



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

and

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

W.P. (MD) No.17590 of 2020

Ranganayaki

... Petitioner

-vs-

1.The Deputy Inspector General of Prisons
Trichy Range
Race Course Road, Trichy-620 023

2.The Superintendent of Prison
Central Prison, Trichy-620 020

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus to call for the entire records pertaining to the order of rejection in letter No.978/T.K.4/2020, dated 24.01.2020, quash the same and consequently direct the second respondent to grant leave of 90 days without escort to petitioner husband namely, life convict Gangadharan @ Gangadurai (CT No.20097) incarcerated at the Central Prison, Trichy.

For Petitioner : Mr.R.Thanigai Arasu
For Respondents : Mr.A.Thiruvadi Kumar
Additional Public Prosecutor

O R D E R

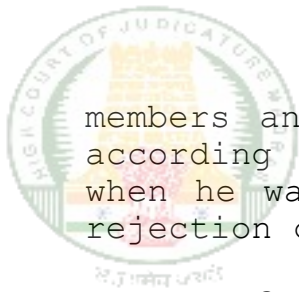
S.VAIDYANATHAN, J.

and

DR.G.JAYACHANDRAN, J.

The petitioner is the wife of a life convict No.20297 Gangadharan @ Gangadurai, son of Nagappan, who was convicted and sentenced to undergo life imprisonment and to pay a fine of Rs.1000/- in default, to undergo three months rigorous imprisonment, for the offence under Section 302 I.P.C., by the learned Additional District and Sessions Judge, Fast Track Court No.I, Tindivanam, in S.C.No.68 of 2008 on 18.06.2008. The convict was confined in the Central Prison, Cuddalore on 18.06.2008. His appeal before this Court was dismissed on 07.08.2009 in CrI.A.(MD) No.822 of 2008 and the appeal before the Apex Court in SLP (Criminal) No.3780 of 2018 was also dismissed on 23.03.2018. Thereafter, the convict was transferred to the Central Prison, Trichy, on 08.11.2013.

2. According to the petitioner, her husband / life convict requires ordinary leave for 90 days in order to meet the family



members and that his son, who is suffering eye defect. Further, according to the petitioner, her husband overstayed beyond 30 days when he was granted leave earlier and that was the reason for the rejection of her request.

3. The second respondent has filed a counter affidavit stating that the convict is not eligible for any relief much less the one asked for in this writ petition, as he has attempted to jail-brake and escape from the Central Prison, Cuddalore, on 06.11.2013. According to the respondents, the convict has two more prison offences and hence, the relief sought for cannot be granted. It is submitted that in terms of Rule 21 of the Tamil Nadu Suspension of Sentence Rules, 1982 (hereinafter, referred to as "the Rules"), which deals with non-eligibility of ordinary leave as the convict has made an attempt to jail-brake and escape from the prison, the request for the ordinary leave cannot be considered.

4. Heard the learned counsel on either side and perused the materials available on record.

5. The factum that the petitioner's husband is a life convict and the conviction has been confirmed by this Court as well as the Apex Court as mentioned supra. The petitioner's husband was earlier granted ordinary leave for a period of 30 days and his overstayed beyond 30 days is not disputed. In terms of Rule 22(3) of the Rules, it is clear that ordinary leave shall not exceed one month at a time, unless it is extended by the Government. The convict, on his own, overstayed beyond 30 days and thereafter surrendered, when he was granted leave earlier. Even assuming that he had overstayed for domestic reasons, as he has attempted to jail-brake and escape from the prison, in terms of Rule 22 of the Rules, this Court is of the view that, the petitioner's husband is not entitled to any relief as prayed for in this writ petition, more so, 90 days leave has not been provided in any of the provisions of the Rules. On these grounds, this Court is not inclined to entertain the writ petition.

6. Accordingly, the writ petition is dismissed. It is needless to mention that dismissal of this writ petition will not be a bar for the petitioner to make a representation afresh, which may be considered by the Authorities concerned in accordance with law. No costs.

Sd/-

Assistant Registrar (CRL)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

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To:

- 1.The Deputy Inspector General of Prisons,
Trichy Range,
Race Course Road, Trichy-620 023.
- 2.The Superintendent of Prison,
Central Prison, Trichy-620 020.
3. The Additional Public prosecutor,
Madurai Bench of Madras High Court, Madurai

W.P. (MD) No.17590 of 2020
22.11.2021

AC (CO)
KB (09.12.2021) 3P 4C