



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.06.2019

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P. (MD)No.9118 of 2011

and

M.P. (MD)No.1 of 2011

Marimuthu

... Petitioner

Vs.

1.The Principal Secretary to Government,
Home (Prison) Department,
Tamil Nadu Government Secretariat,
St.George Fort, Chennai-9.

2.The Inspector General of Prisons,
CMDA Towers II, No.1 Gandhi Irwin Road,
Egmore, Chennai-8.

3.The DIG of Prisons,
Madurai Range, Central Prison Campus,
Madurai-16.

4.The Superintendent,
Central Prison, Madurai-16.

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to release the petitioner prematurely based on G.O.(Ms)No.1155, dated 11.09.2008 and in the light of clarification G.O.(Ms)No.207, dated 25.03.2011.

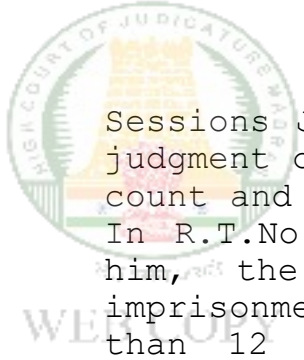
For Petitioner : Mr.Ganesh Prabhu
for Mr.S.Vanchinathan

For Respondent : Mr.K.Chellapandian
Additional Advocate General, assisted by
Mr.K.Dinesh Babu
Additional Public Prosecutor

ORDER

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

<https://hcservices.ecourts.gov.in/hcservices/>
The detenu himself is the petitioner and he faced the trial for the commission of the offence under Section 302 I.P.C. (3 counts) in S.C.No.227 of 2000, on the file of the Principal



Sessions Judge, Virudhunagar District and allied offences and vide judgment of the trial Court, he was awarded death sentence for each count and also sentenced accordingly in respect of allied offences. In R.T.No.1 of 2004 as well as in CrI.A.No.311 of 2004 filed by him, the sentence of death was modified to one of life imprisonment. According to the detenu, he is incarcerated for more than 12 years and therefore, seeking benevolence of G.O.(Ms) No.1155, dated 11.09.2008 and G.O.(Ms)No.207, dated 25.03.2011 respectively, has filed this Habeas Corpus Petition.

2. The learned Counsel appearing for the petitioner would submit that he has no instructions and this Court may dispose of the Habeas Corpus Petition on merits.

3. The learned Additional Advocate General appearing for the State would submit that after filing of this Habeas Corpus Petition, the detenu was enlarged on parole and he did not return to judicial custody and hence, he is not entitled to the benevolence of the said G.Os.

4. In the light of the fact that the detenu having availed the parole did not return and he was not in judicial custody on the date of issuance of the said G.Os., and that apart, in the light of his conduct also, he is not entitled for any premature release. Therefore, this Writ Petition is dismissed. No costs. Consequently, the connected Miscellaneous Petition is also dismissed.

Sd/-

Assistant Registrar(CS-III)

// True Copy //

Sub Assistant Registrar(CS)

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To

1.The Principal Secretary to Government,
Home (Prison) Department,
Tamil Nadu Government Secretariat,
St.George Fort, Chennai-9.

2.The Inspector General of Prisons,
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3.The DIG of Prisons,
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Madurai-16.



4.The Superintendent,
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+1CC TO MR.S.VANCHINATHAN, Advocate Sr. No. 68626

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and

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AL (CO)

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