

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 21.01.2019

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

H.C.P.No.2901 of 2018

N.Periyasamy

... 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.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, to call for the entire records from respondent No.2 in connection with order in No.20785/ps.1/2016 dated 6.7.2016 and quash the same and directing the respondents to produce the petitioner's father namely Chinnappan @ Nachimuthu, Son of Sathasivam, Ct. No.72736, now confined in the Central Prison, Coimbatore before this Hon'ble Court for premature release and set him at liberty.

For Petitioner: Mr.P.Pugalenth

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

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ORDER

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

Petitioner, who is the son of the Convict Prisoner viz., Chinnappan @ Nachimuthu (Convict No.72736, housed in Central Prison, Coimbatore), S/o.Sathasivam, 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.146 of 1999 on the file of learned Principal Sessions Judge, Erode District. Trial Court convicted him u/s 302 & 498-A IPC and sentenced to undergo Life Imprisonment for offence u/s 302 IPC and 2 years R.I for offence u/s 498-A IPC.

4. Petitioner has made a representation dated 02.06.2016 to the first respondent informing the application of G.O.(Ms). No.1155, Home (Prison-IV) Department dated 11.09.2008 and seeking relief thereunder. The said representation has been rejected by the second respondent in his proceedings dated 06.07.2016.

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., Chinnappan @ Nachimuthu (Convict No.7273 housed in Central Prison, Coimbatore), S/o.Sathasivam, 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

//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 Public Prosecutor,
High Court, Madras.

+1cc to Mr.P.Pugalthi, Advocate, S.R.No.4062

H.C.P.No.2901 of 2018

rrs 06/03/2019



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