

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 17.06.2021**

**CORAM :**

**THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN**

**and**

**THE HONOURABLE MS.JUSTICE V.M.VELUMANI**

**H.C.P. No. 739 of 2020**

S.Padma, (80 years)

W/o.Sankaranarayanan

No.26/12, Gangaiyammal Kovil Lane

Royapettah, Chennai - 600 004.

... Petitioner

**Vs.**

1.The State of Tamil Nadu,  
Rep. by the Secretary to Government,  
Home, Prohibition and Excise Department.  
Secretariat, Chennai 600 009.

2.The Additional Director General of Police  
and I.G. of Prisons,  
Gandhi Irwin Road  
Egmore, Chennai 600 008.

3.The Superintendent of Prison  
Special Prison for Women  
Vellore.

4.The Superintendent of Prison  
Central Prison, Vellore.

5.Union of India,  
Rep. by its Secretary,  
Ministry of External Affairs,  
New Delhi.

6.Union of India,  
Represented by its Secretary,  
Home Department,  
New Delhi.

... Respondents

*(R5 and R6 are suo-motu impleaded as per order  
passed in H.C.P. No. 739/2020 dated 08.07.2020)*

**PRAYER:** Petition filed under Article 226 of the Constitution of India for issuance of Writ of Habeas Corpus directing the respondents to grant permission to S.Nalini, wife of Thiru.Sriharan alias Murugan (Ct.No.810) confined in the Special Prison for Women, Vellore and to Sriharan alias Murugan, son of Late Vetrivel (Ct.No.12840) confined in the Central Prison, Vellore, enabling them to talk to Somani Ammal (WhatsApp No.00-94778325334) and Raji (WhatsApp. No.44-7874168184) over WhatsApp Video for about 10 minutes daily.

For Petitioner : Mr.M.Radhakrishnan

For Respondents : Mr.A.Natarajan (R1 to R4)

Public Prosecutor

Assisted by

Mrs.M.Prabhavathi,

Additional Public Prosecutor

Mr.G.Karthikeyan, (R5 & R6)

Assistant Solicitor General of India

## **ORDER**

(Order of the Court was made by N.KIRUBAKARAN, J.)

Can conviction be a bar for exhibiting compassion is the question to be decided in this matter. Compassion has no bounds and needs to be exhibited irrespective of the status of the person viz., whether he or she is convicted or an innocent person.

2.The petitioner has approached this Court by filing Habeas Corpus Petition seeking direction to the respondent to grant permission to her daughter S.Nalini, W/o.Sriharan @ Murugan who is now confined in Special Prison for Women, Vellore and to her Son-in-law Sriharan @ Murugan, S/o.Late Vetrivel who is now confined in Central Prison, Vellore to talk to one Somani Ammal, W/o.Late Vetrivel and Mother of Sriharan @ Murugan, over Whatsapp Video call for about 10 minutes daily.

3.The petitioner's daughter Nalini and Son-in-law Sriharan @ Murugan were convicted by the Presiding Judge, Designated Court No.1 at Poonamallee to death sentence on 28.01.1998. The conviction and sentence awarded by the Trial Court were confirmed by the Hon'ble Supreme Court in Death Reference

Case No.1/1998 in CrI.A.Nos.321-325/1998 dated 08.10.1999. His Excellency The Governor of Tamil Nadu considering the mercy petition filed by the convicts commuted the death sentence of S.Nalini, W/o.Sriharan @ Murugan to life imprisonment in Government Letter (Ms) No.406, Home Department, dated 24.04.2000. As far as the other convicts including Sriharan @ Murugan, the Hon'ble Supreme Court by its judgment dated 18.02.2014 in Transferred Case (Criminal) No.01/2012 modified the death sentence into imprisonment for life.

4.The convicts have been undergoing imprisonment for more than 28 years. The Government of Tamil Nadu had recommended the case of the convicts for premature release under Article 161 of the Constitution of India. The said recommendation has been pending with the Governor of Tamil Nadu for quite sometime and thereafter, the Governor of Tamil Nadu had opined that no decision could be taken since Multi Disciplinary Monitoring Agency [MDMA] in CBI have been monitoring and coordinating the issues arising out of Memo of Action Taken "MOAT" and filed a report to Jain Commission of Enquiry relating to the assassination of Mr.Rajiv Gandhi, former Prime Minister of India and the same is pending.

