

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 05.04.2017
CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.4602 of 2017
and
W.M.P.No.4828 of 2017

G.Gayathri

[Petitioner]

Vs

- 1.The State of Tamil Nadu,
rep.by the Principal Secretary to Government,
Home, (Prison III) Department,
Secretariat, Chennai-600 009.
 - 2.The Additional Director General of Police
& Inspector General of Prisons,
Gandhi Irwin Road,
Egmore, Chennai-600 008.
 - 3.The Deputy Director General of Prison,
Vellore Range, Vellore-2.
 - 4.The Superintendent of Prisons,
Central Prison, Vellore.
- [Respondents]

Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus calling for the records pertaining to the order in G.O.(D)No.155 dated 07.02.2017 passed by the first respondent and quash the same and issue consequential direction directing the first respondent to grant ordinary leave for 60 days by considering the petitioner's representation dated 19.09.2016.

For Petitioner : Mr.K.Jayaraman
For Respondents : Mr.K.Balamurugan,
Government Advocate

O R D E R

The husband of the petitioner by name Sekar @ Gunasekar is a life convict prisoner and he is detained in the prison from 2009 till date. The request of the petitioner's husband for grant of

ordinary leave for 60 days for the marriage of his younger daughter, was rejected by the prison authorities by the impugned order. Hence this writ petition.

2.The learned counsel for the petitioner submitted that the petitioner's request to consider leave for her husband under Rule 40 of the Tamil Nadu Suspension of Sentence Rules, 1982 has not been considered by the authorities. He submitted that even in the impugned order, there is no mention about Rule 40.

3.Mr.K.Balamurugan, Government Advocate, took notice for the respondents and submitted that the petitioner had already availed the required leave and hence he cannot be permitted to avail any further leave.

4.Heard both sides.

5.As rightly pointed out by the learned counsel for the petitioner, while passing the order impugned herein, Rule 40 of the Tamil Nadu Suspension of Sentence Rules, 1982 has not been considered in its proper perspective. Rule 40 empowers the authorities to consider the claim of the petitioner's husband, even though it is not a right on the part of the petitioner's husband. Without dealing with the same, the impugned order has been passed. Hence, for this reason alone, the impugned order is quashed and the matter is remitted back to the authorities for passing fresh orders taking into consideration Rule 40, as stated above, in accordance with law. Such an exercise shall be completed within a period of four weeks from the date of receipt of a copy of this order. The petitioner shall also furnish any material evidence for sympathetic consideration of the matter by the jail authorities.

6.The writ petition is disposed of accordingly. Consequently, the connected miscellaneous petition is closed. No costs.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

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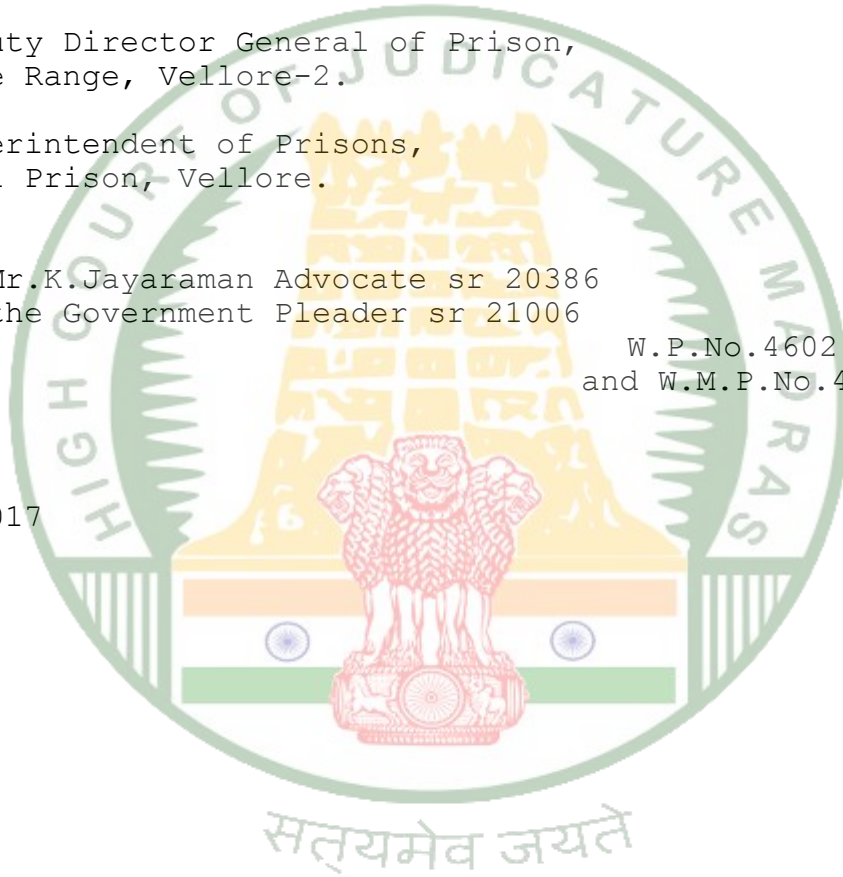
To

- 1.The Principal Secretary to Government,
Government of Tamil Nadu,
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Secretariat, Chennai-600 009.
- 2.The Additional Director General of Police
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Central Prison, Vellore.

+1 cc to Mr.K.Jayaraman Advocate sr 20386
+1 cc to the Government Pleader sr 21006

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