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W.P.Nos.29650 and 29654 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.11.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE M.JOTHIRAMAN

W.P.Nos.29650 & 29654 of 2024

V.Mohan @ Mohanarangam ... Petitioner in W.P.No.29650 of 2024

V.Gopi ... Petitioner in W.P.No.29654 of 2024

Vs.

Principal Secretary to the Government,
Home, Excise and Prohibition Department,
Secretariat, Fort St.George,
Chennai. ... 1st respondent in both W.P's

The Superintendent of Prisons,
Central Prison, Vellore,
Vellore. ... 2nd respondent in
W.P.No.29650 of 2024

The Superintendent of Prisons,
Central Prison, Salem,
Salem. ... 2nd respondent in
W.P.No.29654 of 2024



W.P.Nos.29650 and 29654 of 2024

Prayer in W.P.No.29650 of 2024: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Mandamus, to direct the first respondent to process the representation given by the petitioner V.Mohan @ Mohanarangan, S/o. Valliyappan, Life Convict Prisoner No.11795 dated 20.03.2024 to prematurely release the petitioner.

Prayer in W.P.No.29654 of 2024: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Mandamus, to direct the first respondent to process the representation given by the petitioner V.Gopi S/o. Valliyappan, Life Convict Prisoner No.8976 dated 14.03.2024 to prematurely release the petitioner.

For Petitioners	: Mr.G.Sriram [in both W.P's]
For Respondents	: Mr.R.Muniyapparaj Additional Public Prosecutor [in both W.P's]

COMMON ORDER

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

The writ petitions have been instituted to direct the first respondent to process the representation given by the petitioners dated 20.03.2024 and 14.03.2024 seeking premature release.

2. The learned Counsel for the petitioner would submit that multiple mercy petitions are entertainable and condition imposed while commuting the



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death sentence also may be reconsidered either by his Excellency the President of India or by the Governor by entertaining further mercy petition. The powers conferred under Article 161 to pardon is wider enough to entertain such mercy petition. Therefore, direction as such sought for is to be considered.

3. The learned Additional Public Prosecutor appearing on behalf of the respondents produced the original file relating to the petitioners, who are the life convict prisoner. The life convict prisoners viz., (1) V.Mohan @ Mohanaragam, S/o. Valliyappan was convicted in J2 Adyar Police Station in Crime No.637/93 under section 120(B), 365, 386 r/w 34, 201, 302 of IPC and sentenced to R.I for 7 years for the offence under Section 120(B), R.I. for 7 years for the offence under Section 365 IPC, R.I. for 10 years for the offence under Section 386 r/w 34 IPC, R.I. for 7 years for the offence under Section 201 IPC and sentence to death for the offence under Section 302 IPC. (2) Gopi, S/o. Valliyappan was convicted in J2 Adyar Police Station in Crime No.637/93 under Section 120(B), 365, 386 r/w 34, 201, 302 of IPC and sentenced to R.I. for 7 years for the offence under Section 120(B), R.I. for 7 years for the offence under section 365 IPC, R.I. for 10 years for the offence under Section 386 r/w 34 IPC, R.I. for 7 years for the offence under Section 201 IPC and sentenced to Death for the offence under Section 302 IPC.



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4. All the sentence were ordered to run concurrently with death sentence as per the Judgment dated 27.11.1996 in S.C.No.227 of 1994. The death sentence awarded to the life convict prisoners was confirmed on appeal as per the orders of the High Court of Madras in C.A.Nos.56 of 1997 and 64 of 1997 dated 27.05.1997. The Hon'ble Supreme Court of India also confirmed the death sentence in Crl.A.Nos.1257 & 1234 of 1997 dated 12.05.1998.

5. The life Convict prisoners preferred Mercy Petition to his Excellency the President of India through the Government of Tamil Nadu. The Mercy Petitions were considered and the death sentence was commuted to life imprisonment with the condition that *"the prisoners shall remain in prison for the whole of remainder of their natural lives and there shall be no remission of the term of imprisonment."* The decision of his Excellency the President of India was communicated vide letter dated F.No.14/5/1998-judicial cell, dated 14.02.2011 to the Joint Secretary (Judicial) to Government of India, Ministry of Home Affairs, New Delhi and in turn it was communicated to the Principal Secretary to Government, Home Department, Chennai vide letter dated 28.07.2011.

6. Thereafter, further mercy petitions were submitted by the convict prisoners before the Hon'ble Governor on 14.03.2024 and 20.03.2024



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respectively. Since the petitions were kept pending, the present writ petitions

came to be instituted, seeking a direction to dispose of the same.

7. Entertainability of mercy petition itself is questionable, in view of the specific condition imposed by his Excellency the President of India, while commuting the death sentence to life imprisonment. The condition imposed by his Excellency the President of India while commuting death sentence, cannot be readjudicated by the Courts in a writ proceedings under Article 226 of Constitution of India. The death penalty awarded by the Sessions Court was confirmed by the High Court and the Hon'ble Supreme Court of India. His Excellency the President of India commuted the death sentence to life imprisonment by imposing conditions. Therefore, entertainability of the petition itself is doubtful and further, the High Court cannot entertain any such writ petition seeking a direction to dispose of such representation, in view of the facts as stated above.



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8. Accordingly, both the Writ Petitions stand **dismissed**. No costs.

[S.M.S., J.]

[M.J.R., J.]

27.11.2024

Index: Yes/No

Speaking/Non-speaking order

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To

1. Principal Secretary to the Government,
Home, Excise and Prohibition Department,
Secretariat, Fort St.George,Chennai.
2. The Superintendent of Prisons,
Central Prison, Vellore,
Vellore.
3. The Superintendent of Prisons,
Central Prison, Salem,
Salem.
4. The Public Prosecutor,
Madras High Court,
Chennai - 104.



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