5. In the meanwhile, Mr. Vetrivel, father of Sriharan @ Murugan passed away on 27.04.2020 in Sri Lanka. Mrs. Nalini and her husband Mr. Sriharan @ Murugan spoke to the petitioner over phone and requested her to make an application on their behalf seeking permission to make Whatsapp video call to Tmt. Raji, who is the elder sister of Sriharan @ Murugan residing in London, UK and Tmt. Somani Ammal, who is the mother of Sriharan @ Murugan residing in Sri Lanka, daily for about 10 minutes. Since the said representation dated 04.05.2020 has not been considered favorably, the present Habeas Corpus Petition came to be filed for the relief set out earlier.

6. A common counter affidavit has been filed by the second respondent on behalf of the respondents 1 to 4 stating that there is no provision either in Tamil Nadu Prison Rules, 1983 or in Government Orders' to allow a prisoner to make a video call or voice call to any persons in any foreign country. It is also stated in the counter that since the issue involves two foreign countries, the matter has to be decided only by the Ministry of External Affairs, Government of India and the State Government cannot take any unilateral decision. Moreover, the offence committed by the life convicts had international ramification and considering their overseas contacts with the banned outfits, there is no guarantee that the convicts will use the facility only for their personal/family

affairs. The prison authorities cannot verify the genuineness and bonafide of the caller at the other end who will speak from the foreign country and cannot take any action against him/her, in case if the petitioner's daughter and son-in-law violates the law of the land. Granting permission to make video/voice call is the privilege extended to the prisoners for their good behavior and good faith and no prisoner can claim it as vested right.

7.The Ministry of External Affairs and Ministry of Home, Government of India were suo motu impleaded as per the order of this Court dated 08.07.2020. An affidavit has been filed on behalf of the Secretary, Home Department stating that the further investigation in Mr.Rajiv Gandhi Assassination case is being conducted by the Multi Disciplinary Monitoring Authority [MDMA] to look into the larger conspiracy, particularly originating from foreign countries, including Sri Lanka and UK which led to the assassination of Mr.Rajiv Gandhi. The life convicts are sentenced in the terror case of the heinous crime of assassination of former Prime Minister of India and if they are allowed to make international voice/video calls, such conversation may be detrimental to the ongoing investigations and therefore, they cannot be allowed to make international calls.



8.Mr.Radhakrishnan, learned counsel appearing on behalf of the petitioner would submit that on humanitarian grounds, the petitioner's daughter Nalini and son-in-law Sriharan @ Murugan have to be permitted to speak to Tmt.Somani Ammal and Tmt.Raji, since Mr.Vetrivel, father of Sriharan @ Murugan passed away, only to give an emotional support to the bereaved family and therefore, they should be given a chance to speak with them.

9.The learned counsel would further submit that when other convicts are permitted to speak to their relatives and friends, denying the same privilege to the petitioner's daughter and son-in-law would be a discrimination under Article 14 of the Constitution of India. The rights of the prisoners are required to be safeguarded as per the judgments of the Hon'ble Supreme Court rendered in the following cases.

(i).***Sunil Batra (II) vs. Delhi Administration*** reported in (1980) 3 SCC 488;

(ii).***Francis Coralie Mullin vs. The Administrator, Union Territory of Delhi and others*** reported in 1981 AIR 746 = 1981 SCR (2) 516;

(iii).***Maneka Gandhi v. Union of India*** reported in (1979) 1 SCC 248;

10.By relying upon the judgment reported in ***Francis Coralie Mullin vs.***

***The Administrator, Union Territory of Delhi and others reported in 1981 AIR 746 = 1981 SCR (2) 516***, Mr.Radhakrishnan, learned counsel appearing on behalf of the petitioner vehemently contended that it is the fundamental right of the prisoners under Article 21 of the Constitution to socialize with the members of his family and that such right is an integral part of right of the prisoner enshrined under Article 21 of the Constitution of India. In view of the present pandemic situation, the prisoners are allowed to make video calls and such facility cannot be denied to the petitioner's daughter and son-in-law. If they are permitted to utilize the Whatsapp video calling facility, they could very well be monitored by the prison officials. Therefore, he would seek permission on legal as well as humanitarian grounds.

