

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.04.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
and
THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

H.C.P.No.700/2019

Ganga @ Gangathar @ Gangatharan

..Petitioner

vs.

1.The State of Tamil Nadu rep.by
the Secretary to Government
Home, Prohibition & Excise Department
Secretariat,
Chennai 600 009.

2.The Additional Director General of Police &
Inspector General of Prisons,
Gandhi Irwin Road,
Egmore,
Chennai 600 008.

3.The Superintendent of Prison
Central Prison,
Vellore.

4.The Inspector of Police
Denkanikottai Police Station
Denkanikottai,
Krishnagiri District.

.. Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of habeas corpus directing the respondents to produce the petitioner, namely Ganga @ Gangathar @ Gangatharan, son of Anjinappa, aged about 39 years, life convict, now confined in the Central Prison, Vellore before this Court and set him at liberty.

For Petitioner .. Mr.P.Pugalenthir

For Respondents.. Mr.C.Iyyappa Raj, APP

ORDER

(Order of the Court was made by M.SATHYANARAYANAN, J)

The petitioner is a life convict, for having committed the rape of the daughter of P.W.1 who was aged about 12 years at the time of the occurrence and then murdered her. The Court of Additional Sessions Judge, Dharmapuri, in SC.No.164/2000 has found him guilty for the commission of the offences u/s.376 and 302 IPC and he was imposed with the sentence of rigorous imprisonment and to pay a fine of Rs.5000/- with a default sentence of six months rigorous imprisonment for each of the offences and the sentences were ordered to run concurrently. The petitioner, challenging the legality of the conviction and sentence awarded by the Trial Court, filed an appeal in CrI.A.No.365/2006 and vide judgment dated 20.11.2007, the conviction and sentence awarded by the Trial Court, has been confirmed and no further challenge has been made. The petitioner, after having waited for nearly 12 years, has submitted a representation dated 16.03.2019, taking a stand that he was born on 05.05.1980 and since the offence was committed on 07.10.1996, he was aged about 16 years and 5 months and as such, he is entitled to the benefits of the Juvenile Justice [Care and Protection] Act, 2015.

2 The learned counsel for the petitioner would submit that the trial ought to have been conducted in accordance with Section 20 of the said Act and consequently, ought to have been released on conclusion of the trial and hence, prays for appropriate orders.

3 This Court has carefully considered the submission made by the learned counsel for the petitioner and also perused the materials placed before it.

4 A perusal of the judgment dated 20.11.2007 in CrI.A.365 of 2006 would disclose that the plea of claiming the benevolence of the Juvenile Justice Act has been raised and negated by the Appellate Court. In the considered opinion of the Court, the petitioner under the guise of raising such a plea, wants to review the judgment of the Coordinate Bench and the same is impermissible in the light of Section 362 of Cr.P.C. This Court, having found no merits in this petition, is not inclined to entertain this petition.

5 Accordingly, this Habeas Corpus Petition stands dismissed.

Sd/-

Assistant Registrar (CS VIII)

//True Copy//

Sub Assistant Registrar

AP

To

1.The Secretary to Government
State of Tamil Nadu,
Home, Prohibition & Excise Department
Secretariat, Chennai 600 009.

2.The Additional Director General of Police &
Inspector General of Prisons,
Gandhi Irwin Road, Egmore,
Chennai 600 008.

3.The Superintendent of Prison
Central Prison, Vellore.

4.The Inspector of Police
Denkanikottai Police Station
Denkanikottai, Krishnagiri District.

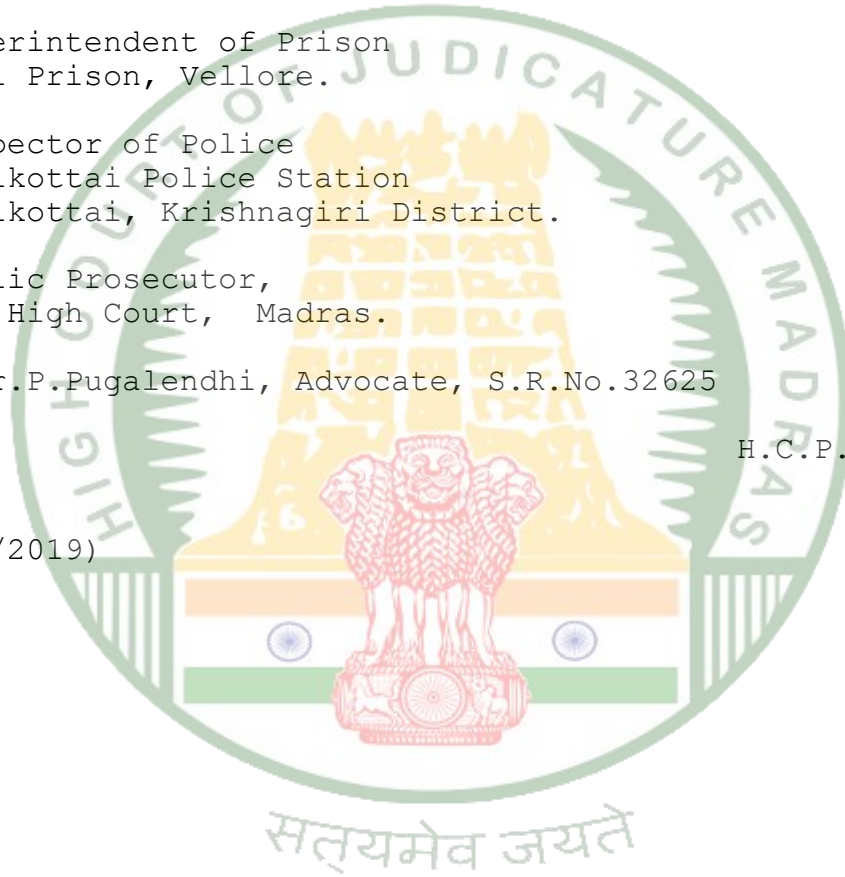
5.The Public Prosecutor,
Madras High Court, Madras.

+1cc to Mr.P.Pugalendhi, Advocate, S.R.No.32625

H.C.P.No.700/2019

VSN II (CO)

RRS (07/05/2019)



WEB COPY