

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.11.2018

CORAM:

THE HONOURABLE Mr. JUSTICE C.T.SELVAM
AND
THE HONOURABLE Mrs. JUSTICE S.RAMATHILAGAM

H.C.P.No.2469 of 2018

P.Poonuthyammal Petitioner
-Vs-

1. The State of Tamil Nadu
Rep. by Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.
2. The Additional Director General of Police
and Inspector General of Prisons,
Gandhi Irwin Road,
Egmore, Chennai-600 008.
3. The Superintendent of Prison,
Central Prison, Vellore. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, directing the respondents to produce the petitioner's son namely Kannan @ Veera Krishnan Son of Palanisamy (Freedom Fighter), aged about 60 years, Life Convict No.1369, confined in the Central Prison, Vellore before this Court and set him at liberty.

For Petitioner : Mr.P.Pugalenth

For Respondents: Mr.R.Prathap Kumar
Additional Public Prosecutor

ORDER

[Order of the Court was made by C.T.SELVAM, J.]

Petitioner, who is the mother of Convict Prisoner viz., Kannan @ Veera Krishnan (Convict No.1369 housed in Central Prison, Vellore), S/o.Palanisamy (Freedom Fighter), has moved the present petition seeking relief under G.O.(Ms) No.1155, Home (Prison-IV) Department dated ***11.09.2008**.

2. Heard learned counsel for petitioner, as also learned Additional Public Prosecutor for respondents.

3. Convict prisoner faced trial in ****S.C.NO.15 of 1991** on the file of learned Principal Sessions Judge, Dindugal District. After trial, Trial Court convicted him u/s 302, 201 & 498-A IPC and sentenced to undergo Life Imprisonment for offence u/s 302 IPC and 5 years R.I for offence u/s 201 IPC and 1 year R.I for offence u/s 498-A IPC.

4. Petitioner has made a representation on 27.09.2018 to the respondents informing the application of G.O.(Ms).No.1155, Home (Prison-IV) Department dated ***11.09.2008** in the case of her son/convict prisoner and seeking relief thereunder. The said representation has been rejected by third respondent in his proceedings dated 31.10.2018.

5. A perusal of the proceedings reveal the reason informed by the third respondent is that the convict prisoner is convicted for offence u/s 498(A) IPC and as such he is ineligible under the said G.O.(Ms).No.1155.

6. This Court has, in HCP No.3333 of 2013 considered a similar case and under orders dated 22.01.2014 granted relief informing the exclusion of person attracting offence punishable under Section 498-A IPC from release under the said G.O.(Ms). No.1155 to be erroneous. Following the same, this Court would consider it appropriate to allow this Habeas Corpus Petition.

7. Accordingly, this Habeas Corpus Petition shall stand allowed. The detenu viz., Kannan @ Veera Krishnan (Convict No.1369 housed in Central Prison, Vellore), S/o.Palanisamy (Freedom Fighter), aged 60 years is directed to be released

forthwith in terms of G.O.Ms.No.1155 Home [Prison-IV] Department dated ***11.09.2008** unless his presence is required in any other case.

Sd/-
Deputy Registrar
Dated:27/11/2018

*** Corrected as per order
dated 10.12.2018 made in
H.C.P.No. 2469 of 2018**

Sd/-
Assistant Registrar(CS VIII)
Dated: 10/12/2018)

****Corrected as per order dated 04/01/2019
made in HCP.NO.2469/2018
Sd/-
Assistant Registrar(CS III)**

//True Copy//

Sub Assistant Registrar

kmi

To:

- 1.The Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai - 600 009.
- 2.The Additional Director General of Police
and Inspector General of Prisons,
Gandhi Irwin Road,
Egmore, Chennai-600 008.
- 3.The Superintendent of Prison,
Central Prison,
Vellore.
- 4.The Public Prosecutor,
High Court, Madras.

**To be Substitued
for the Order
already despatched
on 28/11/2018**

**To be Substitued
for the Order
already despatched
on 11/12/2018**

**+2cc to Mr.P.Pugalthi, Advocate Sr.84860
+1cc to Mr.P.Pugalthi, Advocate sr.no.776**

H.C.P.No.2469 of 2018

srg 27/11/2018
GN(10/12/2018)
nr 09/01/2019