

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.01.2016

CORAM

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

Habeas Corpus Petition No.3227 of 2013

R.Shanthakumari

... Petitioner

Vs.

1.The State of Tamil Nadu rep by
The Principal Secretary to Government
Home (Prison IV) Department
Fort St.George
Chennai 600 009.

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

3.The Superintendent
Central Prison, Puzhal-I
Puzhal, Chennai 600 066.

... Respondents

PETITION under Section 226 of The Constitution of India praying for the issuance of Writ of Habeas Corpus directing the respondents to produce the body of David Rajan @ Raja @ Selva Raja, S/o Kesavan, aged about 62 years, life convict, CT No.1363 confined in Central Prison, Puzhal-I before this Court and consider the said David Rajan @ Raja @ Selva Raja, S/o Kesavan, aged about 62 years, life convict, CT No.1363 for premature release and set him at liberty.

For Petitioner : M/s Ravi Kumar Paul

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

O R D E R

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

This Habeas Corpus Petition has been filed by the petitioner seeking a direction to the respondents to produce the body of David Rajan @ Raja @ Selva Raja, S/o Kesavan, aged about 62 years, life convict, CT No.1363 confined in Central Prison, Puzhal-I before this Court and consider him for premature release and set him at liberty.

2. It is the case of the petitioner that her father David Rajan @ Raja @ Selva Raja life convict, CT No.1363 was convicted and sentenced in S.C.No.27 of 1988 for offences under Sections 449, 302, 392 & 506(ii) IPC and is undergoing life sentence for the past 25 years and that he will be entitled to premature release. In support of this contention, learned counsel for the petitioner relied upon various Government Orders issued from time to time for premature release.

3. The Under Secretary to Government, Home Department, Chennai has filed a detailed counter setting out several reasons as to why the claim of the detenu was not considered. In paragraph 21 it is stated as follows:

"21. It is further submitted that in Writ Petition (Criminal) No.48 of 2014 filed by Union of India versus V.Sriharan @ Murugan and others before the Hon'ble Supreme Court of India, the Hon'ble Supreme Court of India in its order dated 25.04.2014 has already referred the issues relating to remission to life convicts for the consideration of the Constitution Bench. The Constitution Bench in its order dated 09.07.2014 has directed that the State Governments are restrained from exercising power of remission to life convicts. The case is pending before the Supreme Court of India."

4. The Constitution Bench of the Supreme Court, has disposed of W.P.(Crl) No.48 of 2014 filed by Union of India v. V.Sriharan @ Murugan on 02.12.2015, with certain directions. In view of the disposal of the matter by the Hon'ble Supreme Court, we direct the respondents to consider the case of the detenu, if he is entitled to be released, on the basis of the relevant Government Orders and Prison Rules and pass appropriate orders.

With the above direction, this Habeas Corpus Petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

gms

To

- 1.The Principal Secretary to Government,
State of Tamil Nadu
Home (Prison IV) Department
Fort St.George, Chennai 600 009.
- 2.The Additional Director General of Prisons
Gandhi Irwin Road
Egmore, Chennai 600 008.
- 3.The Superintendent
Central Prison, Puzhal I
Puzhal, Chennai 600 066.
- 4.The Public Prosecutor,
High Court, Madras.

H.C.P.No.3227 of 2013

SKV(CO)
CA(03/02/2016)

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