

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.01.2021

Coram

The Honourable Mr. Justice P.N.PRAKASH
and
The Honourable Mr. Justice V.SIVAGNANAM

H.C.P. No.52 of 2021

A.Ramalingam

.. Petitioner

Vs.

1.State represented by its
Home Secretary (Prison),
Home Department, Secretariat,
Fort St.George,
Chennai - 600 009.

2.The Director general of Prison
and Inspector General of Prison,
Whannels Road, Egmore,
Chennai - 600 008.

3.The Deputy Inspector General of Prison,
Office of the D.I.G. At Coimbatore Range,
Gandhipuram, Coimbatore.

4.The Superintendent of Prison,
Coimbatore Central Prison,
Gandhipuram, Coimbatore.

5.The Superintendent of Prison,
Salem Central Prison, Salem District.

6.The Inspector of Police,
Ammamet Police Station, Salem.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of Habeas Corpus directing the respondents to transfer the petitioner viz., Ramalingam S/o.Arumugam, from Central Prison, Coimbatore, to undergo his remaining punishment period at Salem Central Prison based on his representation dated 09.12.2020.

For Petitioner	:	Mr.M.Mohamed Saifulla
For Respondents	:	Mr.R.Prathap Kumar
		Additional Public Prosecutor

ORDER

[Order of the Court was made by P.N.PRAKASH, J.]

This habeas corpus petition has been filed seeking to direct the respondents to transfer the petitioner viz., Ramalingam S/o.Arumugam, from Central Prison, Coimbatore, to undergo his remaining punishment period at Salem Central Prison based on his representation dated 09.12.2020.

2. The petitioner is a convict prisoner, whose conviction and sentence have been confirmed by this Court in C.A.No.781 of 2011 on 29.08.2019. The petitioner is seeking transfer from Central Prison, Coimbatore to Central Prison, Salem, for which, the present habeas corpus petition has been filed.

3. In effect, the petitioner seeks a writ of mandamus. In the light of the law laid down by the Supreme Court in The Home Secretary (Prison) and others Vs. H.Nilofer Nisha¹, the present habeas corpus petition for such a relief cannot be maintained. Such habeas corpus petitions are frequently filed in this Court and in our opinion, they have to be treated as writ petitions and posted before the Division Bench, since the custody of the prisoner is not per se illegal and is pursuant to an order of conviction and sentence by a competent Court.

4. Hence, the matter may be placed before the Hon'ble Chief Justice for issuance of appropriate directions to the Registry to number such petitions as writ petitions and post them before the Division Bench, for orders.

5. Treating this as a writ petition for a mandamus, the second respondent is directed to consider the petitioner's representation dated 09.12.2020 in accordance with law within four weeks from the date of receipt of a copy of this order and pass appropriate orders.

With the above directions, this writ petition is disposed of. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

nsd

To

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

2.The Director General of Prison
and Inspector General of Prison,
Whannels Road, Egmore,
Chennai - 600 008

3.The Deputy Inspector General of Prison,
Office of the D.I.G. At Coimbatore Range,
Gandhipuram, Coimbatore.

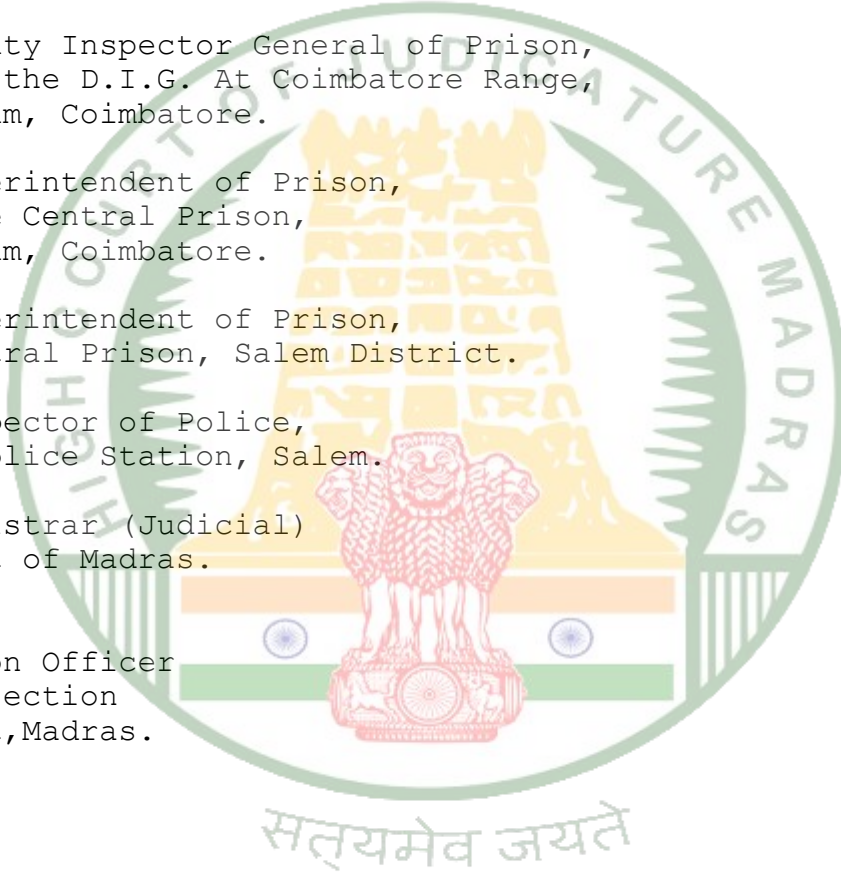
4.The Superintendent of Prison,
Coimbatore Central Prison,
Gandhipuram, Coimbatore.

5.The Superintendent of Prison,
Salem Central Prison, Salem District.

6.The Inspector of Police,
Ammamet Police Station, Salem.

7.The Registrar (Judicial)
High Court of Madras.

Copy to:
The Section Officer
Criminal Section
High Court, Madras.



H.C.P. No.52 of 2021

RSI (CO)
NRA (01/03/2021).

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