

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.08.2020

CORAM:

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
and
THE HONOURABLE MS.JUSTICE V.M.VELUMANI

H.C.P. Nos. 721 & 736 of 2020

L. Srinivasan, M/A. 44 years
S/o. Loganathan,
Life Convict Prisoner- CT No.8474.
Salem Central Prison,
Hasthampatty 636 007.

... Petitioner/ Detenue in
both petitions

Vs.

- 1.The Home Secretary (Prison),
Secretariat,
Fort St.George,
Chennai-9.
- 2.The Additional Director General of Prisons,
Inspector General of Prisons,
Whannels Road,
Egmore, Chennai 600 008.
- 3.The Superintendent of Prison,
Salem Central Prison,
Hasthampatty 636 007.
- 4.The Superintendent of Prison,
Puzhal - I (Convict Prison),
Central Prison,
Thiruvallur District 600 066.
- 5.The Commissioner of Police,
Greater Chennai, Vepery,
Chennai 600 007.
- 6.The Inspector of Police,
H-5, New Washermenpet Police Station,
Chennai 600 021.

.. Respondents in
both petitions

PRAYER in H.C.P. No. 721/2020: This petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Habeas Corpus, directing the respondents to transfer the detenu namely Mr. Srinivasan S/o. Loganathan (Convict No. 8474) from Salem Central Prison (herein 3rd respondent) to Central Prison - Puzhal I (herein 4th respondent) in pursuant of the petitioner's representation dated on 19.12.2019.

PRAYER in H.C.P. No. 736/2020: This petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Habeas Corpus, directing the respondents to set off the pre-conviction period under Section 428 Cr.P.C. from 04.08.2006 to 19.09.2006 (46 days) already undergone in Sessions Case No.499/2007 on the file of the VI Additional Sessions Judge, Chennai by the detenu L.Srinivasan S/o Loganathan (Convict Prisoner No. 8474) now confined in Central Prison, Salem.

In both HCPs

For Petitioner : Mr. M. Mohamed Saifulla

For Respondents: Mrs. M. Prabhavathi
Additional Public Prosecutor

C O M M O N O R D E R

(Order of the Court was made by N.KIRUBAKARAN,J.)

The matter is heard through video-conferencing.

2.The petitioner is a life convict. He is convicted by virtue of the order passed by the VI Additional Sessions Court at Chennai on 01.02.2011. The said judgment was confirmed by the Division Bench of this Court on 12.10.2011 and by the Hon'ble Apex Court on 15.02.2017. The petitioner was lodged in Central Prison - I, Puzhal, from 2011. However, on 25.06.2015, he was fighting with other convicts in the prison. Therefore, the authorities rejected his interview for one month. Secondly, he was on hunger strike, raising slogans against the Prison authorities. Taking into consideration of these two incidents, the authorities transferred the petitioner to the Central Prison, Salem on 06.09.2018 on administrative ground.

3.HCP No.721/2020 has been filed seeking re-transfer from Central Prison, Salem to Central Prison-I, Puzhal, Chennai

stating that he has already been punished for his conduct and in spite of the same, he was transferred to Central Prison, Salem, with ulterior motive. The convict's family members are settled in Chennai and he has got two young children and for meeting the convict, the family members who are permanently settled in Chennai have to travel 350 kms to Salem which takes about 6 ½ hours. Therefore, he has given a representation for re-transfer on 19.12.2019. Since it has not been considered, the present petition has been filed.

4. Counter has been filed stating that the above stated two incidents are reasons for transfer of the petitioner to Central Prison, Salem, on administrative ground.

5. Heard Mr. M. Mohammed Saifulla, learned counsel for the petitioner as well as Mrs. M. Prabhavathi, learned Additional Public Prosecutor appearing on behalf of the respondents and perused the materials available on record.

6. As rightly pointed out by the learned counsel for the petitioner and as per the counter affidavit filed by the respondents, for fighting with co-prisoners on 25.06.2015, interview was rejected for one month for the petitioner. Therefore, he was already punished. With regard to the hunger strike and raising slogans against the prison authorities, the date of strike and other details were not given. However, the learned counsel appearing on behalf of the petitioner would submit that when the District Judge went for inspection, the petitioner had informed certain grievances against the Prison authorities and that is the reason why he was transferred from Central Prison - I, Puzhal, Chennai to Central Prison, Salem. As already stated, no details have been given regarding the raising of slogans against the prison authorities. Even otherwise, for no reason, the convict would not dare to undertake hunger strike and raise slogans. There should be some extraordinary circumstances which would have compelled him to undertake hunger strike. Merely because he has undertaken hunger strike, the same cannot be a ground to transfer him. If he really undertook hunger strike, the jail authorities have to rectify or address the grievances expressed by the convict and that hunger strike cannot be employed against the convict to transfer him to Central Prison, Salem.

