

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.01.2016

CORAM:

THE HON'BLE MR. JUSTICE R.SUDHAKAR
AND
THE HON'BLE MR. JUSTICE P.N. PRAKASH

H.C.P. No.2409 of 2013

Alagar

... Petitioner

Vs.

1.The State of Tamilnadu rep by
The Principal Secretary to Government
Home (Prison) Department
TN Govt.Chief Secretariat
Fort St.George, Chennai 9.

2.The Additional Director General of Police/
Inspector General of Prisons
C.M.D.A. Towers II,
No.1, Gandhi Irvin Road
Egmore, Chennai 8.

3.The Superintendent of Prison
Madurai Central Prison
Madurai District.

... Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, directing the respondents to produce the body and person of the detenu by name Mahendran, S/o Vellaichamy aged about 35 years, now confined at Madurai Central Prison as life convict before this Court and set him at liberty forthwith, by extending the benefit of G.O.(Ms).No.1155/Home (pri IV) Department/2009 dated 24.12.2009.

For Petitioner : Mr.A.Mohamed Ansar

For Respondents : Mr.A.N.Thambidurai
Additional Public Prosecutor

ORDER

(Order of the Court was made by P.N.PRAKASH, J.)

It is the case of the petitioner, that he is a Life Convict prisoner undergoing life imprisonment in S.C.No.48 of 2003, which has been confirmed by this Court in C.A.No.318 of 2006 and that he will be entitled to be released in terms of G.O.(Ms) No.1155 Home (Prison-IV) Department dated 11.09.2008.

2. The respondents have filed a counter affidavit, wherein, in paragraph no.4 it is stated as follows:

"4. With reference to the averments contained in paragraphs 3 & 4 of the affidavit, it is submitted that Life Convict No.4218, Alagar, S/o Santhanam was convicted under Section 302 of the Indian Penal Code 1860 (Central Act No.XLV of 1860) and sentenced to undergo Life Imprisonment and fine Rs.1000/- i/d Rigorous Imprisonment for one year vide Judgment in SC.No.48/2003, Dated 27.11.2003 of Principal Sessions Judge, Dindigul and convicted in other two cases as follows:

1. Judicial Magistrate No.3, Dindigul, CC.96/2004, U/s 324, 326 IPC, RI for 2 years, RI for 3 years with fine Rs.50/- i/d SI for 6 months to run concurrently.

2. Asst.Sessions, Dindigul, SC.44/2003, U/s 506(2), 307 IPC, RI for 3 years and RI for 5 years to run concurrently but, 1 and 2 above to run consecutively

On appeal in CC No.96/04 of Judicial Magistrate No.3, Dindigul and SC No.44/2003 of Assistant Sessions, Dindigul, the punishments are ordered to run concurrently with SC.48/2003 (Life Sentence) vide Judgment in Criminal (OP) No.12525/2011, dated 05.11.2012 of Madurai Bench of Madras High Court. He has undergone 11 years, 4 months and 10 days of imprisonment as on 16.10.2013. On 15.09.2008, the prisoner had not even completed 7 years of actual imprisonment, and hence he was not at all eligible for considering his case on General Amnesty during the year 2008. The averments made by

the prisoner in paragraphs 3 and 4 are totally false."

This fact is not disputed by the petitioner.

3. In view of the above, we find that the petitioner has no case to plead for invocation of G.O.(Ms) No.1155 Home (Prison-IV) Department dated 11.09.2008.

Accordingly, this Habeas Corpus Petition stands dismissed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

gms

To

- 1.The Principal Secretary to Government
Home (Prison) Department
TN Govt.Chief Secretariat
Fort St.George, Chennai 9.
- 2.The Additional Director General of Police/
Inspector General of Prisons
C.M.D.A. Towers II,
No.1, Gandhi Irvin Road
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- 3.The Superintendent of Prison
Madurai Central Prison
Madurai District.
- 4.The Public Prosecutor
High Court of Madras
Chennai.

+1cc to Mr.R.Alagumani, Advocate, S.R.No.417

SAI (CO)
CA(25/01/2016)

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