



IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 25.01.2022

PRONOUNCED ON : 28.01.2022

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH
AND
THE HONOURABLE MRS.JUSTICE R.HEMALATHA

W.P.NO.14603 OF 2021

N.Sivasurya Narayanan @ Suresh

..Petitioner

Vs.

1.The State of Tamil Nadu
Rep. by the Secretary to Government
Home, Prohibition and Excise Department
Secretariat
Chennai 600 009.

2.The Director General of Police and
Inspector General of Prisons
Gandhi Irwin Road
Egmore
Chennai 600 008.

3.The Superintendent of Prisons
Central Prison-I
Puzhal, Chennai 600 066.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the respondent No.1 to consider the representation of the petitioner dated 19.08.2019 and release the petitioner immediately under G.O.Ms.No.64 Home (Prison-IV) Department dated 01.02.2018 for premature release.



WEB COPY

For Petitioner Mr.P.Pugalenth
For Respondents Mr.Hasan Mohamed Jinnah
State Public Prosecutor
assisted by
Mr.R.Muniyapparaj
Additional Public Prosecutor

O R D E R

P.N.PRAKASH, J.

The petitioner viz., N.Sivasurya Narayanan @ Suresh, is a life convict prisoner (CT No.1258), convicted by the Principal Sessions Court, Tiruvallur, in S.C.No.41 of 2006 on 26.10.2007 of the offences under Sections 498-A, 201 and 302 IPC and sentenced as tabulated hereunder :

Provision under which convicted	Sentence
Section 498-A IPC	Two years rigorous imprisonment and to pay a fine of Rs.1000/-, in default to undergo six months rigorous imprisonment
Section 201 IPC	Seven years rigorous imprisonment and to pay a fine of Rs.1000/-, in default to undergo six months rigorous imprisonment
Section 302 IPC	Imprisonment for life and to pay a fine of Rs.1000/-, in default to undergo six months rigorous imprisonment

The aforesaid sentences were ordered to run concurrently. Challenging the said conviction and sentences, the appeal in CrI.A.No.982 of 2007 filed by the petitioner was dismissed by this Court on 20.11.2008. Seeking premature release under G.O. (Ms) No.64, Home (Prison-IV) Department dated 01.02.2018 (for brevity "G.O.64") on the ground that the petitioner has undergone the sentence for the offence under Section 498-A IPC, the present writ petition has been filed.

2. Heard Mr.P.Pugalenth, learned counsel for the convict prisoner and Mr.Hasan Mohamed Jinnah, learned Public Prosecutor assisted by Mr.R.Muniyapparaj, learned Additional Public Prosecutor appearing for the State.



3. The Joint Secretary, Government of Tamil Nadu has filed a counter affidavit dated 30.11.2021, wherein, it is stated that as on 25.02.2018, being the cutoff date fixed in G.O.64, the petitioner has completed 10 years of actual imprisonment, but, he was not considered for pre-mature release as per paragraph 5 (II) (2) (A) (x) of G.O.64, which reads as follows :

"5(II) (2) Prisoners convicted for the following offences are ineligible for consideration for premature release irrespective of the nature and tenure of the sentence and irrespective of the fact as to whether or not they have undergone the sentence in respect of the said offence namely:-

(A) Prisoners convicted for the following offences, namely:-

- i.
- ii.
- iii.
- iv.
- v.
- vi.
- vii.
- viii.
- ix. Cruelty against women or dowry death
(Section 498-A and 304-B of IPC)
- x."

(emphasis supplied)

4. The entitlement of a convict prisoner, who has completed the sentence of imprisonment for the offence under Section 498-A IPC, for pre-mature release under G.O.64, has been extensively considered by a Division Bench of this Court, comprising P.N.Prakash and R.N.Manjula, JJ. in K.Devaraj Vs. State and Others (W.P.Nos.12581, 12583 and 12664 of 2021 decided on 27.01.2022) and the relief was negatived. The said cases were argued in extenso by Mr.M.Radhakrishnan and Mr.P.Pugalenth, Advocates. In the light of the law laid down in Devaraj (supra) and in the absence of any challenge to paragraph 5(II) (2) (A) (x) of G.O.64, the petitioner will not be entitled to pre-mature release, in terms of G.O.64.

5. Paragraph 5(II) (2) (A) (x) of G.O.64 clearly states that immaterial of the fact, whether the prisoner had undergone the sentence for the offence under Section 498-A IPC or not, he would not be entitled to be considered for pre-mature release. When it is the policy of the State, not to show any leniency to



discretionary power which has to be exercised by the authorities conferred with such powers under the relevant rules/regulations."

(emphasis supplied)

WEB COPY

In the result, this writ petition is dismissed as being devoid of merits. No costs.

Sd/-

Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

gya

To

1.The Secretary to Government
Home, Prohibition and Excise Department
Secretariat
Chennai 600 009

2.The Director General of Police and
Inspector General of Prisons
Gandhi Irwin Road
Egmore
Chennai 600 008

3.The Superintendent of Prison
Central Prison-I
Puzhal, Chennai 600 066

4.The Public Prosecutor
High Court, Madras

W.P.No.14603 of 2021

GPL(CO)
RLP(11/02/2022)