the learned Senior Counsel that the Supreme Court in SLP had merely rejected the petition without laying down any particular principle of law, though prima facie the observation made in Premavathy's case that the ratio of Kalavathy's case had received the approval of the Supreme Court appears to be justified."

Therefore, the Larger Bench held that the decision made in the case of ***Kalavathy & ors Vs. State of Tamil Nadu***, is a right decision since it received the approval of the Hon'ble Supreme Court of India. Subsequently, the Hon'ble Division Bench of this Court in ***H.C.P.No.1608 of 2020*** dated ***08.10.2021*** in the case of ***Rajalakahmi Vs. State of Tamil Nadu & ors*** held that challenging an order passed by the State Government under Section 3(2)(e) of the Foreigners Act, cannot be considered as order of detention and it can be challenged before the Single Bench of this Court but not as a Habeas Corpus Petition.

10. Thereafter, the Government of India passed an order dated 01.09.2025, in exercise of the powers conferred by Section 33 of the Immigration and Foreigners Act, 2025 and in supersession of the Registration of Foreigners (Exemption) Order, 1957 and the Immigration



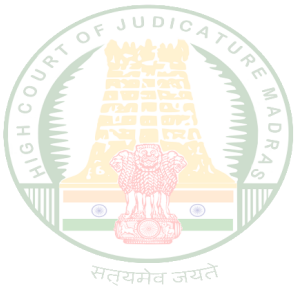
W.P.Crl.No.27 of 2026

(Carriers' Liability) Order, 2007, except as respective things done or omitted to be done before such supersession, thereby extending the stay in India and for the purpose of exiting India shall not apply to registered Srilankan Tamil nationals who have taken shelter in India upto 09.01.2015.

11. All the above factors are already considered by this Court in ***W.P.No.18835 of 2013*** in the case of ***G.Thirukalyanamalar Vs. State Bank of India & ors.***, by an order dated ***23.01.2026***, which held as follows:-

“18. Thus, the aforesaid exemption expressly excludes the application of Section 3 of the Act 2025, which otherwise mandates compulsory possession of a valid passport and visa for a foreigner to reside in India. Consequently, the residence of the petitioner who is a registered Srilankan Tamil Refugee in this Country cannot be characterized as illegal. On the contrary, her stay stands regularized and protected by virtue of Section 3 of Order 2025, who admittedly is a registered Sri Lankan Tamil national.

19. Insofar as the provisions of Citizenship Act are concerned, the same need not be adverted to in detail, as no material has been produced to substantiate that the petitioner has acquired Indian citizenship either by



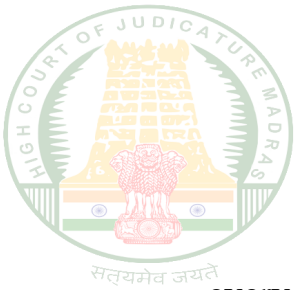
W.P.Crl.No.27 of 2026

registration, naturalization or descent.

20. In the light of the foregoing discussion, it is evident that the petitioner has been conferred with a lawful right of residence in India. The rehabilitation scheme formulated for Sri Lankan Tamil refugees also extends benefits such as shelter, education and employment in India, particularly in the State of Tamil Nadu.”

12. In the case on hand, the petitioner was facing trial in C.C.No.242 of 2023 for the offences punishable under Sections 177 & 201 of IPC and he was acquitted from all the charges. However, by the impugned order, he was directed to stay in special camp at Tiruchirappalli. Therefore, no offence is made out as against the petitioner in view of the Section 33 of the Immigration and Foreigners Act and in supersession of the Registration of Foreigners (Exemption) order, 1957. Hence the order impugned in this Writ Petition cannot be sustained and is liable to be set aside.

13. Accordingly, the impugned order passed by the first respondent in GO(1D) No.405 Public (Foreigners-II) Department dated 09.11.2020, is hereby quashed and the petitioner shall release from the special camp at Tiruchirappalli, forthwith, on the following conditions :-



W.P.Crl.No.27 of 2026

(i) The petitioner shall appear before the first respondent police on every Monday at 10.30 a.m., till the disposal of the appeal.

(ii) The petitioner shall inform his place of residence and his contact details to the first respondent police.

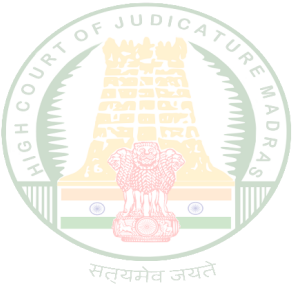
(iii) The petitioner shall deposit his passport to the first respondent, if not already seized, forthwith.

14. With the above directions, the Writ Petition stands disposed of. Consequently, connected miscellaneous petition is closed. There shall be no order as to cost.

29.06.2026

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order

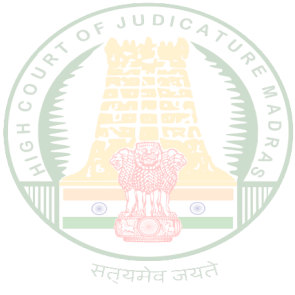
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W.P.Crl.No.27 of 2026

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1. The Deputy Superintendent of Police
Office of the CBCID,
No. 1000/1,
Avinashi Road,
Coimbatore- 18.
2. The Joint Secretary of Government of India (Foreigners)
Ministry of External Affairs , (foreign Division),
Major Dhyan Chand National Stadium,
India Gate Circle,
New Delhi 110 001.
3. The Section Officer (Cons.I), CPV Division
Ministry of External Affairs,
Patiala House Annexe,
New Delhi 110001.
4. Principal Secretary to Government
Public (Foreigners -II) Department,
Sarvari, Iyppasi-24,
Thiruvalluvaraandu 2051
5. The Public Prosecutor,
Madras High Court,
Chennai.



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W.P.Crl.No.27 of 2026

G.K.ILANTHIRAIYAN. J.

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W.P.Crl.No.27 of 2026
WPMP.Crl.No.5 of 2026

29.06.2026