
(2014) 09 MAD CK 0245
In the Madras High Court
Case No : HCP No. 2356 of 2014

Murugan	Vs	APPELLANT
The State of Tamil Nadu		RESPONDENT

Date of Decision : 10-09-2014

Acts Referred:

Penal Code, 1860 (IPC) — Section 302

Citation : (2014) 09 MAD CK 0245

Hon'ble Judges : S. Rajendran, J; P.N. Prakash, J

Bench : Division Bench

Judgement

P.N. Prakash, J.—This petition has been filed by one Murugan, who is the uncle of the life convict Theepori Perumal, who is undergoing imprisonment in Central Prison, Vellore.

2. It is the case of the petitioner that one Chinnasamy, who is the paternal Uncle of the detenu died on 28.8.2014 and to participate in the death ceremonies, he has sought one week leave to the detenu. He has further averred that he made a representation dated 2.9.2014 to the respondents but of no avail.

3. We noticed that the representation is said to have been sent on 2.9.2014 and on the very same day, this Habeas Corpus Petition has been filed without even giving breathing time to the respondents to consider the representation. In any event, we ordered notice to the respondents.

4. The Inspector of Police, Palacode Police Station, Dharmapuri District has filed objections, wherein he has stated that the detenu was convicted for an offence under Section 302 IPC by the trial Court on 17.3.2004 and was sentenced to imprisonment for life.

5. Aggrieved by the conviction and sentence, he filed C.A. No. 810 of 2004 before this Court and by order dated 19.4.2006, this Court suspended the sentence and enlarged him on bail. Thereafter, this Court confirmed the conviction and sentence imposed by the trial Court and dismissed C.A. No. 810 of

2004 on 22.9.2006, by directing the detenu to surrender and undergo the imprisonment. The detenu did not surrender but absconded. He was ultimately arrested by the police on 17.10.2012, nearly after 6 six years. It is further averred that if the detenu is granted leave, there are possibilities of him absconding again and there is also a threat to his life from the family of the person whom he murdered. In the light of these facts, grant of leave was strenuously opposed by the State.

6. In response to these allegations, Mr. R. Sankarasubbu, learned counsel for the petitioner placed reliance upon the judgment of the Constitution Bench of the Supreme Court in Maru Ram and Others Vs. Union of India (UOI) and Others, , and contended that this Court should show humanitarian consideration while deciding and granting leave to the detenu.

7. He has also placed reliance of the judgment of the Supreme Court in Sunil Batra Vs. Delhi Administration and Others etc., and stated that this Court should not place serious reliance on the allegations made by the State that the detenu is a dangerous person and should give him sufficient opportunity to reform.

8. We have carefully considered the submissions made by either side and perused the materials available on record.

9. Grant of leave is not a matter of right but is regulated by the Tamil Nadu Suspension of Sentence Rules. We noticed that the petitioner has given a representation on 2.9.2014 and on the same day has approached this Court with this Habeas Corpus Petition with an allegation that the representation made by him to the authorities has proved futile. We strongly disapprove of this practice.

10. In Maru Ram's case, cited supra, the Supreme Court has clearly held in paragraph 72(12) that humanitarianism and liberal paroles should be given subject to security and safeguards. In this case, after obtaining the suspension of sentence and bail from this Court, the detenu absconded and did not surrender to the judicial process after the dismissal of the appeal. He was at large for 6 years and was apprehended only in the year 2012. Therefore, the apprehension expressed by the State that the detenu would abscond, if granted leave, is not totally unfounded. The other apprehension that the detenu's life is under threat from rival groups cannot be easily brushed aside as figment of imagination of the police.

11. Therefore, we find that there are no merits in the Habeas Corpus Petition and the same is dismissed.