11.On the other hand, Mr.A.Natarajan, learned Public Prosecutor would submit that there is no provision in the Prison regulation/manual permitting the convicts to make video calls or voice calls to foreign countries and so far no prisoner has been permitted to make voice/video calls to the persons in foreign countries. Moreover, the security of the nation is involved and therefore the issue has to be decided only by the Union Government. The learned Public Prosecutor relied upon the judgment of the Hon'ble Apex Court in the case of ***The Home Secretary (Prison) and others v. H.Nilofer Nisha*** reported in



**Manu/SC/0071/2020** to emphasize the point that the Habeas Corpus Petition is not maintainable when the detinue has been sentenced to imprisonment for life and as such the detention cannot be said to be illegal. Relying upon the said judgment, the learned Public Prosecutor would submit that the Habeas Corpus Petition is not maintainable and the same is liable to be dismissed.

12.Mr.G.Karthikeyan, learned Assistant Solicitor General of India would submit that the investigation is going on by the Multi Disciplinary Monitoring Agency [MDMA] to look into the larger conspiracy with regard to the assassination of the former Prime Minister of India Mr.Rajiv Gandhi and if the convicts are permitted to make international voice/video calls, such conversation may be detrimental to the ongoing investigation. Therefore, he would seek for the dismissal of the Habeas Corpus Petition.

13.Heard Mr.M.Radhakrishnan, learned counsel appearing on behalf of the petitioner; Mr.A.Natarajan, learned Public Prosecutor assisted by Mrs.M.Prabhavathi, learned Additional Public Prosecutor on behalf of the respondents 1 to 4 and Mr.G.Karthikeyan, learned Assistant Solicitor General of India on behalf of the respondents 5 and 6.

14.As regard the issue of maintainability raised by Mr.A.Natarajan, learned Public Prosecutor by relying upon the judgment of the Hon'ble Apex Court in the case of ***Home Secretary (Prison) and others v. Nilofer Nisha*** reported in ***Manu/SC/0071/2020*** is concerned, it is to be noted that the said case relates to the premature release of the convicts who were sentenced for life and as the prisoners were convicted following the due process of law by the competent Court, the Hon'ble Apex Court in the said decision held that the Habeas Corpus Petition is not maintainable as the convicts are not in illegal custody.

15.Mere nomenclature of the case, either as Habeas Corpus Petition or as Writ Petition does not make any difference as the Habeas Corpus Petition is also filed under Article 226 of the Constitution of India. If the petitioner has wrongly filed HCP instead of WP, taking note of the above fact, this Court is always within its jurisdiction to decide the issue, considering as if the petition is filed as Writ Petition under Article 226 of the Constitution of India. The crux of the issue alone has to be gone into and not the category under which the petition has been filed and the prayer has been couched. After all, the rules are handmades of justice. Justice has to be rendered to the party who approaches the Court and this Court based on the technical objections should not shy away

from deciding the issue and render justice. This Court is a constitutional Court and is duty bound to safeguard the interests of the citizens including the convicts and therefore, this Court rejects the plea raised by the learned Public Prosecutor regarding the maintainability of the Habeas Corpus Petition and categorically holds that the present petition can be treated as Writ Petition under Article 226 of the Constitution instead of HCP.

16. There is no doubt about the heinous nature of the crime committed by the convicts and their role in the assassination of the former Prime Minister of India Mr. Rajiv Gandhi. They have been tried and convicted for the offence and they are undergoing imprisonment for more than 28 years. There is no point in repeating the same thing whenever any incidental issue is taken up with regard to these convicts. By making the above observation, this Court in no way underestimates the sacrifice made by Mr. Rajiv Gandhi, former Prime Minister of India and other police officials and other innocent people who gathered and died in the election meeting at Sriperumbudur in the year 1991. Merely because they are heinous criminals, it does not mean that Court should also reciprocate in the same manner. For the crime committed by them, they are undergoing imprisonment for almost 28 years. The issue involved in the present case has to be considered only on humanitarian grounds and not based on law alone.

17. One Mr. Vetrivel, who is the father of Sriharan @ Murugan, the life convict passed away in Sri Lanka. Sriharan @ Murugan was unable to participate in the funeral and he could not even perform any rituals as a son. Viewing from the said angle, the convict Sriharan @ Murugan is entitled to speak to his mother Tmt. Somani Ammal who lost her husband. It is only for exchange of consolation as a son and mother. It is rather a human right of any human being even if they are life convicts. Allowing the convict to speak to his mother for 10 minutes atleast for 10 days will not in any way prejudice the security of the nation. When a call is made, it is going to be videographed by the prison officials and the officials will also hear the conversation between the convict and his mother and sister. If any conversation goes beyond the inquiries about the family members, it is always open to the authorities to disconnect the voice/video call.

