

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 14.12.2015

CORAM

THE HONOURABLE MR. JUSTICE R. SUDHAKAR
AND
THE HONOURABLE MR. JUSTICE P.N.PRAKASH

HCP.No.640 of 2015

V.M.Elangovan

..

Petitioner

Versus

1.State by
The Inspector of Police
Needamangalam Police Station
Thiruvavur District.

2.The Superintendent of Prison
The Central Prison
Puzhal, Chennai.

..

Respondents

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Habeas Corpus directing the respondents to produce the body of the detenu V.M.Elangovan, aged 40 years, S/O V.Murugan now confined as life Convict No.5472 at Central Prison-I, Puzhal, Chennai before this Court.

For Petitioner : Mr.A.Mohan

For RR 1 and 2 : Mr.A.N.Thambidurai
Addl. Public Prosecutor

ORDER

[Order of the Court was made by P.N.PRAKASH, J.,]

This petition has been filed seeking a direction to the respondents to produce the body of the detenu V.M.Elangovan, aged 40 years, S/o V.Murugan now confined as life Convict No.5472 at Central Prison-I, Puzhal, Chennai before this Court.

2.It is seen that Elangovan [petitioner herein] and one Singaram [A2] were tried for an offence under Section 302 IPC and by judgment in S.C.No.116 of 1995 dated 08.10.1996, both of them were convicted and sentenced to undergo life imprisonment. They preferred an appeal in CrI.A.No.859 of 1996 before this Court and a Division Bench of this Court issued notice for enhancement of

sentence from life imprisonment to death sentence and the matter was directed to be posted before another Bench, following the convention that, the Bench which issued enhancement notice would not normally hear the case. Accordingly, a Division Bench comprising R.Balasubramanian, J. and T.V.Masilamani, J. heard the enhancement application as well as CrI.A.No.859 of 1996 and after appraising the evidence on record, confirmed the conviction and sentence, but, did not enhance the sentence to death penalty. Thereagainst, the petitioner approached the Hon'ble Supreme Court in SLP (CrI.)No.5149 of 2005, which ended in dismissal. Seeking to review the said dismissal order, the petitioner filed Review Petition (CrI) No.142 of 2006 which too ended in dismissal. The Curative Petition (CrI.) No.35 of 2010 also did not face any different result. In the said order dated 09.09.2010 passed in the Curative Petition, it was held as follows:

"We have gone through the curative petition and the relevant documents. In our opinion, no case is made out within the parameters indicated in the decision of this Court in the case of Rupa Ashok Hurra vs. Ashok Hurra & Anr., reported in 2002 [4] S.C.C. 388. Hence, the curative petition is dismissed."

3. Thereafter, the present Habeas Corpus Petition has been filed based on certain information obtained under the Right to Information Act stating that the identity of the person is in doubt. Learned counsel for the petitioner submits that Kaliyaperumal/P.W.1 has wrongly identified and his deposition in S.C.No.116 of 1995 is relied upon in support of this plea.

4. At the outset, we are of the considered opinion that this Court has no power to review the earlier judgments in view of the bar under Section 362 Cr.P.C. The evidence on record has been appreciated by all the Courts, including the Apex Court and it is not open to this Court to once again embark upon this endeavour on the premise that the petitioner has obtained certain information under the Right to Information Act doubting the testimony of Kaliyaperumal/P.W.1.

In the result, this Habeas Corpus Petition is devoid of merits and the same stands dismissed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

gms

To

1.The Inspector of Police
Needamangalam Police Station
Thiruvavarur District.

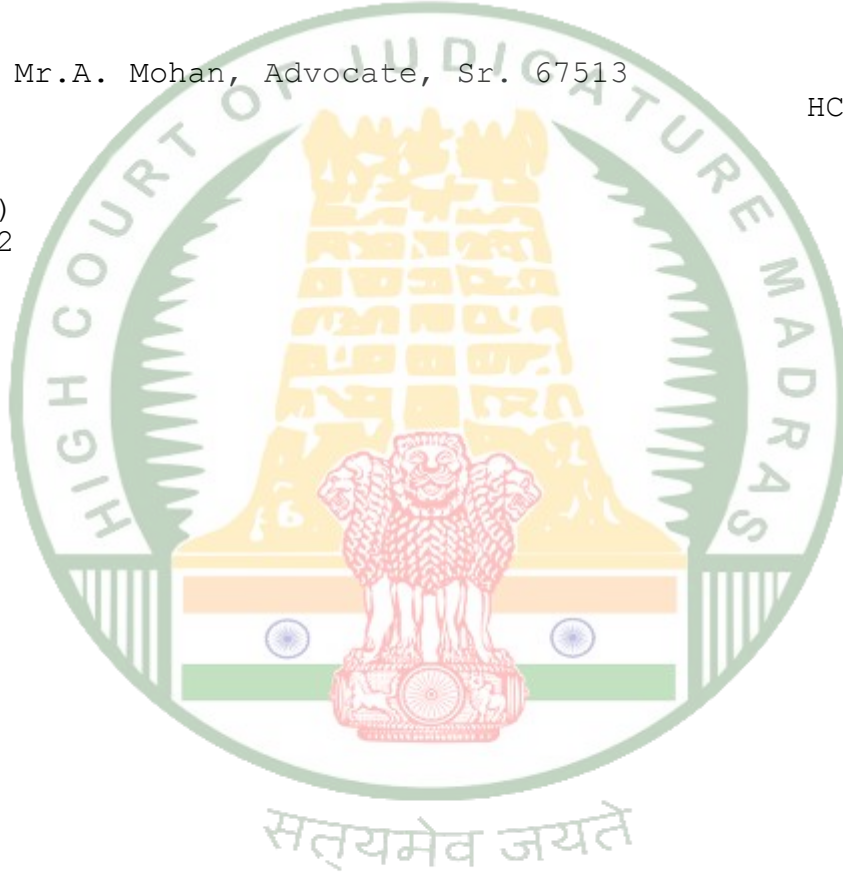
2.The Superintendent of Prison
The Central Prison
Puzhal, Chennai.

3.The Public Prosecutor
High Court, Chennai.

1 cc to Mr.A. Mohan, Advocate, Sr. 67513

HCP.No.640 of 2015

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