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W.P.No.2779 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.02.2023

Coram

The Hon'ble Mr. Justice **M.SUNDAR**
and
The Hon'ble Mr. Justice **M.NIRMAL KUMAR**

W.P.No.2779 of 2023

D.Yasodha

W/o.Thiru.K.Dinesh Kumar

... Petitioner

-VS-

1. The Home Secretary
Government of Tamil Nadu
Tamil Nadu Secretariat
Fort St.George, Chennai – 600 009

2. Director General of Prisons
Government of Tamil Nadu
Whannels Road, Egmore
Chennai – 600 008

3. The Jail Superintendent
Central Prison
Trichy

4. The Jail Superintendent
Puzhal Central Prison
Puzhal, Chennai – 600 066

... Respondents



W.P.No.2779 of 2023

WEB COPY

Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus directing the respondents to pass orders to transfer the petitioner's husband Mr.K.Dinesh Kumar currently an under trial prisoner from Trichy Central Prison to Chennai Prison, Puzhal, Chennai.

For Petitioner	..	Mr.K.M.Ramesh instructed by Mr.M.G.Martin Manivannan
For Respondents	..	Mr.R.Muniyapparaj Additional Public Prosecutor

ORDER

[Order of the Court was made by M.SUNDAR, J.]

This order will now dispose of the captioned writ petition.

2. This order has to be read in conjunction with and in continuation of earlier proceedings made in the previous listings on 02.02.2023 and 15.02.2023, which read as follows:

'Proceedings dated 02.02.2023



W.P.No.2779 of 2023

WEB COPY

Captioned writ petition has been filed by wife of the detenu who was arrested on 25.06.2022. A case was registered vide FIR dated 26.06.2022 in Crime No.121 of 2022 for alleged offences under Sections 8(c), 22(c) and 29(1) of NDPS Act on the file of N-4, Fishing Harbour Police Station.

2. The case of the petitioner is that the detenu was originally lodged in Central Prison, Puzhal but was transferred to Central Prison, Trichy.

3. Learned counsel submits that trial has commenced, the next date in the trial Court is 08.02.2023 and the detenu is facing undue hardship in travelling from Trichy to Chennai for every hearing. Prayer in the writ petition is for re-transferring the detenu from Central Prison, Trichy to Central Prison, Puzhal.

4. Mr.R.Muniyapparaj, learned State Additional Public Prosecutor accepts notice and requests for a short accommodation. Request acceded to.

List on 07.02.2023.'

'Proceedings dated 15.02.2023

Mr.K.Subburaj, learned counsel for petitioner and Mr.R.Muniyapparaj, learned State Additional Public Prosecutor are before us.

2. Registry to not to show the name of Mr.K.M.Ramesh from the next listing as learned counsel has since been designated as a Senior Advocate by this Court.

3. List after a week. List on 22.02.2023.'

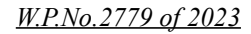


W.P.No.2779 of 2023

WEB COPY

3. Today, Mr.K.M.Ramesh, learned Senior Advocate instructed by Mr.M.G.Martin Manivannan, counsel on record for petitioner and Mr.R.Muniyapparaj, learned Additional Government Pleader for the respondents are before us.

4. Adverting to earlier proceedings made on 02.02.2023, learned State Prosecutor, on instructions, submitted that application of the writ petitioner for transfer of the detenu being application dated 10.09.2022 was disposed of on 26.09.2022 by the second respondent vide proceedings bearing reference No.4035/தஞ,1/2022. A copy of this 26.09.2022 proceedings has been placed before us and a scanned reproduction of the same is as follows:



എല്ലാ വർഷവും സെപ്റ്റംബർ 26 ന്
കിരോസ്ലാവ് മോസ്കോയിൽ ജന്മദിനം ആഘോഷിക്കും
എന്നതിനെക്കുറിച്ച് ട്രാൻസ്കാരിയ്ക്ക്
ഗ്രാൻ. 26.09.2022

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www.ck12.org

சென்னை, 14.05.2019

<http://www.oxfordjournals.org/doi/10.1093/oxfordjournals.oxfam.a011009>

26.5.2020



W.P.No.2779 of 2023

WEB COPY

5. To be noted, a copy of the above order has been furnished to the counsel on record Mr.M.G.Martin Manivannan by the learned State Prosecutor.

6. Be that as it may, learned Senior counsel on instructions submitted that the writ petitioner had not received the aforementioned 26.09.2022 proceedings. We also find from the files that other than a seal 'அனுப்பப்பட்டது' with date 26.09.2022, there is nothing to demonstrate despatch much less acknowledgement. Therefore, today (22.02.2023) will be construed as the date on which the 26.09.2022 proceedings has been served on the petitioner.

7. In the light of the trajectory the matter has taken, learned Senior Advocate submits that rights of the petitioner may please be preserved to assail the aforementioned 26.09.2022 proceedings. This request is acceded to.



W.P.No.2779 of 2023

WEB COPY

In the light of the narrative thus far, captioned writ petition is disposed of as closed albeit preserving the rights of the petitioner in the aforesaid manner. There shall be no order as to costs.

(M.S.,J.) (M.N.K.,J.)
22.02.2023

Index: Yes/No

Neutral Citation : Yes/No

gpa

To

1. The Home Secretary
Government of Tamil Nadu
Tamil Nadu Secretariat
Fort St.George, Chennai – 600 009
2. Director General of Prisons
Government of Tamil Nadu
Whannels Road, Egmore
Chennai – 600 008
3. The Jail Superintendent
Central Prison
Trichy
4. The Jail Superintendent
Puzhal Central Prison
Puzhal, Chennai – 600 066
5. The Public Prosecutor
Madras High Court
Chennai - 104



WEB COPY



W.P.No.2779 of 2023

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and

M.NIRMAL KUMAR, J.

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W.P.No.2779 of 2023

22.02.2023