

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.06.2017

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.13295 of 2016

Rajkumar

.. Petitioner

Vs

1.The State of Tamil Nadu,
rep.by the Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai-600 009.

2.The Additional Director General of Prisons,
Gandhi Irwin Road,
Egmore, Chennai-600 008.

3.The Superintendent of Prison,
Central Prison, Coimbatore.

.. Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records of the third respondent in his Proceedings No.23978/Tha Ku 2/13 dated 22.01.2014 and quash the same and direct the respondents to release the petitioner as per G.O.(Ms)No.1155, Home (Prison-IV) Department, dated 11.09.2008.

For Petitioner : Mr.J.Franklin

For Respondents : Mr.D.Vairamurthy,
Special Government Pleader

ORDER

The petitioner was convicted for the offences under Sections 498(A) and 302 IPC by the learned Sessions Judge, Ooty by judgment dated 07.01.2002 for life imprisonment and right from the date of judgment, he is in prison. He has not preferred any appeal against the said judgment.

2.It is stated by the petitioner that the State Government has passed an order in G.O.(Ms)No.1155, Home (Prison-IV) Department, dated 11.09.2008 ordering the release of life convicts, who have been sentenced to life imprisonment and have completed 7 years of actual imprisonment, and also the prisoners who have completed the age of 60 years and above. The petitioner states that he has completed 11 years of actual imprisonment fulfilling the required criteria and norms as stated below and hence he is eligible for premature release.

(a)That their behaviour should be satisfactory;

(b)The prisoners who are convicted for the offences specified in G.O.(Ms)No.1762, Home (Prison-IV) Department, dated 27.07.1987;

(c)The prisoners who were awarded death penalty and whose sentence was later commuted to life imprisonment by the appellate Court and prisoners who committed offences on religious prejudices;

- (d) That there is safety for their life, if released;
- (e) That their cases should not come under Section 435 of the Code of Criminal Procedure.

3. The petitioner approached the authorities to confer the benefit of G.O.(Ms.)No.1155, Home (Prison-IV) Department, dated 11.09.2008, for premature release. The said prayer was negated by the impugned order, on the score that he was convicted for an offence under Section 498(A) IPC. Challenging the same, the present writ petition has been filed.

4. Mr.D.Vairamurthy, learned Additional Government Pleader, takes notice for the respondents.

5. In similar circumstances, a Division Bench of this Court, while dealing with the same set of facts, in H.C.P.No.3333 of 2013 has passed the following order on 22.01.2014:

"5. The question whether a person would be disentitled to the benefits of G.O.Ms.No.1155 on the score that he was convicted for an offence under Section 498(A) IPC, came up for consideration before the Bench of this Court in HCP No.626/2012. This Court by a well considered order dated 26.03.2013 held that the benefits of G.O.Ms.No.1155 cannot be denied to a detenu on the

ground that he was convicted for an offence under Section 498(A) IPC. The authorities pursuant to the order dated 26.03.2013 in HCP No.626/2012 released the detenu therein. The facts that obtains in this case is identical to the facts in HCP No.626/2012. In this case also, as could be seen from the letter dated 28.12.2013 given by the Public Information Officer, Central Prison, Kovai, the detenu had completed more than 7 years as on 15.09.2008 when G.O.Ms.No.1155 was brought into effect. The benefit of this G.O. was denied to him only on the ground that he was convicted for the offence under Section 498(A) IPC. In the light of the orders passed by this Court in HCP No.626/2012 dated 26.03.2013, which we are inclined to follow, we allow this Habeas Corpus Petition and direct that the detenu Rajendran, S/o.Vellaian (Life Convict 78335), confined in Central Prison, Coimbatore be released forthwith in terms of G.O.Ms.No.1155, Home (Prison-IV) Department, dated 11.09.2008."

6.The petitioner herein is also similarly placed, as above. Hence, the impugned proceedings of the third respondent in No.23978/Tha Ku 2/13 dated 22.01.2014 is quashed and the third respondent is directed to release the petitioner herein, viz. R.Rajkumar, s/o.B.N.Rama Gowder (Life Convict No.30) forthwith, who is confined in the Central Prison, Coimbatore, in terms of G.O.Ms.No.1155, Home (Prison-IV) Department, dated 11.09.2008.

7.The writ petition is disposed of accordingly. No costs.

Index : Yes/No
Internet : Yes/No

28.06.2017

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Note to the Registry: Issue order copy on 03.07.2017.

To

- 1.The Secretary to Government,
Government of Tamil Nadu,
Home, Prohibition and Excise Department,
Secretariat, Chennai-600 009.
- 2.The Additional Director General of Prisons,
Gandhi Irwin Road,
Egmore, Chennai-600 008.
- 3.The Superintendent of Prison,
Central Prison, Coimbatore.

R.MAHADEVAN, J.

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