18. Mr. A. Natarajan, learned Public Prosecutor also contended that there is no provision under the Prison Manual permitting the prisoner to make a video/voice call to foreign countries. A perusal of G.O.Ms.No.524, Home (Pr.III) Department, dated 16.09.2011 would disclose that the authorities could allow the prisoners to use the telephone facility and there is no prohibition

under the said Government Order prohibiting the prisoners from having telephonic conversation with the relatives in foreign countries. If the relatives are unable to come over to India to meet the prisoner due to lack of funds or circumstances, it cannot be put against the prisoners. Already the convicts are incarcerated for more than 28 years. In extra ordinary circumstances like the demise of family members, especially father, the authorities should approach the issue humanely and not based on law alone and allow the prisoners to have talk with his mother and sister atleast for 10 days. Furthermore, when the co-prisoners are enjoying the benefits of speaking with their friends and relatives, the said privilege cannot be denied to Mr.Sriharan @ Murugan and Mrs.Nalini on the ground that his mother and sister are in foreign countries, as the same not only violates Article 14 but also Article 21 of the Constitution and the basic human rights. The Hon'ble Supreme Court taking note of the pandemic situation in *suo motu WP(C).No.1/2020*, by an order dated 23.03.2020 directed the prison authorities to allow the prisoners to speak through Video call or telephone call and therefore, there will not be any problem in allowing the convicts to speak through Video call facility.

19.The Hon'ble Supreme Court in *Sunil Batra (II) vs. Delhi Administration* reported in (1980) 3 SCC 488, had treated the letter of the



convict as Habeas Corpus Petition. In the said decision, it has been held that the treatment of the prisoners must commensurate with his sentence and satisfy the test of Article 14, 19 and 21 of the Constitution. Paragraph 42 of the said decision is usefully extracted hereunder:

*"42.Rights jurisprudence is important but becomes an abstraction in the absence of remedial jurisprudence. Law is not an omnipotence in the sky but a loaded gun which, when triggered by trained men with ballistic skill, strikes the offending bull's eye. We have made it clear that no prisoner can be personally subjected to deprivations not necessitated by the fact of incarceration and the sentence of court. All other freedoms belong to him — to read and write, to exercise and recreation, to meditation and chant, to creative comforts like protection from extreme cold and heat, to freedom from indignities like compulsory nudity, forced sodomy and other unbearable vulgarity, to movement within the prison campus subject to requirements of discipline and security, to the minimal joys of self-expression, to acquire skills and techniques and all other fundamental rights tailored to the limitations of imprisonment."*

20. Similarly, in the very same judgment the Hon'ble Supreme Court recognized the rights of the prisoners to have the visit of family members and friends, as the visits are a solace in insulation. Paragraph 53 of the judgment is usefully extracted hereunder:



*"53. Visits to prisoners by family and friends are a solace in insulation; and only a dehumanised system can derive vicarious delight in depriving prison inmates of this humane amenity. Subject, of course, to search and discipline and other security criteria, the right to society of fellow-men, parents and other family members cannot be denied in the light of Article 19 and its sweep. Moreover, the whole habilitative purpose of sentencing is to soften, not to harden, and this will be promoted by more such meetings. A sullen, forlorn prisoner is a dangerous criminal in the making and the prison is the factory! Sheldon Krantz rightly remarks : [ Sheldon Krantz : CORRECTIONS AND PRISONERS RIGHTS, pp. 129-130]*

*"In 1973, the National Advisory Commission argued that prisoners should have a 'right' to visitation [Task Force Report, Corrections (1973) at 66]. It also argued that correctional officials should not merely tolerate visiting but should encourage it, particularly by families. Although the Commission recognised that regulations were necessary to contend with space problems and with security concerns, it proposed that priority be given to making visiting areas pleasant and unobtrusive. It also urged that corrections officials should not eavesdrop on conversations or otherwise interfere with the participants' privacy. Thus, although there may be current limitations on the possible use of the Constitution on visitations by family and friends, public policy should dictate substantial improvements in this area, in any event."*

*We see no reason why the right to be visited under reasonable*

*restrictions, should not claim current constitutional status. We hold, subject to considerations of security and discipline, that liberal visits by family members, close friends and legitimate callers, are part of the prisoners' kit of rights and shall be respected."*

