

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.02.2015

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.34921 of 2012

K.Sowbakkiyam

...Petitioner

Vs

1. The Government of Tamilnadu
rep. By its Principal Secretary,
Department of Home (Prison-V)
Home Department, Secretariat,
Fort. St.George, Chennai - 9
2. The Additional Director General of Police
Inspector General of Prisons,
Chennai - 8
3. The Superintendent of Prison,
Cuddalore Central Prison
Cuddalore.

...Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records pertaining to impugned G.O.(D) No.958, Home (Pri-V) Department dated 21.11.2012 passed by the 1st respondent and quash the same as illegal, arbitrary, unreasoned and consequently direct the respondents to grant leave to the petitioner's husband Mr.Kathiresan (Convict No.7119) confined in Central prison, Cuddalore for a period of 4 weeks or less than said period to enable him to attend to the sickness and operation of petitioner for uterus cancer.

For Petitioner : Mr.R.Veeramani
For Respondents : Mr. V.Jayaprakash Narayanan
Special Government Pleader

O R D E R

Heard Mr.R.Veeramani, learned counsel appearing for the petitioner and Mr. V.Jayaprakash Narayanan, learned Special Government Pleader appearing for the respondents.

2. The petitioner has filed this Writ Petition challenging the G.O.(D) No.958, Home (Pri-V) Department dated 21.11.2012 by which the petitioner's request for grant of extraordinary leave for her husband was rejected by the 1st respondent under Rule 21(d) 5 of the Tamilnadu Suspension of Rules, 1982. The reason for rejection being that the petitioner's husband, who was granted leave on earlier occasion escaped from the custody and did not report to the prison, as a result of which, a case was registered against the petitioner's husband. Further it appears that the petitioner's husband was released on bail based on the order passed by the Hon'ble Supreme Court, which was subsequently found to be a fake order. In this back ground, the Government considered the matter and rejected the petitioner's application for grant of leave for her husband. It is seen that the order of rejection was passed on November, 2012.

3.The learned counsel for the petitioner submitted that in both the cases, the petitioner's husband has been acquitted and he is innocent and he is not party to the fraud committed. Further, the petitioner would state that the conduct of the petitioner's husband from 2012 till date is good and he is not been involved in any prison offences.

4.In the light of the facts that the petitioner's husband was guilty of two offences and in earlier occasion the Government has fully justified in rejecting the petitioner's application for grant of leave for her husband, I find no ground in the matter to quash the impugned order. However, since it is stated that the life convict, husband of the petitioner has been acquitted in both the cases and it is stated that his conduct inside the prison from the year 2012 till date is good, liberty is granted to the petitioner to apply for a fresh application for grant of leave for her husband, which will be considered by the respondent/competent authority in accordance with law un-influenced by the order in G.O. (D) No.958, Home (Pri-V) Department dated 21.11.2012.

With the above observation, this Writ Petition stands dismissed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

ssd

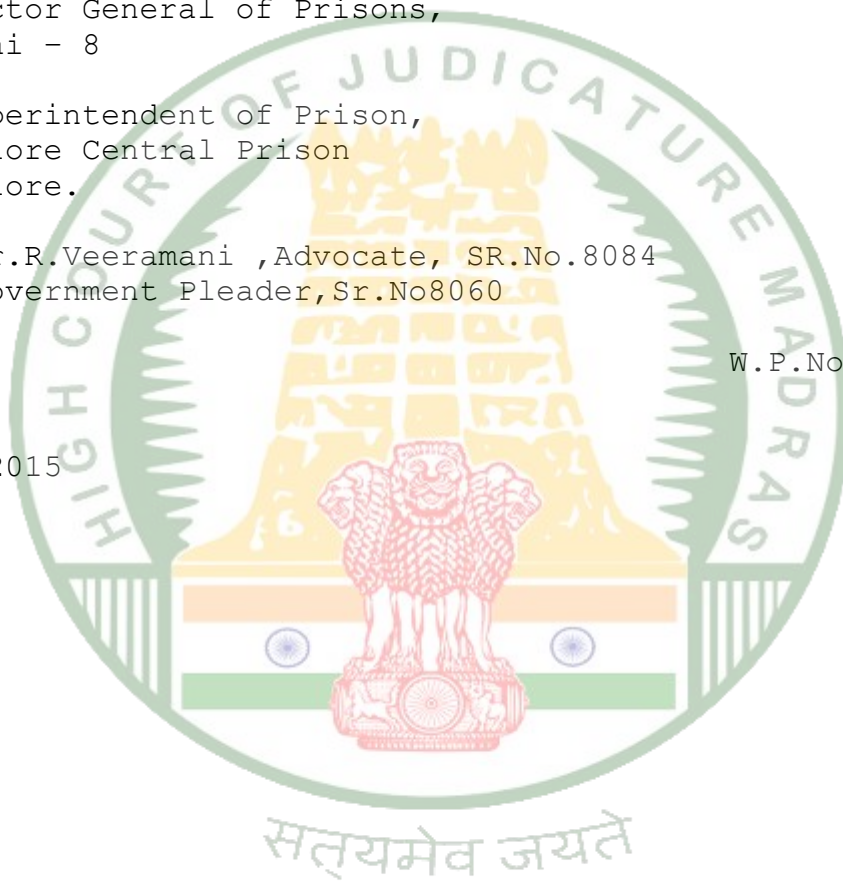
To

1. The Principal Secretary,
The Government of Tamilnadu
Department of Home (Prison-V)
Home Department, Secretariat,
Fort. St.George, Chennai - 9
2. The Additional Director General of Police
Inspector General of Prisons,
Chennai - 8
3. The Superintendent of Prison,
Cuddalore Central Prison
Cuddalore.

1 cc to Mr.R.Veeramani ,Advocate, SR.No.8084
1 cc to Government Pleader,Sr.No8060

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pmk.23.2.2015



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