

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.06.2016

CORAM

THE HON'BLE MR.JUSTICE S.NAGAMUTHU
and
THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

H.C.P.No.2710/2015

P.Chidambaram

.. Petitioner

Vs

1. The Secretary to Government of
Tamil Nadu, Department of Home,
Fort St. George,
Chennai-600 009.

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

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS directing the respondents to produce the detenu P.Chidambaram, son of Periyasamy, TADA Prisoner No.4691, now confined at Central Prison, Puzhal, Chennai before this Court and set him at liberty.

For Petitioner : Mr.R.Sankara Subbu

For Respondents : Mr.A.N.Thambi Durai
1 and 2 Additional Public Prosecutor

ORDER

[Order of the Court was made by S.NAGAMUTHU,J]

The petitioner is a life convict lodged in Central Prison, Puzhal, Chennai. He has been convicted for offences under Sections 3(3) and 3(4) of TADA Act. Now, he has come up with this Habeas Corpus Petition alleging that there was judicial discrimination resulting in gross injustice caused to him. According to him, though in the same case, for a co-accused, the trial court had imposed lessor punishment, for him alone, life sentence has been imposed. In this regard, he has sent a representation to the Government to remit the sentence imposed on him as provided under the provision of the Code of Criminal Procedure. But the same has not been considered. Thus, according to him, he should be set at liberty by this Court in exercise of the Habeas Corpus jurisdiction.

2. We have heard the learned Counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondents and we have also perused the records carefully.

3. In this country, there is no sentencing policy evolved either by the judiciary or by the legislature. Vast discretion has been given to the courts to decide about the appropriate sentence to meet the ends of justice. However, there are several guidelines issued by the Hon'ble Supreme Court to the subordinate courts as how to measure the quantum of punishment to be imposed. There are also many theories of punishment. Thus, a court cannot be expected to impose the same sentence on different accused under the guise of uniformity as each accused has his own mitigating circumstances. Thus, the petitioner cannot expect parity.

4. Here in this case, the trial court has imposed life imprisonment on the petitioner by recording its own reasons. If the grievance of the petitioner is that the imposition of life sentence is inappropriate to the gravity of the offence and in ignorance of the mitigating circumstances, it is for him to challenge the sentence before the appropriate forum, if so advised. At any rate, the correctness of the quantum of punishment imposed on the petitioner cannot be gone into by this Court in this Habeas Corpus jurisdiction by converting this jurisdiction either as appellate jurisdiction or as revisional jurisdiction. Since his detention is absolutely legal as it is consequent upon the judgment, there is no scope to set him at liberty.

5. The learned Counsel for the petitioner would submit that at least a direction may be issued to the Government to consider the case of the petitioner for remission.

6. In this regard, we would like to say that in this jurisdiction, we cannot issue such a direction to the Government because the remedy for the petitioner lies elsewhere under a different jurisdiction like 482 Cr.P.C. or writ jurisdiction.

7. The learned Counsel further submitted that while exercising the jurisdiction under Article 226 of the Constitution of India, this Court should not be conservative. In this regard, we need to say that under the guise of progressive attitude, the jurisdiction of this Court cannot be blindly stretched to give a relief which is not permissible in law. We do not say that the petitioner has got no remedy. It is for him to work out before the appropriate forum. We only say that no relief could be granted to the petitioner in this Habeas Corpus Petition, because in this case, the prayer of the petitioner is to set him at liberty.

8. In the result, the Habeas Corpus Petition is dismissed with liberty to the petitioner to work out his remedy in the manner known to law.

Sd/-
Asst.Registrar (CCC)

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Sub Asst. Registrar

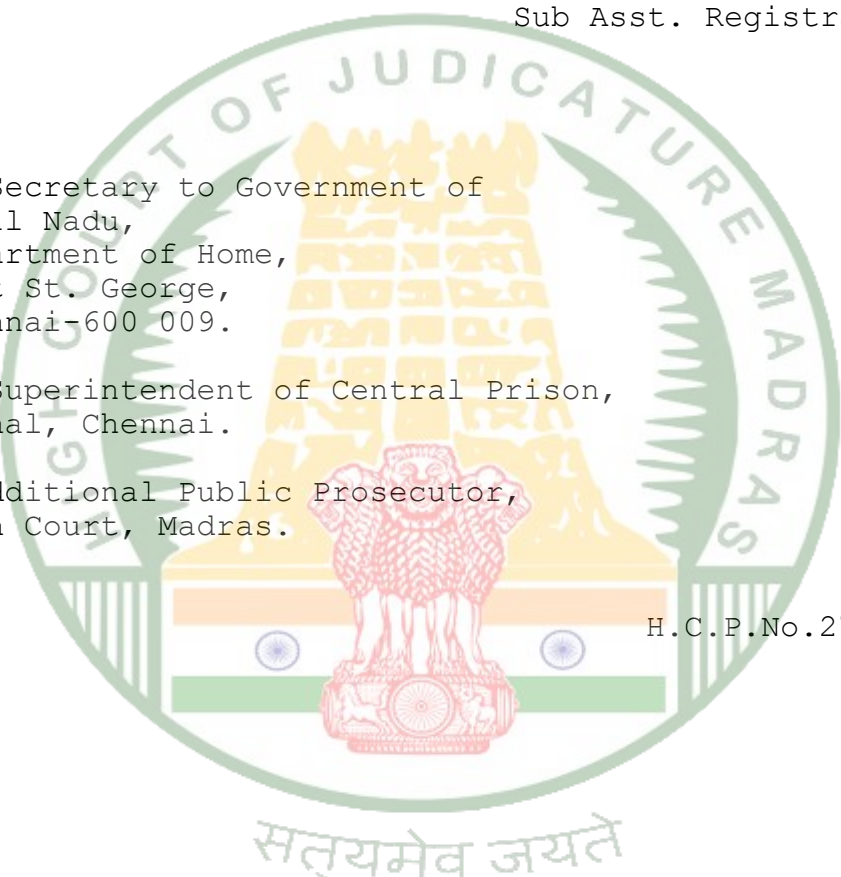
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To

1. The Secretary to Government of
Tamil Nadu,
Department of Home,
Fort St. George,
Chennai-600 009.
2. The Superintendent of Central Prison,
Puzhal, Chennai.
3. The Additional Public Prosecutor,
High Court, Madras.

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