



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.02.2018

CORAM

WEB COPY

THE HON'BLE MR.JUSTICE P.RAJAMANICKAM

W.P. (MD) No.3020 of 2018

A.Dhanalakshmi

... Petitioner

-Vs-

1.The Superintendent of Prisons,
Central Prison-I,
Puzhal,
Chennai-600 066.

2.The Sub-Inspector of Police,
Thevaram Police Station,
Theni District.
(Crime No.8 of 2005)

... Respondents

Prayer: Writ Petition - filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, directing the first respondent to immediately return back the executed warrant of sentence of my husband Alagar @ Valarntha Alagar, Son of Dharmaraj in the case bearing C.C.No.328 of 2005 to the concerned Bodinayakanoor Judicial Magistrate Court sans any further delay as stipulated in Rule No.624 of the Tamil Nadu Prison Rules, 1983.

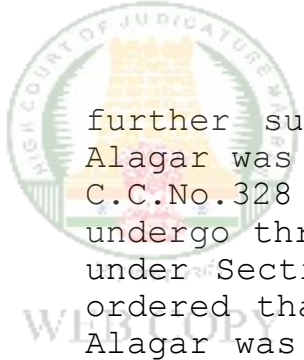
For Petitioner : Mr.V.Santhakumaresan
For Respondents : Mr.N.Shanmugaselvam
Additional Government Pleader

O R D E R

This writ petition has been filed to direct the first respondent to return back immediately, the executed warrant of sentence of the petitioner's husband Alagar @ Valarntha Alagar Son of Dharmaraj, in the case bearing C.C.No.328 of 2005 to the Judicial Magistrate Court, Bodinayakanoor as stipulated in Rule No.624 of the Tamil Nadu Prison Rules, 1983.

2. Heard, Mr.V.Santhakumaresan, learned counsel appearing for the petitioner and Mr.N.Shanmugaselvam, learned Additional Government Pleader appearing for the respondents.

3. The learned counsel appearing for the petitioner submitted that the petitioner's husband Alagar @ Valarntha Alagar was sentenced to undergo life imprisonment under Section 302 IPC in S.C.No.62 of 2006 on the file of the learned Principal District and Sessions Judge, Tirunelveli, by the judgment dated 16.04.2008. He



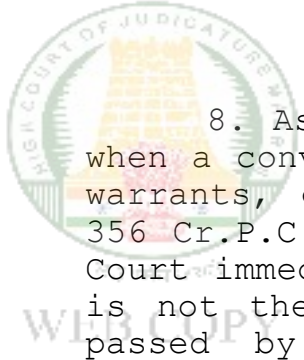
further submitted that subsequently, the said Alagar @ Valarntha Alagar was convicted by the Judicial Magistrate, Bodinayakanoor, in C.C.No.328 of 2005 by the judgment dated 04.11.2009 and sentenced to undergo three years rigorous imprisonment for the offence punishable under Section 3 r/w 25 (1)(b)(a) of the Arms Act. It was further ordered that the period during which, the said Alagar @ Valarntha Alagar was in custody at the time of trial to be given set-off and hence, the term of imprisonment, which was awarded in C.C.No.328 of 2005 by the learned Judicial Magistrate, Bodinayakanoor, was expired on 03.02.2018.

4. He further submitted that as per the Rule 624 of the Tamil Nadu Prison Rules, 1983, after expiry of the term of imprisonment, the jail authority should send back the warrant to the concerned Court immediately, but, sofar, the first respondent has not returned the said warrant to the concerned Court. Hence, he requested this Court to give a suitable direction to the first respondent to return the said warrant to the concerned Court.

5. The first respondent has filed a counter stating that the life imprisonment awarded to the said Alagar @ Valarntha Alagar in S.C.No.62 of 2006 on the file of the learned Principal District and Sessions Judge, Tirunelveli, and three years rigorous imprisonment awarded in C.C.No.328 of 2005 on the file of the learned Judicial Magistrate, Bodinayakanoor, will run concurrently and it will be treated as one life sentence and hence, the respective warrants will be returned to the respective Courts, after the said Alagar @ Valarntha Alagar completes the life sentence. However, he has stated in the counter that the imprisonment for a term, which was awarded in C.C.No.328 of 2005, on the file of the learned Judicial Magistrate, Bodinayakanoor has been expired on 03.02.2018.

6. It is an admitted fact that the petitioner's husband, namely, Alagar @ Valarntha Alagar was convicted and sentenced to undergo life imprisonment for the offence under Section 302 IPC in S.C.No.62 of 2006 on the file of the learned Principal District and Sessions Judge, Tirunelveli, by judgment dated 16.04.2008.

7. It is also an admitted fact that subsequently, the said Alagar @ Valarntha Alagar was convicted for the offence under Section 3 r/w 25 (1)(b)(a) of the Arms Act, by the learned Judicial Magistrate, Bodinayakanoor, in C.C.No.328 of 2005 on 04.11.2009 and sentenced him to undergo rigorous imprisonment for three years and the learned Judicial Magistrate, Bodinayakanoor, also passed an order to give set off under Section 428 Cr.P.C., with regard to the period, which was already in custody by the said Alagar @ Valarntha Alagar, during the investigation and trial. So, the term of imprisonment, which was awarded in C.C.No.328 of 2005 on the file of the learned Judicial Magistrate, Bodinayakanoor, was expired on



8. As per the Rule 624 of the Tamil Nadu Prison Rules, 1983, when a convict has to undergo two or more sentences under different warrants, each warrant shall except, where an order under Section 356 Cr.P.C., has been made against the convict, be returned to the Court immediately on expiry of a sentence to which it relates. It is not the case of the respondents that any such order has been passed by the Court under Section 356 Cr.P.C., against the petitioner's husband and therefore, the first respondent is bound to return the warrant to the learned Judicial Magistrate, Bodinayakanoor, immediately.

9. It is made clear that this order will not automatically confer any right to get remission or commutation in respect of the life sentence awarded to the petitioner's husband in S.C.No.62 of 2006. It is for the concerned authorities to consider independently with regard to the remission or commutation in respect of the life imprisonment awarded to the petitioner's husband, namely, Alagar @ Valarntha Alagar, under Section 302 IPC in S.C.No.62 of 2006 on the file of the learned Principal District and Sessions Judge, Tirunelveli.

10. With the aforesaid observations, this Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar(C.O)

/True Copy/

Sub-Assistant Registrar

To

1.The Superintendent of Prisons,
Central Prison-I,
Puzhal,
Chennai-600 066.

2.The Sub-Inspector of Police,
Thevaram Police Station,
Theni District.

+One cc to Mr.V.Santha Kumaresan, Advocate, SR.No.51250
+One cc to the Special Government Pleader, SR.No.51287

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RL/5C/3P/RSK/SAR2/20/3/2018

Order made in
W.P. (MD) No.3020 of 2018

Dated:

23.02.2018