Order QR

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30-10-2026

CORAM

THE HON'BLE MR.JUSTICE V. LAKSHMINARAYANAN

W.P.Crl.No.2878 of 2026
CNR:{HCMA012261732026}

Kumar @ Jeyakumar @ Stephen Kumar
@ Left Kumar
S/o.Balu,
CT.No.14222, PID No.40754,
Central Prison, Cuddalore,
Cuddalore District – 607 003.

..Petitioner(s)

Vs

1. The State of Tamil Nadu,
   Rep.by its Secretary,
   Department of Home,
   Fort St.George, Chennai – 600 009.

2. The Deputy Inspector General of Prisons,
   Vellore Range, Vellore.

3. The Superintendent of Central Prison,
   Cuddalore, Cuddalore District.

4. The Inspector of Police,
   CBCID Pudhukottai,
   Vaitheswaran Koil Police Station.
   Crime No.886 of 2002.

..Respondent(s)

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records in No.40754/Tha.ku1/2026 dated 12.08.2026 on the file of the Superintendent of Central Prison, Cuddalore and quash the same as illegal consecutively by

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release of the detenu Life Convict CT.No.14222, PID No.40754 Kumar @ Jeyakumar @ Stephen Kumar @ Left Kumar, S/o Balu to secure the ends of justice.

For Petitioner(s): Mr.R.Sankarasubbu

For Respondent(s): Mr.S.Yogaraja Sekar
Government Advocate (Crl.Side)

O R D E R

The petitioner is a “guest” of the State of Tamil Nadu in its prison at Cuddalore. He was accused of having committed the following offences:

(i) house trespass under Section 449 of IPC;

(ii) wrongful confinement under Section 342 of IPC;

(iii) rape under Section 376(1) of IPC;

(iv) murder under Section 302 of IPC ;

(v) attempt to murder 307 of IPC;

(vi) causing hurt during robbery under Section 394 of IPC ; and

(vii) dacoity with an attempt to cause death under Section 397 of IPC.

2. On investigation, the CBCID came to the conclusion that the petitioner had committed the aforesaid offences. Therefore, they presented a chargesheet. The matter was taken on file in S.C.No.82 of 2009 by the learned Sessions Judge at Nagapattinam. After a detailed trial, the learned Sessions Judge came

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to the conclusion that the petitioner was guilty as charged and sentenced him to death.

3. Aggrieved by the said judgment and conviction of sentence, the petitioner preferred a criminal appeal in Crl.A.No.161 of 2011. The prosecution initiated a confirmation reference in R.T.No.4 of 2010. The appeal and referred trial case were tried together. The conviction and sentence were upheld by this Court by a judgment dated 02.08.2011.

4. Against the said judgment, the petitioner preferred appeals before the Supreme Court in Crl.A.Nos.980 and 981 of 2013. After hearing both sides, the Supreme Court dismissed the appeals, finding that the petitioner was guilty as charged and that it had been proved by the prosecution beyond reasonable doubt. However, taking into consideration the petitioner’s conduct after the commission of the crime, the Court came to the conclusion that it was not one of the rarest of rare cases, and therefore, modified the sentence of death to life imprisonment for the remainder of his life. It is thus that the petitioner has been in Cuddalore Jail.

5. Having been in jail for 18 years, the petitioner submitted a representation seeking premature release on 16.07.2026. The Advisory Board looked into the matter and advised the Superintendent of Central Prison that his

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petition was untenable. Consequently, the impugned order was passed on 12.08.2026. Challenging the same, the present Writ Petition has been filed.

6. I have heard Mr.R.Sankarasubbu for the petitioner and Mr.S.Yogaraja Sekar for the respondents.

7. The plea of Mr.R.Sankarasubbu is twofold. The first plea is that the declaration of law by the Supreme Court that 'Life' means 'Life' came about only in 2012, whereas the petitioner is said to have committed the offence sometime in 2002. Secondly, inviting my attention to the Nirbhaya amendments to the Indian Penal Code, which came into effect on 02.04.2013, Mr.R.Sankarasubbu argues that the *ex post facto* law is prohibited by the Constitution of India and therefore, imprisonment for the remainder of his life cannot be enforced against the petitioner.

8. I have carefully considered the submissions of the petitioner. I have gone through the records.

9. I will take the second argument first. As pointed out above, the petitioner had been charged with several offences, of which one was rape. The petitioner was not awarded death sentence for the crime of rape committed by him, but for the murder of one Manikandan, the brother of the prosecutrix. To

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the knowledge of this Court, murder has always attracted the sentence of death, right from the time the Indian Penal Code was drafted by Macaulay in 1860. The year 1860 is obviously prior to 2002. Therefore, the plea of *ex post facto* law does not have legs to stand.

10. It is not a situation where the petitioner had been sentenced to death for the act of rape committed in 2002 by invoking the amendment passed in 2012. Death had been awarded for murder, which attracted capital punishment on the date of commission of the offence.

11. Insofar as the second argument that as the judgment of the Supreme Court in ***Sangeet and Another v. State of Haryana, AIR 2013 SC 447*** declaring that 'Life' means 'Life' came into force only in 2012, whereas the petitioner has committed the act in 2002, hence, it cannot be applied to him is concerned, this argument looks very inviting on a closer scrutiny, it has as much substance as a bag of sugar candy.

12. A declaration of law by the Supreme Court is always retrospective. The concept of *ex post facto* law applies only to legislations and not to judgments. Judgments, by their very nature, are retrospective, unless and until the Court declares them to be prospective. Under the Constitutional jurisprudence, it is only the Supreme Court which is entitled to hold that its

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judgments shall operate prospectively. When the Supreme Court has not declared that the principle that 'Life' means 'Life' will operate only prospectively, the plea of Mr.R.Sankarasubbu has no substance.

13. Furthermore, it was in the appeal filed by the writ petitioner that a bench of three Judges of the Supreme Court came to the conclusion that the petitioner, who was convicted of murder, shall spend the remainder of his life in imprisonment. When the Courts have declared that the petitioner should remain in jail for the remainder of his life, it is not open to the Executive to exercise the power under Section 433-A of Cr.P.C. and reduce the sentence to the period already undergone. The Executive cannot move a single letter in a judgment. It is only in cases where the Courts have not held that the convict shall remain in jail for the remainder of his life that the Executive is entitled to invoke the power of remission or premature release. Once the judiciary has declared that the petitioner should remain in incarceration until he breaths his last inside the premises of the jail, the Executive shall not lay its hands on the sentence. Therefore, the challenge to impugned order is without any merit.

14. In the light of the above discussion, I do not find any merits in the Writ Petition. Accordingly, this Writ Petition is dismissed.

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Index: Yes/No

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Speaking/Non-speaking order
Neutral Citation: Yes/No
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To

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

2. The Deputy Inspector General of Prisons,
   Vellore Range, Vellore.

3. The Superintendent of Central Prison,
   Cuddalore, Cuddalore District.

4. The Inspector of Police,
   CBCID Pudhukottai,
   Vaitheswaran Koil Police Station.

5. The Public Prosecutor,
   High Court, Madras.

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V.LAKSHMINARAYANAN J.

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W.P.Crl.No. 2878 of 2026

30-10-2026

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