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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.07.2021

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THE HONOURABLE MR. JUSTICE M.NIRMAL KUMAR

W.P.No.5749 of 2021

Selvam
S/o.Chinnathurai

... Petitioner

Vs.

1.The State rep by its
Home Secretary (Prison)
Secretariat, Fort St. George
Chennai 600 009

2.The Director General of Prisons and
Inspector General of Prisons
No.02, Whannels Road, Egmore
Chennai 600 008

3.The Superintendent of Prison
Coimbatore Central Prison, Gandhipuram
Coimbatore - 641 012

4.The Superintendent of Prison
Palayamkottai Central Prison
Tirunelveli 627 002

5.The Inspector of Police
Kottar Police Station
Kanyakumari District

... Respondents

PRAYER: The writ petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Certiorified Mandamus, calling for the records in No.16881/T.K.2/2020 dated 20.01.2021 passed by the 3rd respondent and quash the same and direct the 3rd respondent to transfer the convict Mr.Selvam S/o.Chinnathurai from the Central Prison at Coimbatore to Central Prison at Palayamkottai respectively.

For Petitioner : Mr.Mohamed Saifulla

For Respondent : Mr.E.Raj Thilak
Government Advocate (Crl. Side)



ORDER

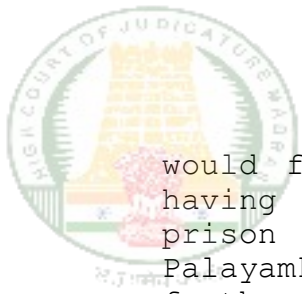
(This case has been heard through video conference)

This writ petition has been filed seeking to issue a Writ of Certiorarified Mandamus, calling for the records in No.16881/T.K.2/2020 dated 20.01.2021 passed by the 3rd respondent and quash the same and direct the 3rd respondent to transfer the convict Mr.Selvam S/o.Chinnathurai from the Central Prison at Coimbatore to Central Prison at Palayamkottai.

2.The petitioner is a Life convict in Convict No.22376, who was concerned in Kottur Police Station in Crime No.1151 of 1994 and was convicted in S.C.No.392 of 1997 and awarded Death Sentence u/s.302 IPC, had filed this petition, seeking for a direction to call for the records in No.16881/T.K.2/2020 dated 20.01.2021 passed by the 3rd respondent and quash the same. As per the impugned order, the petitioner's wife had requested the Prison authorities to transfer the petitioner from Central Prison, Coimbatore to Central Prison Palayamkottai but the same has been rejected by them. The present petition has been filed stating that the petitioner pursuant to his conviction is inside the prison for nearly 26 years and he has got two sons and both of them are studying. The petitioner's mother is aged about 63 years and she is suffering from various ailments and her pelvic bone is affected and her health condition is getting deteriorated day by day, she is unable to travel from Kanyakumari to Coimbatore which is more than 440 Kms. to visit her son.

3.Mr.E.Raj Tilak, the Government Advocate (Crl. Side) would submit that the petitioner was convicted in S.C.No.392 of 1997 and he was awarded death sentence u/s.302 IPC by the learned Principal District Sessions Judge, Tirunelveli on 05.10.1998. In the appeal preferred by him before this Court, the death sentence was confirmed in R.T.No.4 of 1998 and Crl.A.No.1010 of 1998 dated 03.05.1999 and it was also confirmed by the Hon'ble Apex Court in C.A.No.1990-91 of 1999 on 21.06.1999. While disposing the mercy petition by the President of India, the Death Sentence was commuted to life imprisonment with condition that the petitioner shall remain in prison for the whole of the remainder of his natural life and there shall be no remission as communicated vide Central Government Letter F.No.14/4/1999- Judicial Cell dated 17.02.2012.

4.Learned Government Advocate would further submit that the petitioner is also convicted in S.C.No.90 of 1997 by the learned Additional Sessions Judge, Kanyakumari at Nagercoil on 06.01.2003 and he is also convicted in yet another case in S.C.No.113 of 2000 for a period of seven years by the learned II Additional Assistant Sessions Judge, Nagercoil on 27.10.2003. He



would further state that the petitioner is a notorious person having a lot of enemies and has a life threat even inside the prison and the petitioner's confinement in Coimbatore or in Palayamkottai or in any other jail, will serve no purpose and further the prison authorities had rejected the representation made by the petitioner's wife. He would further submit that the petitioner's mother filed a petition In H.C.P.2210 of 2020 seeking transfer of her son. Now this petition has been filed by the petitioner and hence oppose the same.

5. Heard both sides. Perused the materials placed on record.

6. Considering the above submissions, it is seen that the petitioner is a life convict and further that the petitioner's death sentence was modified to life imprisonment with a condition that the petitioner shall remain in prison for the whole of the remainder of his natural life and there shall be no remission and the petitioner's possibility of coming out on remission and later to live with his family is not possible and the petitioner visiting his mother, wife and children an leave is far fetched. The petitioner's mother is aged 68 years, who is bed ridden will be naturally interested in visiting her son and the only impediment is long distance travel. Considering this aspect and also considering that the representation given by his wife to transfer the petitioner from Coimbatore Central Prison to Palayamkottai Central Prison was rejected by the prison authorities, transferring the petitioner to these prisons is not advisable and feasible, in view of the precarious conditions prevailing there.

7. In view of the above, this Court is of the opinion that the petitioner can be transferred from Central Prison Coimbatore to Central Prison, Trichy, so that the petitioner's mother can undertake a travel and visit her son along with her family members with limited constrain.

8. In the light of the above, the petitioner shall be transferred to Central Prison, Coimbatore to Central Prison, Trichy. This writ petition stands disposed of accordingly. No costs.

Sd/-

Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

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To.

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Chennai 600 009

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Kottar Police Station
Kanyakumari District

6.The Superintendent Prison,
Central Prison, Trichy.

W.P No.5749 of 2021

PCH(CO)
CB(20/07/2021)