



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.02.2018

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THE HON'BLE MR.JUSTICE P.RAJAMANICKAM

W.P. (MD) No.2516 of 2018

Nirmala Mary

... Petitioner

-Vs-

1. The Secretary to the Government,
Home Department,
St.George Fort, Secretariat,
Chennai.

2. The Superintendent of Central Prison,
Central Prison,
Playamkottai, Tirunelveli.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, directing the respondents to release the petitioner's husband Johnson @ John (CT.No.3768) on premature by consider her representations dated 30.12.2016 and 08.01.2018.

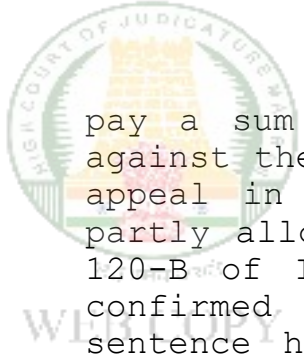
For Petitioner : Mr.M.Ramu
For Respondents : Mr.N.Shanmuga Selvam
Additional Government Pleader

O R D E R

This writ petition has been filed to direct the respondents to pass order for pre-mature release of the petitioner's husband, namely, Johnson @ John (CT.No.3768) by considering the petitioner's representations dated 30.12.2016 and 08.01.2018.

2.Heard MrM.Ramu, learned counsel appearing for the petitioner and Mr.N.Shanmuga Selvam, learned Additional Government Pleader appearing for the respondents.

3.The learned counsel for the petitioner has submitted that the petitioner's husband, namely, Johnson @ John was convicted by the Additional District and Sessions Judge, Nagercoil, Kanyakumari District, in S.C.No.41 of 1996, vide judgment dated 27.10.1997, where under he was convicted and sentenced to undergo rigorous imprisonment for 7 years for the offences punishable under Sections 120-B, 489-C, 489-D and 259 of I.P.C. and he was also directed to



pay a sum of Rs.1,000/- as fine. He further submitted that as against the said judgment, the said Johnson @ John has preferred an appeal in C.A.No.25 of 1998 before this Court and the same was partly allowed and he was acquitted for the offences under Section 120-B of I.P.C. r/w 489 of I.P.C. where as his conviction was confirmed for the offences under Section 259 of I.P.C. and the sentence has been modified to the effect that the petitioner to undergo rigorous imprisonment for 3 years and the fine amount was enhanced to Rs.10,000/- with the rider of default clause.

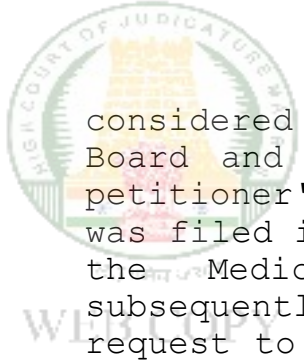
4.He further submitted that in pursuance of the said judgment, the petitioner's husband was taken into custody, so as to serve the remaining portion of the sentence and accordingly as of now he is being kept in second respondent's central prison. He further submitted that the petitioner's husband is a cardiac patient from 2003 on wards and he was taken to the Government Hospital, Highground, Palayamkottai, Tirunelveli for taking emergency treatment on various dates. Subsequently, he was advised to undergo Angiogram operation, Kidney operation and Diabetic treatment. In the meantime, the petitioner's husband was permitted by parole from 05.09.2017 to 12.09.2017 and during that period his health was seriously affected and hence the petitioner has filed a writ petition in W.P.(MD)No.17200 of 2017 praying to extend the parole time for medical treatment. This Court also considered the same.

5.He further submitted that the petitioner has filed another miscellaneous petition for extension of time for getting medical treatment and the same was disposed of directing the second respondent to transmit the petitioner's husband to Government Rajaji Hospital, Madurai for better treatment as per the Doctor's report and hence the petitioner's husband has been hospitalized at Madurai Government Hospital but the Doctor opined that his health is very poor to Angiogram operation as well as open surgery, because heart beat is 25% only.

6.He further submitted that taking into consideration the petitioner's husband's health condition, the second respondent has recommended for the pre-mature release and the same is pending before the Board for consideration. He further submitted that the petitioner has sent representations on 30.12.2016, 03.01.2018 and 11.01.2018 praying for pre-mature release, but so far, no order has been passed on the petitioner's representations and hence the petitioner has approached this Court for the aforesaid relief.

7.The learned Additional Government Pleader has submitted that the report from the Medical Board not yet received and only after receipt of the said report, the second respondent can dispose of the petitioner's representations.

8.The second respondent has admitted in the counter filed by him in W.P.(MD)No.17200 of 2017 that the petitioner's case has been



considered and the petitioner's husband was referred to the Medical Board and only after getting report from the Medical Board, the petitioner's representations can be considered. The said counter was filed in the month of October 2017. But, it is not known whether the Medical Board has examined the petitioner's husband subsequently. Hence, the second respondent is directed to make a request to the Medical Board to examine the petitioner's husband at early and give a report. The petitioner is also directed to submit a representation before the Medical Board to examine her husband at early and give a report about his health condition. After receiving the said report, the petitioner's representations should be disposed of by the second respondent within a period of two weeks on merits and in accordance with law.

9. With the above directions, this writ petition is disposed of. No costs.

Sd/-
Assistant Registrar (RTI)

/True Copy/

Sub Assistant Registrar

To

1. The Secretary to the Government,
Home Department,
St. George Fort, Secretariat,
Chennai.

2. The Superintendent of Central Prison,
Central Prison,
Playamkottai, Tirunelveli.

+ 1 CC TO Mr. M. RAMU, ADVOCATE IN SR No. 49609
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 50222

GSP
TE/SV-MMS/SAR-2 : 21/02/2018 : 3P/5C

W.P. (MD) No. 2516 of 2018
19.02.2018