



W.P.(MD).No.10946 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 12.07.2023

CORAM

**THE HON'BLE MR JUSTICE M.S.RAMESH
AND
THE HON'BLE MR JUSTICE M.NIRMAL KUMAR**

W.P.(MD).No.10946 of 2023

K.Bala

.. Petitioner

Vs.

- 1.The Superintendent (Prison),
Central Prison,
Vellore,
Vellore District.
- 2.The Superintendent (Prison),
Central Prison,
Palayamkottai,
Tirunelveli.
- 3.The Inspector of Police,
Tirunelveli Taluk Police Station,
Tirunelveli.
(Crime No.148 of 1997)

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of Mandamus, directing the 1st respondent to include incarceration period of petitioner's husband namely Komban @ Kombaiyah, S/o.Esakkithevar (Life Convict No.3867) before and during the trial in



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connection with S.C.No.376 of 1998 to his conviction period based on the petitioner's representation dated 05.03.2023.

For Petitioner : Mr.V.M.Jegadeeshapandian
For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

(Order of the Court was made by M.S.RAMESH,J.)

The petitioner herein had given a representation to the first respondent on 05.03.2023, seeking to include her husband's incarceration period of 4083 days in the remand report. Since the said representation was not considered, the present Writ Petition has been filed.

2. It is needless to point out that whenever a representation of this nature is made to a Statutory Authority, there is a duty cast upon the respondents to consider the same on its own merits and pass appropriate orders in one way or other, instead of keeping the same pending indefinitely. As such, non-consideration of the representation by the Statutory Authority would amount to dereliction of duty and hence, this Court will be justified



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in invoking its extraordinary powers under Article 226 of Constitution of India and direct them to consider the same within a stipulated time.

3. In the light of the above observations, there shall be a direction to the first respondent herein to consider the petitioner's representation, dated 05.03.2023, on its own merits and pass appropriate orders in accordance with law, within a period of four (4) weeks from the date of receipt of a copy of this order. It is made clear that this Court has not expressed any of its views with regard to the merits of the claim of the petitioner and that it is open to the concerned respondent to consider the same on its own merits.

4. With the above direction, the Writ Petition stands disposed of. There shall be no order as to costs.

(M.S.R.,J.) (M.N.K.,J.)
12.07.2023

NCC : Yes / No
Index : Yes / No
Lm/mbi



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M.S.RAMESH,J.
and
M.NIRMAL KUMAR,J.

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