21. In the aforesaid judgment, Justice V.R. Krishna Iyer in his own style, in paragraph 46 held that the most important right of the prisoner is to the integrity of his physical person and mental personality. Paragraph 46 of the said decision is usefully extracted hereunder:

*"46. Perhaps, the most important right of a prisoner is to the integrity of his physical person and mental personality. This Court in Batra case [Sunil Batra v. Delhi Admn., (1979) 1 SCR 392 : (1978) 4 SCC 494 : 1979 SCC (Cri) 155.] has referred to the international wave of torture of prisoners found in an article entitled "Minds Behind Bars". That heightens our anxiety to solve the issue of prisoners' protection."*

22. Thus, it is clear that the mental personality of the prisoner would not be normal and proper, if he is deprived even to speak to his grieving mother, who lost her husband. Moreover, the prisoner Sriharan @ Murugan had himself lost his father and he could not see even the mortal remains and perform any rituals due to his incarceration and therefore, he must be allowed atleast to

speak with his mother and sister. Otherwise, his mental personality as eloquently stated by Justice V.R.Krishna Iyer in the aforesaid judgment would not be proper.

23.In Paragraph 77 of the said judgment, the Jurists relied upon Rule 61 of the Standard Minimum Rules for the Treatment of Prisoners and Related Recommendations made by UN's Department of Economics and Social Welfare, New York 1958 which speaks about the necessity of maintaining and improving all desirable relations of the prisoner with his family and with valuable social agencies. Paragraph 77 of the said decision is usefully extracted here under:

*"77.The time for prison reform has come when Indian methodology on these lines is given a chance. We do no more than indicate the signpost to Freedom from Crime and Freedom behind Bars as a burgeoning branch of therapeutic jurisprudence. All this gains meaning where we recognise that mainstreaming prisoners into community life as willing members of a law-abiding society is the target. Rule 61 of the Standard Minimum Rules stresses this factor: [ Standard Minimum Rules for the Treatment of Prisoners and Related Recommendations—U.N. Dept. of Economics & Social Welfare, New York, 1958]*

*"61. The treatment of prisoners should emphasize not their*

*exclusion from the community, but their continuing part in it. Community agencies should, therefore, be enlisted wherever possible to assist the staff of the institution in the task of social rehabilitation of the prisoners. There should be in connection with every institution social workers charged with the duty of maintaining and improving all desirable relations of a prisoner with his family and with valuable social agencies. Steps should be taken to safeguard, to the minimum extent compatible with the law and the sentence, the rights relating to civil interests, social security rights and other social benefits of prisoners.”*

*It follows that social resources, helpful to humane treatment and mainstreaming, should be ploughed in, senior law students screened by the Dean of reputed law schools may usefully be deputed to interview prisoners, subject to security and discipline. The grievances so gathered can be fed back into the procedural mechanism viz. the District Magistrate or Sessions Judge. The Delhi Law School, we indicate, should be allowed to send selected students under the leadership of a teacher not only for their own clinical education but as prisoner-grievance-gathering agency. Other Service Organisations, with good credentials, should be encouraged, after due checking for security, to play a role in the same direction. The Prisons Act does provide for rule-making and issuance of instructions which can take care of this suggestion.”*

24. Even in the direction given in Paragraph 79(2) of the above judgment, a direction has been given to take steps to keep up the standard minimum rules for treatment of prisoners recommended by the United Nations. The conclusion in Paragraph 79(2) is extracted hereunder:

"79. ....

(1). ....

(2). *The State shall take steps to keep up to the Standard Minimum Rules for Treatment of Prisoners recommended by the United Nations, especially those relating to work and wages, treatment with dignity, community contact and correctional strategies. In this latter aspect, the observations we have made of holistic development of personality shall be kept in view.*"

25. Similarly in ***Francis Coralie Mullin vs. The Administrator, Union Territory of Delhi and Others*** reported in ***1981 AIR 746 = 1981 SCR (2) 516*** held that the right to life includes the right to live with human dignity which includes interviews with the members of his family and friends and no prison regulation or procedure laid down by prison regulation regulating the right to have interviews with the members of the family and friends can be upheld as constitutionally valid under Article 14 and 21, unless it is reasonable, fair and just.



