

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.12.2020

CORAM:

THE HON'BLE MR.JUSTICE T.RAVINDRAN

W.P.No.12018 of 2020

M.Lakshmi,
W/o, Mohan,
T.K.Nagar,
V.Sithagounder Line,
Mitta Pudur,
Salem - 636 016.

...Petitioner

-Vs-

1. The State of Tamil Nadu, Represented by
The Principal Secretary to Government,
Home (Prison IV) Department,
Fort St.George,
Chennai 600 009.
2. The Director General of Prisons,
Chennai Metropolitan Development Authority Tower II,
No.1, Gandhi Irwin Road,
Egmore,
Chennai - 600 008.
3. The Superintendent,
Central Prison,
Coimbatore.

....Respondents

Prayer:Writ Petition filed under Article 226 of the Constitution of India, to issue Writ or Order or Direction in the nature of Writ of Certiorarified Mandamus calling for the records relating to the impugned Rejection order in 11399/Tha Ku 3/2020 dated 03.08.2020 on the file of the 3rd respondent and quash the same and directing the respondents to grant leave for 30 days to the petitioner's husband namely R.Mohan detained at Central Prison, Coimbatore under relevant provisions of the Tamil Nadu Suspension of Sentences Rule 1982.

For Petitioner : Mr.S.Kumara Devan

For Respondents : Ms.M.Prabhavathi
Additional Public Prosecutor

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O R D E R

The Writ Petition has been preferred by the petitioner to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned Rejection order in 11399/Tha Ku 3/2020 dated 03.08.2020 on the file of the third respondent and quash the same and directing the respondents to grant leave for 30 days to the petitioner's husband R.Mohan detained at Central Prison, Coimbatore under the relevant provisions of the Tamil Nadu Suspension of Sentences Rules 1982.

2. The petitioner's husband R.Mohan is a convict and sentenced to undergo simple imprisonment for one month under section 341 IPC and rigorous imprisonment for ten years with the fine of Rs.1000/- , in default to undergo rigorous imprisonment for one year on each count under section 304(1) r/w 34 (2 counts) IPC in S.C.No.341 of 2010 on the file of the Additional District and Sessions Judge, Fast Track Court No.I, Salem on 02.12.2011. The abovesaid sentences are ordered to run concurrently. The abovesaid conviction and sentence imposed by the Sessions Court had been confirmed by this Court in Crl.Appeal No.781 of 2011. After the conviction, the petitioner had been admitted at Central Prison, Salem and subsequently released on bail as as per order passed by this Court in C.M.P.No.1 of 2011 in Crl.Appeal No.781 of 2011. He had been readmitted in the Central Prison, Salem on confirmation of the sentence and subsequently he had been transferred to Central Prison, Coimbatore on 15.02.2020.

3. Now according to the petitioner, she has been suffering from uterus problems and taking treatment for the same at Salem and due to the same, she is unable to meet her husband confined at Central Prison, Coimbatore and therefore according to the petitioner inasmuch as, she has to make arrangement of money for undergoing surgery, she had made a representation to the respondents to grant 30 days of ordinary leave to her husband, for the purpose of conducting surgery. Further according to her, the abovesaid representation given by her for granting 30 days of ordinary leave for her husband has been rejected by the third respondent vide the impugned order dated 03.08.2020 by holding that the Rule 22(1) of Tamilnadu Suspension of Sentences Rule 1982 does not provide a convict person to avail 30 days of ordinary leave without completing the three years of imprisonment from the date of initial imprisonment. Challenging the same, the present Writ Petition has been preferred by the petitioner.

4. On a perusal of the impugned order passed by the third respondent and Rule 22(1) of Tamilnadu Suspension of Sentences Rules 1982, it is noted that a convict should have completed

minimum three years of imprisonment to become eligible for the grant of ordinary leave, and inasmuch as, the petitioner's husband had completed only 1/4th of the years of imprisonment, therefore, he is not eligible for the grant of ordinary leave as prayed for by the petitioner and resultantly, it is noted that the impugned order passed by the third respondent is in accordance with law and as rightly contended by the Additional Public Prosecutor, the grant of leave by a convict or by any person on behalf of convict cannot be entertained, as a matter of right, under Rule 203 of Tamilnadu Suspension of Sentences Rule 1982.

5. The petitioner's counsel during the course of arguments is not able to present as to how the impugned order is vitiated. Furthermore, he is also unable to substantiate as to how the petitioner's prayer for the grant of ordinary leave for 30 days to her husband could be entertained in violation of Rule 22(1) of the Tamilnadu Suspension of Sentences Rule 1982. Merely because, the petitioner is having the some medical problems that alone would not be the sole basis for claiming the ordinary leave of 30 days for her convicted husband.

6. In the light of the abovesaid observations, it is noted that the impugned order has been passed by the third respondent only in accordance with law and in such view of the matter, no interference is warranted with reference to the same.

7. For the reasons aforesated, the Writ Petition is dismissed.

Sd/-

Assistant Registrar

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Sub Assistant Registrar

mfa

To

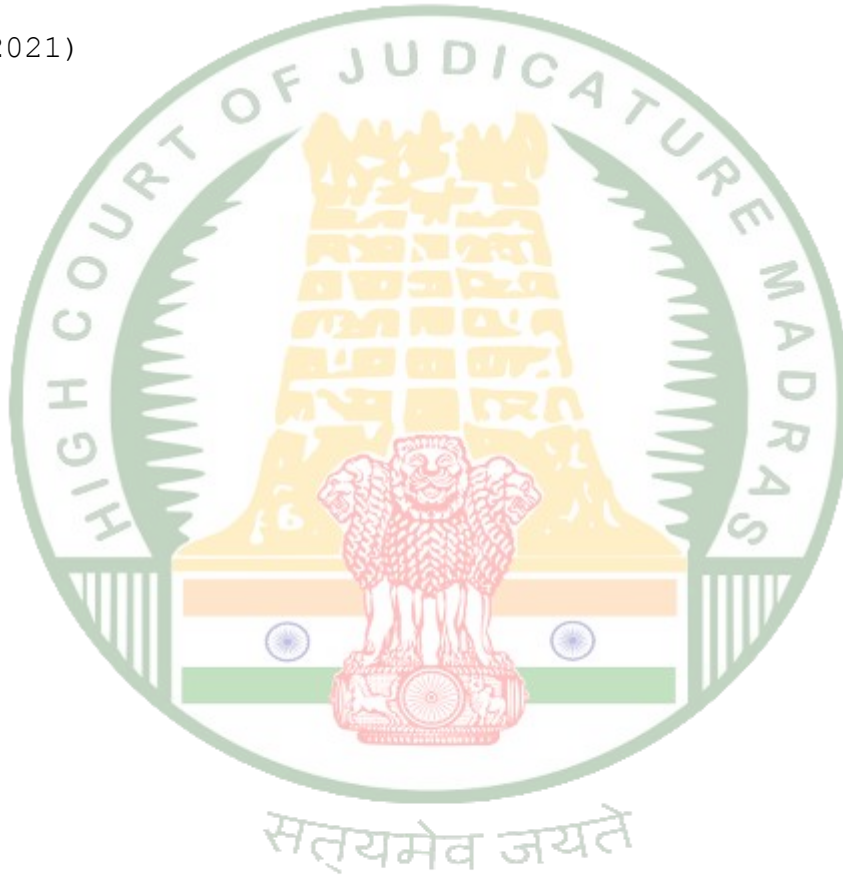
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+lcc to M/s.S.Kumara Devan, Advocate, S.R.No.41988

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