



WEB COPY



WMP No.15946 of 2022 in
WP No.7615 of 2022

W.M.P.No.15946 of 2022
in W.P.No.7615 of 2022

THE HON'BLE CHIEF JUSTICE
and
N.MALA,J.

(Order of the Court was made by the Hon'ble Chief Justice)

The application has been filed by the State seeking modification of the order dated 17.06.2022 passed in W.P.No.7615 of 2022. A copy of the application was given to learned counsel for the writ petitioner Mr.M.Radhakrishnan.

2. The prayer is to modify paragraph 11 of the order to the effect that the State has not endorsed the decision of the Governor to send the matter to the President of India.

3. We have considered the submission aforesaid and finding reason substitute paragraph 11 of the order as under:

"11. He submits that the petitioner was not convicted only for the offence under Section 302 of the IPC, but also for other offences, as would be clear from the judgment of the Apex Court in the



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case of **Nalini**, supra, confirming the order of conviction and the sentence of death imposed on the accused. The death sentence was then converted to life imprisonment by the Governor of the State. The petitioner is undergoing sentence. Looking to the aforesaid and the findings of the Apex Court in the case of **A.G.Perarivalan v. State, through Superintendent of Police CBI/SIT/MMDA, Chennai** [SLP (Crl.) Nos.10039-10040 of 2016 dated 18.05.2022], the Governor could not have sent the matter to the President of India."

4. A further modification is sought in paragraph 21 of the order. It is submitted that though a statement of fact was recorded to the effect that the Governor of the State has rightly sent the matter to the President of India, the said action has not been endorsed by the State.

5. We find reason to accept the prayer of learned Advocate General and, accordingly, paragraph 21 of the order is modified to the following effect:

"21. During the pendency of the writ petition, learned Advocate General informed that the



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*Governor of the State has referred the matter to the President of India. But, the issue aforesaid has already been dealt with and decided by the Apex Court in the case of **A.G.Perarivalan v. State, through Superintendent of Police CBI/SIT/MMDA, Chennai** [SLP (Crl.) Nos.10039-10040 of 2016 dated 18.05.2022] which would govern the subject matter. However, the decision of the Governor is not challenged before us."*

The order passed above, modifying paragraphs 11 and 22 to the extent indicated above, be substituted and would be read as part of the order dated 17.6.2022.

(M.N.B., CJ) (N.M., J.)
29.06.2022

kpl



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