

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.11.2019

CORAM

THE HONOURABLE MR. JUSTICE M.S.RAMESH

W.P.No.30375 of 2019

G.Manjula

...Petitioner

Vs

1. The Home Secretary,
Home Department,
Secretariat, For St. George,
Chennai - 600 009.
 2. Additional Director General of Police,
Inspector General of Prison,
Whannels Road, Egmore,
Chennai - 600 008.
 3. The Superintendent of Prison,
Salem Central Prison,
Salem District.
- ...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, to direct the respondents to retain the petitioner's Husband/Detenué namely Mr.Rajmohan, S/o.Chandra Mohan (Prisoner No.6584) to undergo his remaining punishment period at Salem Central Prison based on the petitioner's representation dated on 12.10.2019.

For Petitioner : Mr.M.Mohamed Saifulla
For Respondents : Mr.C.Iyyapparaj
Additional Public Prosecutor

ORDER

The petitioner herein is the wife of the detenué C.Rajmohan who has been convicted and imprisoned at Salem Central Prison. By citing medical ailments of her son for which the surgery requires to be conducted, in connection with which, the petitioner and her son intend to have personal interviews with the detenué at Salem Central Prison, the present writ petition

has been filed on the apprehension that the respondents are proposing to transfer the petitioner's husband from Salem Central Prison to some other prison.

2.The learned Additional Public Prosecutor submitted that though there is such a proposal, the respondents have not take any action on such proposal and that the petitioner's husband is still confined in the Central Prison, Salem.

3.In my view, the prayer sought for by the petitioner is prematured, since no cause of action has arisen to estop the Prison Authorities from transferring the petitioner. As such the present prayer sought for on mere apprehension cannot be sustained at this point of time.

4.Nevertheless, on the merits of the claim made by the petitioner it is seen that the Hon'ble Supreme Court of India in a decision in A.K.Roy and others vs. Union of India reported in 1982 (1) SCC 271 had held that the requirements of the administrative convenience can only be by way of exception and not as a matter of general rules and the normal rules require to detain the person within the environs of his or her ordinary place of residence.

5.The learned counsel for the petitioner also submitted that in connection with her apprehension, she had given a representation dated 12.10.2019 to the respondents herein and such a representation is still pending. As such, if the 2nd respondent is directed to consider the petitioner's representation within the stipulated time, the ends of justice would be secured.

6.In the light of the above observation, the 2nd respondent is directed to consider the petitioner's representation dated 12.10.2019 on its own merits and pass appropriate orders in accordance with law, preferably, within a period of four weeks from the date of receipt of a copy of this order. The decision taken on the representation shall be communicated to the petitioner herein forthwith.

7.Accordingly, this writ petition is disposed of. No Costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

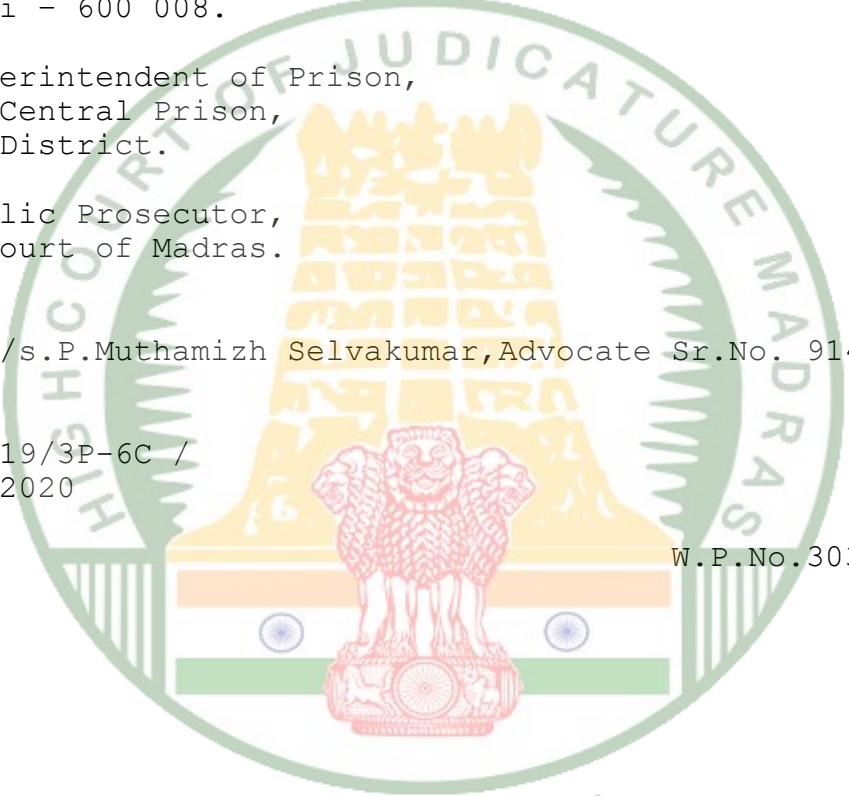
To

1. The Home Secretary,
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Chennai - 600 009.
2. The Additional Director General of Police,
Inspector General of Prison,
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Chennai - 600 008.
3. The Superintendent of Prison,
Salem Central Prison,
Salem District.
4. The Public Prosecutor,
High Court of Madras.

+1 cc to M/s.P.Muthamizh Selvakumar, Advocate Sr.No. 91445

AKM/13.12.19/3P-6C /
AKM/02.01.2020

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सत्यमेव जयते

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