

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 19.04.2018

PRONOUNCED ON : 20.04.2018

CORAM :

THE HONOURABLE MR.JUSTICE P.N. PRAKASH

Criminal Original Petition No.19242 of 2016

Leena

... Petitioner

Vs.

1.The Director General of Prisons
Egmore, Chennai 600 008.

2.The Superintendent of Central Prison
Puzhal-II
Chennai 600 066.

... Respondents

Criminal Original Petition filed under Section 482 Cr.P.C., to consider the petitioner's representation dated 23.08.2016 and retain the petitioner's husband Vairam @ Vairamuthu, S/o Deivasigamani at Central Prison, Puzhal-II, Chennai.

For Petitioner : Mr.R.Sankarasubbu

For Respondents: Mrs.Kritika Kamal, P.
Government Advocate (Crl.Side)

सत्यमेव जयते
O R D E R

This petition has been filed to consider the petitioner's representation dated 23.08.2016 and retain her husband Vairam @ Vairamuthu, at Central Prison, Puzhal-II, Chennai.

2. The petitioner's husband Vairam @ Vairamuthu is an undertrial prisoner and is presently lodged in Central Prison, Puzhal-II, Chennai. Apprehending that he would be transferred out of the prison, the petitioner has given a representation dated 23.08.2016 to the Director General of Prisons and has thereafter, filed the present petition with the above prayer.

3. Mr.R.Sankarasubbu, learned counsel appearing for the petitioner submitted that there is a life threat to Vairam @ Vairamuthu and if he is transferred from one prison to another, there is every possibility of his rivals murdering him.

4. Per contra, the Superintendent of Prison, Central Prison-II, Puzhal, Chennai has filed a counter affidavit dated 12.09.2016, wherein, it is stated as follows in paragraph 4:

"4.It is further submitted that the said prisoner has a long standing bitter feud with (i) Lenin S/o Beemarav (RP No:01421) and (ii) Surya @ Nedunkundram Surya (RP No:97111), who are also confined in this same prison. Hence, for administrative reasons in order to avoid any situation of conflict, as per the normal protocol, a proposal has been sent to the Head of the Department vide this office letter No:8329/R1/2016 dated: 22.08.2016, with a proposal to transfer the prisoner to any other prison."

5. Refuting the contentions raised in the counter affidavit, Mr.R.Sankarasubbu, submitted that the prison authorities cannot transfer a prisoner on the ground mentioned above and that it is their duty to ensure the protection of prisoner at all costs. He further submitted that the prisoner has got a fundamental right to be very near his family and if he is shifted out of Central Prison, Chennai, his family members will not be able to meet him frequently.

6. This petition has been filed in the year 2016 and the counter affidavit has been sworn to on 12.09.2016. This Court does not know the current situation that is obtaining in the prison where Vairam @ Vairamuthu is lodged. However, this Court is unable to agree with the submissions of Mr.Sankarasubbu that the authorities do not have the power to transfer a prisoner on the ground stated above. The fact remains that the petitioner is an accused in several cases and he is a remand prisoner. It is the duty of the prison authorities to maintain discipline and also to ensure that a prisoner is safe. When the prison authorities perceive an imminent threat to the life of a prisoner in a particular prison, it is well within their powers to transfer him out of the prison. If the argument of Mr.Sankarasubbu is accepted and if the prisoner is detained in the prison despite threat to his life from co-prisoners, and if anything untoward happens, the prison authorities will be held liable.

In such view of the matter, this Court is of the view that this petition is devoid of merits and the same stands dismissed accordingly.

Sd/-
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

gms

To

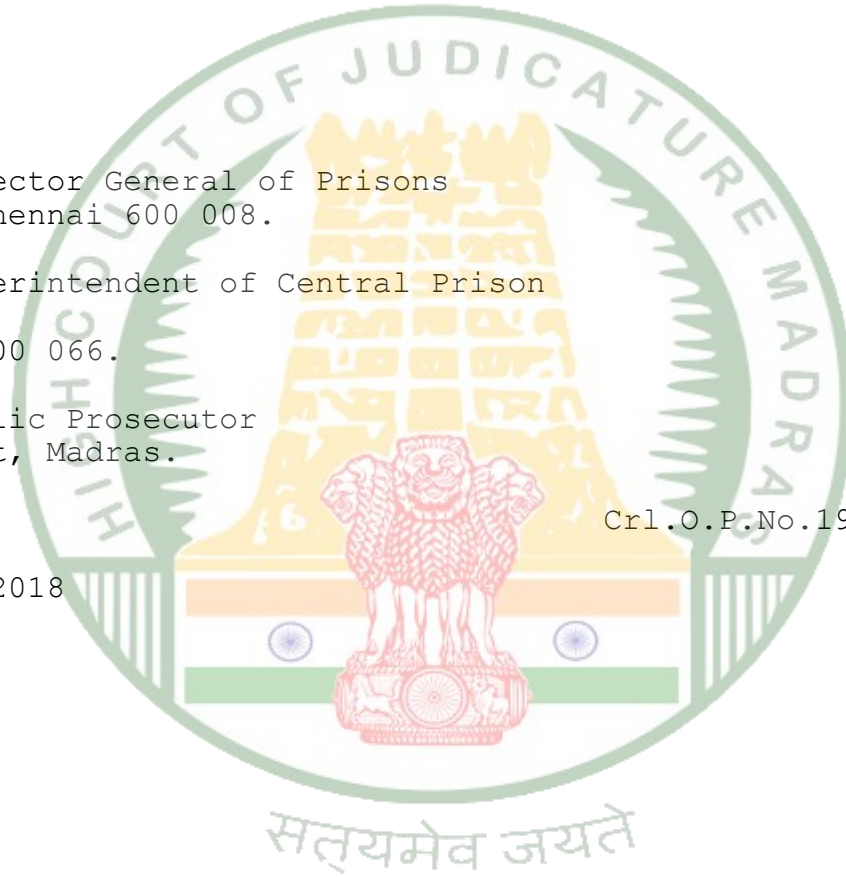
1.The Director General of Prisons
Egmore, Chennai 600 008.

2.The Superintendent of Central Prison
Puzhal-II
Chennai 600 066.

3.The Public Prosecutor
High Court, Madras.

Crl.O.P.No.19242 of 2016

nr 04/05/2018



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