26. In the said judgment, the Hon'ble Supreme Court defined the expression "Personal liberty" occurring in Article 21 is of the widest amplitude and it covers a variety of rights which go to constitute the personal liberty of a man and it also includes rights which have been raised to the status of distinct Fundamental Rights and given additional protection under Article 19 of the Constitution. When the Hon'ble Supreme Court had upheld the right of the prisoners to socialize with the family members and friends by giving interview, in the light of the said decision, this Court holds that the son who lost his father is entitled to have conversation through Video Call with his mother in Sri Lanka and sister in UK. The grief should also be shared when an important family member is lost. Grieving due to loss of family members is a part of human life and its emotion on any human being should be expressed or ventilated to the other family members and not allowing the convict in those circumstances to have a word with the family members would amount to dehumanizing the prisoner and suppressing his emotions and it would also amount to cruelty.

27. The 6<sup>th</sup> respondent/Home Ministry as well as the State authorities would rely upon the continuation of investigation by Multi Disciplinary Monitoring Agency [MDMA] in CBI which has been monitoring and



coordinating the issues arising out of Memo of Action Taken “MOAT” and filed a report to Jain Commission of Enquiry relating to the assassination of Mr.Rajiv Gandhi, former Prime Minister of India and contend that if the prisoners are allowed to make Video Call, the same would be detrimental to the ongoing investigation. It is too far fetched to contend that the grieving family member, due to loss of his father speaking to his mother or sister in a foreign country would jeopardize or be detrimental to the ongoing investigation. First of all, for the crime committed by them, they were convicted and they have been undergoing imprisonment for the past 28 years. The MDMA though constituted 20 years ago, it is reported before the Hon'ble Supreme Court that no remarkable progress has been made by the said agency. Assuming for a moment, even if the investigation reveals anything incriminating, for the same offence, the convicts cannot be punished twice. When such is the position, the continuation of MDMA has got nothing to do with the permission to be granted to the convicts to talk with their family members.

WEB COPY

28.Further, it is not clear from the Counter Affidavit of the 6<sup>th</sup> respondent as to how the conversation between the convict and his family members would be detrimental to the ongoing investigation. The said contention of the 6<sup>th</sup> respondent is based on the surmises and conjectures and hence, the same is

rejected.

29. One more thing which has to be considered by this Court while deciding this issue is that the Government of Tamil Nadu by proceedings dated 19.02.2014 had commuted the sentence imposed on the convicts in the above case under Section 433 Cr.P.C. The State Government consciously took a decision to commute their sentence. Subsequently, on 09.09.2018, a resolution has been passed by the Tamil Nadu State Cabinet to release the convicts under Article 161 of the Constitution of India. Though the said resolution was sent to the appropriate constitutional authorities, the constitutional authority did not take any decision based on the said resolution. This Court in a related matter to release the convicts in Mr. Rajiv Gandhi Assassination case questioned the constitutional authority as to when a decision would be taken regarding the premature release of the prisoners convicted in Mr. Rajiv Gandhi Assassination case. Thereafter, only in response to the query raised by this Court, the constitutional authority informed that in view of the pendency of the investigation by MDMA, he could not take any decision.

30. As already held, the continuation of MDMA has got nothing to do with acceding the prayer sought for by the petitioner in the instant case. It

cannot be understood as to how the State Government having taken a decision consciously to commute the sentence of the prisoners as early as 19.02.2014 under Section 432 and 433 Cr.P.C and also passed a State Cabinet resolution on 09.09.2018 under Article 161 for premature release, is opposing to grant permission to the prisoners to speak to the grieving family members. If the decision dated 19.02.2014 and 09.09.2018 have been acted upon, they would have been set free completely by this time and there would not be bar/prohibition for them to enjoy all the rights like normal persons including speaking to relatives in the foreign countries. When the State Government took a decision to release them from Prison, quite surprisingly is opposing to permit them to speak with the family members. The State Government cannot blow hot and cold at the same time.

31.The contentions raised by the respondents are not reasonable and valid and the same are rejected. If the convicts are not permitted to have conversation with their grieving family members, it would amount to violation of Article 14, 19 and 21 of the Constitution of India and it would also dehumanize the convicts who have already grieved because of the loss of his father and father-in-law.

32. Therefore, the following directions are given:

(1). The respondents 5 and 6 are directed to give appropriate clearance to the State authorities within a period of one week from the date of receipt of a copy of this order.