7. As already stated by Mr. M. Mohammed Saifulla, learned counsel appearing for the petitioner, the petitioner's family is permanently settled in Chennai. The family members, especially the young children of the petitioner have to travel about 350 kms, spending about 6 ½ hours, which causes more prejudice not

only to the convict, but also to the family members. Therefore, it is appropriate to re-transfer the petitioner/convict to the Central Prison - I, Puzhal, Chennai, from Central Prison, Salem within a period of one week from the date of receipt of a copy of this order.

8.It is to be noted that merely because the petitioner has approached this Court and got the order, he should not be ill-treated or should not be put to discrimination. It is usually the mind of the higher authorities to discriminate and take vengeance against those persons who approaches the Court for getting orders. If anything is brought to the notice of this Court that the petitioner is being ill-treated or discriminated, it will be viewed very seriously. Accordingly, H.C.P. No. 721 of 2020 is ordered.

9.H.C.P. No. 736 of 2020 has been filed by the convict seeking to consider the petitioner's representation dated 19.12.2019 in which he has sought for setting off 46 days of pre-trial arrest from 04.08.2006 to 19.09.2006.

10.Counter affidavit has been filed stating that the petitioner was in judicial custody as pre-trial detention and therefore, the said period has to be included in incarceration.

11.In view of the aforestated position, H.C.P. No. 736 of 2020 is ordered, directing the respondents to set off the 46 days, i.e. from 04.08.2006 to 19.09.2006, during which period the convict was remanded by the Judicial Magistrate No.I, Ponneri in Central Prison - II, Puzhal for the offences u/s.147, 148 & 308 r/w.149 IPC registered in Cr.No.2028/2006.

Sd/-

Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

gsa

To

1.The Home Secretary (Prison),
Secretariat, Fort St.George
Chennai-9.

2.The Additional Director General of Prisons,
Inspector General of Prisons,
Whannels Road,
Egmore, Chennai 600 008.

3.The Superintendent of Prison,
Salem Central Prison,
Hasthampatty 636 007.

4.The Superintendent of Prison,
Puzhal - I (Convict Prison), Central Prison,
Thiruvallur District 600 066.

5.The Commissioner of Police,
Greater Chennai, Vepery,
Chennai 600 007.

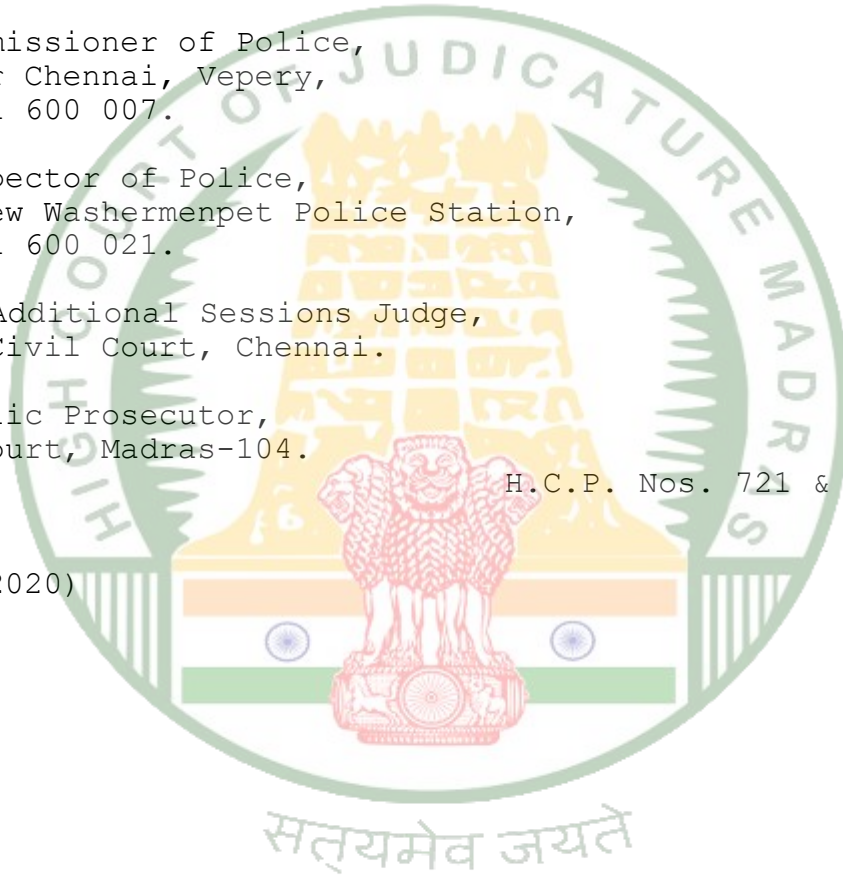
6.The Inspector of Police,
H-5, New Washermenpet Police Station,
Chennai 600 021.

7.The 6th Additional Sessions Judge,
City Civil Court, Chennai.

8.The Public Prosecutor,
High Court, Madras-104.

H.C.P. Nos. 721 & 736 of 2020

SSV(CO)
CB(01/10/2020)



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