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In the High Court of Judicature at Madras

Dated: 26.04.2018

Coram:

The Hon'ble Mr.Justice M.VENUGOPAL
and
The Hon'ble Mrs.Justice R.HEMALATHA

H.C.P.No.1307 of 2017

I.Sikkanthar Basha .. Petitioner

Vs.

State rep. by

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

2.The Additional Director General of Prison,
C.M.D.A. Towers,
Egmore, Chennai-600 008.

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

.. Respondents

Prayer: This Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Habeas Corpus to direct the Respondents to consider the G.O. in G.O.(Ms) No.1155 dated 11.09.2008 and under Rule 632 of Tamil Nadu Prison Manual and produce the detinue, Abuthahir, S/o.Ibrahim, aged about 37 years convict No.1478 detained at Central Prison, Coimbatore before this Court and set him at liberty.

For Petitioner : Mr.R.Sankarasubbu
for Dr.S.Manoharan

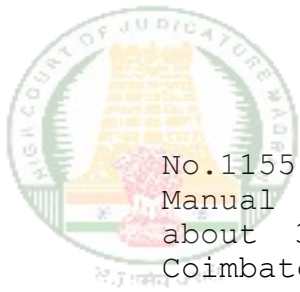
For Respondents: Mr.R.Ravichandran
Government Advocate (Crl. Side)

O R D E R

[Order of the Court was made by
M.VENUGOPAL, J.]

Heard the Learned counsel appearing for the Petitioner and the Learned Government Advocate (Crl. Side) appearing for the Respondents 1 to 3.

2.The Petitioner has preferred the instant Writ of Habeas Corpus Petition praying for passing of an order in directing the Respondents to consider the Government Order passed in G.O.(Ms)



No.1155 dated 11.09.2008 and under Rule 632 of Tamil Nadu Prison Manual and to produce his brother, Abuthahir, S/o.Ibrahim, aged about 37 years Convict No.1478 detained at Central Prison, Coimbatore before this Court and set him at liberty.

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3.Today, the Learned Government Advocate (Crl. Side) appearing for the Respondents 1 to 3 produced the copy of the G.O.(D) No.289, Home (Prison-IV) Department dated 25.04.2018, whereby and where under at para 12 had observed the following:

"12.The Government have examined the request of Tr.Sikkandar Basha along with relevant records. The Hon'ble High Court of Madras in its order dated 16.04.2018 has directed to consider the life convict prisoner No.1478 Abuthakir son of Ibrahim by taking note of the ingredients of Rule 633 of the Tamil Nadu Prison Rules. The Medical Board, Coimbatore Medical College has certified that the detainee is in danger of death from sickness not due to infectious disease. There appears to be no evidence of recovery within (or) without the prison. But, the Superintendent of Prison, Central Prison, Coimbatore has not recommended for the premature release of the convict prisoner. Hence, the life convict prisoner No.1478 Abuthakir, son of Ibrahim is not eligible for premature release as per Rule 633 of the Tamil Nadu Prison Rules 1983."

and ultimately rejected the request of the Petitioner (Sikkanthar Basha) seeking premature release of the life convict prisoner No.1478 Abuthakir, S/o.Ibrahim as per Rule 633 of the Tamil Nadu Prison Rules, 1983.

4.In view of the afore stated rejection order dated 25.04.2018 in G.O.(D) No.289, Home (Prison-IV) Department, this Court closes the present Writ of Habeas Corpus Petition based on the view that it is open to the Petitioner to assail the legality, validity and correctness of the G.O.(D) No.289, Home (Prison-IV) Department dated 25.04.2018 by filing a proper petition seeking necessary relief because of the subsequent development that had taken place after filing of the present H.C.P.No.1307 of 2017.

Sd/-

Assistant Registrar(CS VIII)

//True copy//

Sub Assistant Registrar



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- 2.The Additional Director General of Prison,
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Egmore,
Chennai-600 008.
- 3.The Superintendent of Prison,
Central Prison,
Coimbatore.
- 4.The Public Prosecutor,
Madras High Court.

+1cc to Mr.S.Manoharan, Advocate SR.No.32576

H.C.P.No.1307 of 2017

MP(CO)
GN(15/05/2018)