



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON: 11.12.2017

PRONOUNCED ON : 21.12.2017

CORAM:

**THE HONOURABLE MR.JUSTICE R.SUBBIAH
AND
THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA**

**H.C.P. [MD] .No.1246 of 2017
and
Crl.M.P. (MD) .No.7819 of 2017**

Nirmala Devi

.. Petitioner

Vs.

1. The Principal Secretary,
Home (Prison) Department,
St. George Fort,
Secretariat,
Chennai - 600 009.
2. The Additional Director General of Prison,
A.D.G.P. Office,
CMDA Tower -2,
No.1, Gandhi - Irwin Road,
Egmore,
Chennai - 600 008.
3. The Inspector General of Prison,
Trichy Range,
Trichy -23.
4. The Superintendent,
Central Prison, Madurai,
Madurai - 625 016.
5. The Prison Medical Officer,
Central Prison, Madurai,
Madurai - 625 016.
6. The District Collector,
Madurai District,
Madurai - 625 020.



7. The Inspector of Police,
Thideer Nagar Police Station,
Madurai.
(Crime No.2634 of 1991)

.. Respondents

PRAYER: Habeas Corpus Petition has been filed under Article 226 of the Constitution of India, praying to direct the respondents 1 to 5 to produce the body or person of the detenu viz., Rajasekaran (C.P.No.2850) son of Gopal Chettiyar, aged about 60 years, now confined at Madurai Central Prison and set him at liberty under Rules 632, 633 and 635 of Tamil Nadu Prison Rules, 1983.

For Petitioner : Mr.R.Karunanidhi

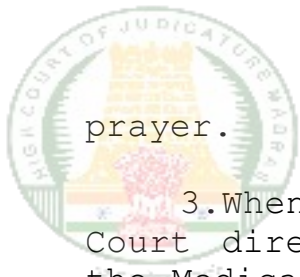
For respondents : Mr.C.Ramesh,
Addl. Public Prosecutor

ORDER

R. SUBBIAH, J.

This Habeas Corpus Petition has been filed by the wife of the convict prisoner / detenu viz., Rajasekaran (C.P.No.2850) S/o.Gopal Chettiyar, aged about 60 years, now confined at Madurai Central Prison, seeking a direction to the respondents 1 to 5 to produce the body or person of the detenu before this Court and set him at liberty under Rules 632, 633 and 635 of Tamil Nadu Prison Rules, 1983.

2.It is stated in the petition that the detenu was implicated as a first accused in a case registered in Crime No.2634 of 1991 under Section 302 IPC and after trial along with the other accused, the trial Court, by its judgment dated 16.12.1994, has convicted the detenu under Section 302 IPC and sentenced him to undergo imprisonment for life and the same was also confirmed by this Court in CrI.A.No.749 of 1994 and the Hon'ble Supreme Court in Special Leave Petition (CrI.) No.9971 of 2009. The detenu is a diabetic and a heart patient since 2008. In July 2016, he was severely ill due to urinary tract infection and severe blood loss. Hence, he was admitted in Government Rajaji Hospital, Madurai from 20.07.2016 to 03.08.2016 and thereafter, he was in ICU, at Meenakshi Mission Hospital for one month due to sepsis, heart problems, prostrate, diabetes and breathing problems. The detenu has filed a Habeas Corpus Petition in H.C.P.(MD).No.471 of 2014 for premature release in the light of G.O.Ms.No.1450/Home Prison (IV) Department / 1994, dated 28.11.1994 and G.O.Ms.No.1155/Home Prison (IV) Department/2008, dated 11.09.2008 and the same is still pending. During the imprisonment in prison, the detenu does not have any bad antecedent and in view of incarceration, his health is becoming worse day by day. Hence, he may be released as per Rules 632, 633 and 635 of the Tamil Nadu Prison Rules. Therefore, she has come up with this petition for the aforesaid



prayer.

3. When the matter came up for hearing on 21.09.2017, this Court directed the fourth respondent to refer the petitioner to the Medical Board, consisting of an expert. On such reference, the Medical Board is directed to give a comprehensive report about the nature of ailment suffered by the petitioner and the treatment which is required to be taken including a possible surgery.

4. The learned Additional Public Prosecutor has filed a medical report along with the status report of the 4th respondent viz., the Superintendent of Central Prison, Madurai.

5. We have heard the learned counsel for both sides and perused the records carefully.

6. According to the provision of Section 633 of the Rules of the Tamil Nadu Prison Rules, if a Medical officer considers that any prisoner is in danger of death from sickness not due to infectious disease and that there is no hope of recovery with in or without the prison, he shall give a certificate as provided in the Rules. Since it is stated by the petitioner that the health of her husband / detenu is becoming worse day by day, this Court directed the fourth respondent to refer the petitioner to the Medical Board. In the report submitted by the Medical Board, dated 28.11.2017, it is stated that "He is advised to undergo continuous Medical Therapy and continuous Medical - follow up for the above mentioned condition". In the status report dated 10.12.2017, the 4th respondent has stated in paragraph No.4 as follows:

"4. In the above circumstances, it is humbly submitted that provisions are laid down in Tamil Nadu Prison Rules, 1983 for premature release of life convict on medical grounds in Rule No.632, 633 and 635, who are in the status of danger to death and it will not be curable if he within or outside the prison. But in the case of the husband of the petitioner, Life Convict Prisoner No.2850, Rajasekaran S/o.Gopal Chettiar, he is on continuous treatment for his ailments at Government Rajaji Hospital, Madurai and also at prison hospital for the past 6 years. From the medical report given by the Regional Medical Board for Government Rajaji Hospital, Madurai, it reveals that no such observations regarding the status of the Life Convict Prisoner No.2850, Rajasekaran S/o.Gopal Chettiar is in danger of death. It reveals only that he required continuous medical treatment for his ailments for

he is now taking treatment at Government Rajaji Hospital, Madurai. It is also submitted that, if further management is necessary, he will



be referred to Government Rajiv Gandhi Memorial Hospital, Chennai, by the Government Rajaji Hospital, Madurai and action will be taken accordingly."

7. Considering the opinion of the Medical Board that the detenu is requiring only a continuous medical therapy and medical follow up and also considering the above statement of the fourth respondent in the status report, we are of the view that the relief sought for by the petitioner cannot be considered.

8. In the result, this Habeas Corpus Petition fails and the same is accordingly dismissed. No costs. Consequently, connected miscellaneous petition is closed.

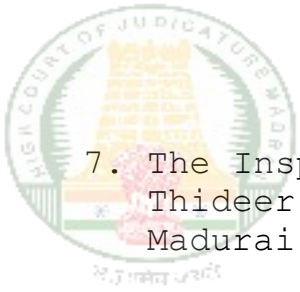
Sd/-
Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To

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Chennai - 600 009.
2. The Additional Director General of Prison,
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Madurai - 625 020.



7. The Inspector of Police,
Thideer Nagar Police Station,
Madurai.

8. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+ 1 cc TO Mr.R.Karunanidhi , Advocate in SR No. 94073

gcg

AE/SV MMS/SAR2/05.01.2018/5P/10C

Order made in
H.C.P.[MD].No.1246 of 2017
Dated: 21.12.2017