(2). Thereafter, the State authorities are directed to make necessary arrangements to make the prisoners viz., S.Nalini, wife of Thiru.Sriharan @ Murugan (Ct.No.810) confined in the Special Prison for Women, Vellore and Sriharan @ Murugan, son of Late Vetrivel (Ct.No.12840) confined in the Central Prison, Vellore, to enable them to talk to Somani Ammal (WhatsApp No.00-94778325334) and Raji (WhatsApp. No.44-7874168184) over WhatsApp Video for about 20 minutes on every alternate day for 10 days, after ascertaining the identity of the mother and sister of Sriharan @ Murugan, within a period of two weeks.

(3). The said conversation shall be videographed by the authorities and if there is any deviation in their conversation, apart from family matters, the authorities are at liberty to disconnect the call.

In fine, the Habeas Corpus Petition is ordered.

33. For reporting compliance, call the matter on 16.07.2021.

(N.K.K., J.) (V.M.V., J.)

17.06.2021

pgp

To

1.The Secretary to Government,  
State of Tamil Nadu,  
Home, Prohibition and Excise Department.  
Secretariat, Chennai 600 009.

2.The Additional Director General of Police  
and I.G. of Prisons,  
Gandhi Irwin Road  
Egmore, Chennai 600 008.

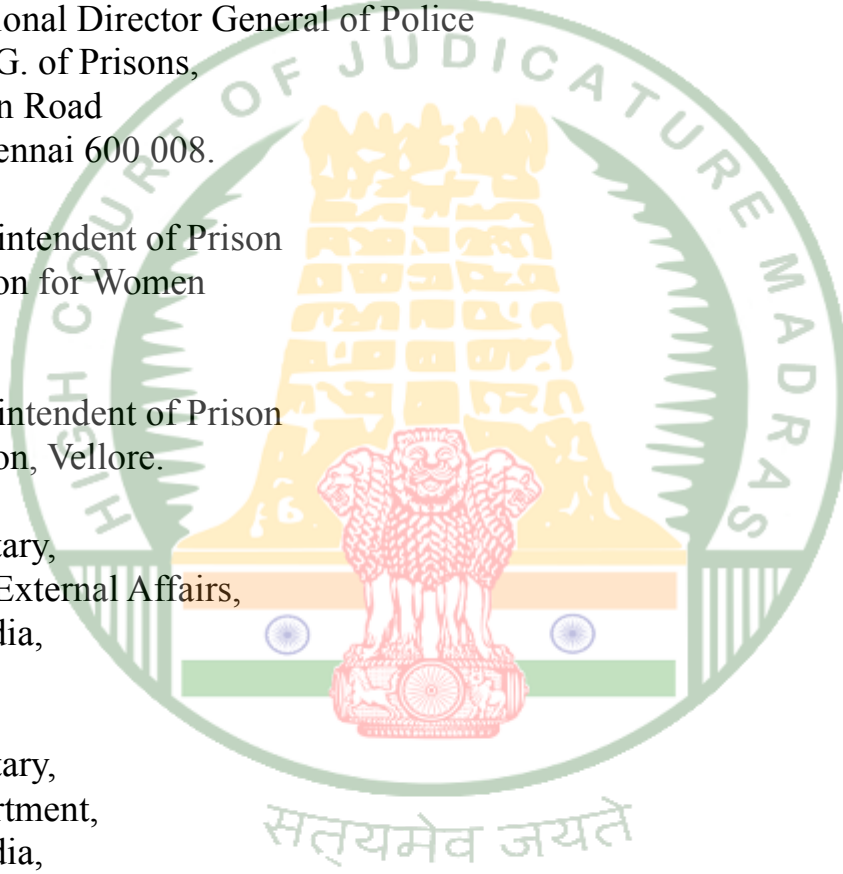
3.The Superintendent of Prison  
Special Prison for Women  
Vellore.

4.The Superintendent of Prison  
Central Prison, Vellore.

5.The Secretary,  
Ministry of External Affairs,  
Union of India,  
New Delhi.

6.The Secretary,  
Home Department,  
Union of India,  
New Delhi.

7.The Public Prosecutor,  
High Court of Madras,  
Chennai 104.



WEB COPY

*H.C.P. No.739 of 2020*

**N.KIRUBAKARAN, J.**

**and**

**V.M.VELUMANI, J.**

*pgp*



**H.C.P. No.739 of 2020**

**WEB COPY**

**Dated : 17.06.2021**