

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.11.2015

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THE HONOURABLE MR.JUSTICE R.SUDHAKAR
AND
THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Habeas Corpus Petition No.2502 of 2015

Rabiya

... Petitioner

Vs.

1. The State of Tamil Nadu,
rep. by the Secretary to Government,
Home Department, Secretariat,
Chennai - 600 009.
2. The Additional Director General of Police
& Inspector General of Prison,
Egmore, Chennai - 600 008.
3. The Superintendent of Prison,
Central Prison-2, Puzhal,
Chennai - 600 066.
4. Mr.Simon
5. Mr.Ramasamy
6. Mr.Murugesan

... Respondents

PETITION under Section 226 of The Constitution of India praying for the issuance of Writ of Habeas Corpus directing the respondents to produce the body and person of the petitioner's husband, namely Syed Abuthahir, S/o Kuthuz aged about 38 years now confined in Central Prison-2, Puzhal, Chennai before this Court and direct respondents 1 to 3 to provide proper medical treatment to the petitioner's husband and to initiate appropriate proceedings against respondents 4 to 6 who indulged in the assault, and further direct respondent 1 - State of Tamil Nadu to award appropriate compensation to the petitioner's husband.

For Petitioner : Mr.P.Pugalenth

For Respondents : Mr.A.N.Thambidurai,
Additional Public Prosecutor

O R D E R

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

This Habeas Corpus Petition is filed by the wife of the detenu, namely, Syed Abuthahir, seeking direction to the respondents to provide proper medical treatment to the petitioner's husband and also for further direction to initiate appropriate proceedings against respondents 4 to 6 who indulged in assault and to award appropriate compensation to the detenu.

2. It is the case of the petitioner that her husband Syed Abuthahir is a remand prisoner in Crime No.746 of 2014 on the file of the Ambattur Estate Police Station. It is alleged that the detenu was beaten by the prison warders while he was in custody and seeks suitable action against the prison authorities.

3. The Superintendent, Central Prison-II, Puzhal, Chennai has filed a counter affidavit dated 4.11.2015, wherein it has been stated as follows:

"2. I submit that the cause for the unrest among the prisoners which took place on 25.9.2015 needs to be explained initially. The Remand Prisoners No.72149 Kaja Mohideen S/o Chinnathambi Ambalam, RP-No 78237 Police Fakruddin S/o Sikander Basha, RP No78238 Mohamed Ismail @ Panna Ismail S/o Mohammed Abdullah, RP No.78239 Bilal Malik S/o Syed, RP No.83047 Abdullah @ Abul Muthalif S/o Musthafa Kamal and RP-86656 Munna @ Muhamed Rabik S/o Abdul Majid were confined in High Security Block I, II and 1st Block of this Prison.

3. I submit that the above prisoners concerned with the murder of BJP functionary at Ambattur and involved in Bomb Blast cases. Their general behavior inside the Prison is that they are the leaders inside the Prison and other prisoners and staff of the Prison is to obey them and carry out their instructions to attend their unlawful demands. I submit that on 24.9.2015 the relative of the above prisoners brought Ice Cream and Cool Drinks and

these items were returned without allowing inside the Prison on the instructions of Thiru.B.Elavarasan, Jailor. These items are prohibited articles as per Rule 298 of Tamil Nadu Prison Rules, 1983. It is also the bounden duty of every Prison Official to prevent the contraband articles inside the Prison as per Rule 134 of Tamil Nadu Prison Rules, 1983.

4. I submit that in view of the above official act of the Jailor, the above prisoners were having grudge over the Jailor. On 25.09.2015 at about 17.00 hours the above prisoners along with other prisoners confined in these Blocks assembled in the Tower Block of the Prison with the intention to attack the Jailor and the reason stated by them is that they want to see the Jailor and Additional Superintendent. Of these group of prisoners, the petitioner's husband Abu @ Abu Thagir s/o Kuthoos is one of the person accompanied them. He was confined in the High Security Block I. At this time, the Jailor was in the Hospital Block to attend the lock up of the prisoners. The message was conveyed to the Jailor by Thiru.Israel, Assistant Jailor through the intercom. The Jailor immediately rushed to the Tower Block in his Bi Cycle.

5. I submit that on his arrival, Prisoners Police RP-78237 Fakruddin s/o Sikander Basha, RP-83047 Abdullah @ Abdul Muthalif s/o Musthafa Kamal and RP-86656 Munna @ Muhamed Rabik s/o Abdul Majid were scolded the Jailor with obscene words and RP-78239 Bilal Malik s/o Syed knocked him down from the cycle and RP-78237 Fakruddin s/o Sikander Basha, RP-83047 Abdullah @ Abdul Muthalif s/o Musthafa Kamal and RP-86656 Munna @ Mohamed Rabik s/o Abdul Majid hold his hands and legs and RP-76239 Bilal Malik s/o Syed kicked him on his neck by uttering uncivilized words and at that time the Jailor found it very difficult to breathe RP-78238 Mohamed Ismail @ Panna Ismail s/o Mohamed Abdullah tried to strangle Jailors neck through his hands."

4. It is seen that for the incident that took place in the prison, on the complaint given, the Inspector of Police, M3 Police Station has registered a case in Crime No.1591 of 2015 for the offences under Section 147,148,341,294(B), 332, 353, 347, 324, 307 and 506(ii) of IPC and also under Section 3(1) of

the Tamil Nadu Public Property Prevention of Damage and Loss Act, 1992 and investigation is in progress.

5. From the above, it appears that the petitioner's husband and other accused were involved in an offence in connection with which some of the prison warders were seriously injured and the details of the incident has been set out in the counter. It is also on record that many of the jail warders were injured and were treated in a hospital. It is further on record that the prisoners also sustained injury. It is on record that the petitioner's husband was given treatment on various dates.

6. In such circumstances, it is not possible to issue further direction, as we find that the detenu has been given adequate medical treatment. Accordingly, this Habeas Corpus Petition is closed with a direction to the respondent police to provide medical facilities, if necessity arises.

Sd/-
Assistant Registrar(CS III)

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To Sub Assistant Registrar

1. The Secretary to Government,
State of Tamil Nadu,
Home Department, Secretariat,
Chennai - 600 009.
2. The Additional Director General of Police
& Inspector General of Prison,
Egmore, Chennai - 600 008.
3. The Superintendent of Prison,
Central Prison-2, Puzhal,
Chennai - 600 066.
4. The Public Prosecutor,
High Court, Madras.

+lcc to Mr.P.Pugalenth, Advocate, S.R.No.63356

H.C.P.No.2502 of 2015

PUR(CO)
CA(15/12/2015)