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W.P.(MD)No.22847 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.12.2022

CORAM

**THE HON'BLE DR.JUSTICE G.JAYACHANDRAN
AND
THE HON'BLE MR.JUSTICE SUNDER MOHAN**

W.P.(MD)No.22847 of 2019

R.Parvatham

.. Petitioner

Vs.

1.The Additional Chief Secretary to the Government,
State of Tamilnadu,
Home (Prison-IV) Department,
Secretariat, Fort St.George,
Chennai-600 009.

2.The Additional Director General of Police/
The Inspector General of Prisons,
C.M.D.A. Towers II,
No.1, Gandhi Irvin Road,
Egmore, Chennai – 600 008.

3.The Superintendent of Prison,
Central Prison,
Trichy.

.. Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India to issue a writ of Certiorarified Mandamus, call for the proceedings of the first respondent in G.O(D).No.52 dated 18.01.2019 and quash the same and consequently directing the respondents to release the petitioner's son namely, Baskar, son of Raman, aged about 45 years CP No.14693, now confined at Central Prison, Trichy and set him at liberty forthwith.

For Petitioner : Mr.N.Mohideen Basha

For Respondents : Mr.S.Ravi
Additional Public Prosecutor

ORDER

DR.G.JAYACHANDRAN, J.
and
SUNDER MOHAN, J.

The mother of the convict has filed this writ petition seeking certiorarified mandamus to quash the proceedings of the first respondent in G.O.(D)No.52 dated 18.01.2019 and to release her son Baskar prematurely.



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2.The short facts of the case is that the petitioner's son Baskar was tried for the offence under Section 498A IPC and Section 4 of the Dowry Prohibition Act and the same was tried in C.C.No.47/2004 by the Judicial Magistrate No.VI, Trichy. After the said occurrence, he murdered his wife and therefore another Sessions Case against him for offence under Sections 302 and 506(ii) IPC was registered in Crime No.451/2004 on the file of Thiruverumbur police station. The same was taken on file in S.C.No.113/2005. As far as the offence under Section 302 IPC is concerned, he was convicted and sentenced to undergo Life Imprisonment by the learned Principal Additional District and Sessions Judge(FTC No.II), Trichy vide judgment dated 23.02.2006. Subsequently, in the case registered under Section 498A IPC and Section 4 of Dowry Prohibition Act, he was found guilty for offence under Section 498A and sentenced to undergo eight months Simple Imprisonment.



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3. Earlier, this petitioner sought for premature release taking advantage of the Government Order in G.O.Ms.No.1155 dated 11.09.2008 issued by the Government. However that petition was not considered favourably by the Government citing that the petitioner is not entitled for premature release in view of the restriction imposed in G.O.Ms.No.1762, Home Department, dated 20.07.1987. Thereafter, Habeas Corpus Petition was filed on his behalf before this Court in H.C.P(MD)No.201/2018 for considering the representation of his premature release. This Court considering the provisions of law has passed the following order:

“4. As it is always open to Government to consider the representation in exercise of power under Article 161 of the Constitution of India in keeping with Chapter XXXII-E of Cr.P.C., it is for Government to consider the representation of the petitioner dated 14.02.2018 and act as properly.



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Respondents are required to do it, within a period of four weeks from the date of receipt of a copy of this order.”

4. Thereafter a representation was given by the petitioner herein to the Government and the same was considered and rejected stating that the Life Convict been found guilty of offence under Section 498A IPC, which is considered as an ineligible offence for premature release.

5. The learned counsel for the petitioner would submit that as far as the offence under Section 498A of IPC, the petitioner was sentenced to undergo eight months Simple Imprisonment, which he has already undergone and therefore as on date he is suffering incarceration only for offence under Section 302 IPC simpliciter and therefore the bar stated in G.O.Ms.No.64 Home (Prison-IV) Dept. dated 01.02.2018 is not applicable to the son of the petitioner.



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6. The learned Additional Public Prosecutor appearing for the State would submit that the son of the petitioner, who has found guilty for the offence against women causing the cruelty in connection with the dowry demand as well as murder is not entitled for premature release, however, he can seek for remission under Rule 341 of the Tamil Nadu Prison Rules since he had already completed 14 years of imprisonment.

7. Recording the said submission, this Court disposed of this writ petition directing the Life Convict to make appropriate representation to the Government for considering the release under Rule 341 of the Tamil Nadu Prison Rules, 1983. If any such representation will be made, same may be considered in accordance with law within a period of 90 days from the date of receipt of the representation. No Costs.

[G.J.,J.] & [S.M.,J.]
05.12.2022

Index: Yes/No



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Internet: Yes/No
PJJ

To

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2.The Additional Director General of Police/
The Inspector General of Prisons,
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3.The Superintendent of Prison,
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4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,



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Madurai.



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**DR.G.JAYACHANDRAN, J.
and
SUNDER MOHAN, J.**

PJL

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