

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.02.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH
AND
THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

Contempt Petition No.1144 of 2019

S.Asiya

.. Petitioner

Vs.

1. Niranjam Marti,
The Home Secretary (Prison),
Home Department,
Secretariat, Fort St.George,
Chennai-600 009.

2. Abash Kumar,
Additional Director General of Prison,
Inspector General of Prisons,
Whannels Road, Egmore,
Chennai-600 008.

3. R.Krishna Raj,
The Superintendent of Police,
Coimbatore Central Prison,
Coimbatore District.

.. Respondents

Contempt Petition filed under Section 11 of the Contempt of Courts Act to punish the respondents for deliberately committing contempt by wilful disobedience of the order dated 04.01.2019 of this Court in H.C.P.No.2955 of 2018.

For respondents : Mr.C.Emilias, Addl. Advocate General assisted by
Mr.R.Prathap Kumar, Addl.P.P.

ORDER

(The Order of the Court was made by R.Subbiah, J)

The present Contempt Petition has been filed alleging violation of the order dated 04.01.2019 passed by this Court in H.C.P.No.2955 of 2018, in and by which, this Court passed the following order:

"4. Learned counsel for petitioner submits that petitioner's brother whose release is sought under G.O.(Ms) No.64, Home (Prison IV) Department dated 01.02.2018 is eligible therefor as he satisfies all parameters drawn up in the said Government Order. Petitioner has made a representation on 10.10.2018 to the respondents informing the application of G.O.(Ms).No.64, Home (Prison IV) Department dated 01.02.2018 in the case of her husband/convict prisoner and seeking relief thereunder.

6. There is no dispute over the fact that the convict prisoner would be entitled to release under G.O.(Ms).No.64, Home [Prison-IV] Department dated 01.02.2018. However, he has been denied the benefit thereof since the Probation Officer's report informs danger to the life of the Convict Prisoner, if he be let at large. Refusing release of a prisoner on the ground that his safety is at risk would amount to denying him the same not owing to any fault of his but on an apprehension of possibility of wrong doing by others. This, we consider unreasonable. In such cases, we would recommend that prisoners be released but in doing so be informed of the possibility of harm to them.

7. Accordingly, this Habeas Corpus Petition shall stand allowed. The detenu viz., Sirajudheen (Convict No.4348 housed in Central Prison,

Coimbatore), S/o.Yusuf, is directed to be released forthwith in terms of G.O.Ms.No.64 Home [Prison-IV] Department dated 01.02.2018 unless his presence is required in any other case."

2. It is now represented by the learned Additional Advocate General appearing for the respondents that the State has preferred Special Leave Petition (Criminal), and the leave was granted with delay being condoned along with connected matters, and consequently, the Supreme Court took up the Criminal Appeal(s) against such SLPs(Crl)., and the present case arises in Crl.A.No.148 of 2020 before the Supreme Court along with connected Criminal Appeals, and by common judgment dated 23.01.2020, the Supreme Court directed release of the detenus (including the husband of the petitioner herein), observing as follows:

"45. In view of the above discussion, we set aside the judgment(s) of the High Court. As far as Criminal Appeal No.144 of 2020 @ SLP(Crl).No.626 of 2020 @ SLP(Crl).D.No.18046 of 2019, Criminal Appeal No.145 of 2020 @ SLP (Crl).No.627 of 2020 @ SLP (Crl).D.No.18016 of 2019, Criminal Appeal No.146 of 2020 @ SLP (Crl).7697 of 2019 and Criminal Appeal No.148 of 2020 @ SLP (Crl).No.11494 of 2019, are concerned the detenus are ordered to be released forthwith unless wanted in any other case. As far as detenu in Criminal Appeal No.147 of 2020 @ SLP (Crl).No.6159 of 2019 is concerned the State is directed to consider and decide the representation of the detenu within 6 weeks from today.

<https://hcservices.ecourts.gov.in/hcservices/> 46. The appeals are disposed of in the

aforesaid terms. Pending application(s), if any, stand(s) disposed of."

3. Consequent upon the above judgment of the Supreme Court in Crl.A.No.148 of 2020, the husband of the petitioner (i.e. accused) will be released as per the above direction of the Supreme Court. Hence, nothing further survives for consideration in this Contempt Petition, which is accordingly closed.

SD/-

ASSISTANT REGISTRAR(COMM.CASES)

cs

//Certified to be true copy//

Dated at Madras this the day of 2020.

COURT OFFICER(O.S.)

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SMI/28/05/2020

To

1. The Home Secretary (Prison),
Home Department,
Secretariat,
Fort St.George,
Chennai-600 009.

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

3. The Superintendent of Police,
Coimbatore Central Prison,
Coimbatore District.



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