

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 19.11.2015

CORAM

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

H.C.P. NO. 772 OF 2014

P.Pugalthi

.. Petitioner

- Vs -

1. The State of Tamil Nadu
rep. by the Secretary to Govt.
Home, Prohibition & Excise Dept.
Secretariat, Chennai 600 009.
2. The Addl. Director General of Police
& Inspector General of Prisons
Egmore, Chennai 600 008.
3. The Superintendent of Prison
Central Prison - 2
Puzhal, Chennai 600 066.
4. Ilavarasan
Jailor, Central Prison - 2
Puzhal, Chennai 600 066.
5. Muthumani
Prison Warder, Central Prison - 2
Puzhal, Chennai 600 066.
6. Simon
Prison Warder, Central Prison - 2
Puzhal, Chennai 600 066.
7. Mari Ganesh
Prison Warder, Central Prison - 2
Puzhal, Chennai 600 066.

.. Respondents

Petition filed for the issuance of a writ of habeas corpus directing the third respondent to provide immediate medical treatment to Sathish and Dhaya, who are undertrial prisoners, confined in Central Prison - II, Chennai and to Edmund and Sivanandam, who are convict prisoners, confined in Central Prison - I, Chennai and further directing respondents 1 to 3 to take appropriate criminal and disciplinary action against respondents 4 to 7, who had assaulted the aforesaid undertrial and convict prisoners.

For Petitioner : Mr. P.K.Ilavarasan

For Respondents : Mr. A.N.Thambidurai, APP

ORDER
(DELIVERED BY P.N.PRAKASH, J.)

This petition has been filed for a direction to the third respondent to provide immediate medical treatment to Sathish and Dhaya, who are undertrial prisoners, confined in Central Prison - II, Chennai and to Edmund and Sivanandam, who are convict prisoners, confined in Central Prison - I, Chennai and further directing respondents 1 to 3 to take appropriate criminal and disciplinary action against respondents 4 to 7, who had assaulted the aforesaid undertrial and convict prisoners.

2. Heard the learned counsel appearing for the petitioner and the learned Addl. Public Prosecutor appearing for the respondents.

3. On notice, the Superintendent of Central Prison-II, Puzhal, has filed a detailed counter, the relevant portion of which is extracted hereinbelow :-

"I submit a special search was conducted by the Jailor with a team of warders, namely, 1) Tr.Muthumani, Grade II Warder, 2) Tr.Simon, Grade II Warder and 3) Tr.Mari Ganesh, Grade II Warder on 28.02.2014 one cell phone and its accessories as detailed below are recovered from NSA No.3129, Remand Prisoner No.59601 Sathish Kumar S/o Thiagarajan

- 1) Nokia Cell Phone Moden No. : 100
- 2) IMEI : 358956/05/749079/0
- 3) Battery : 1 No.
- 4) Sim Card : Vodafone

The possession of cell phone is a prison offence as per Rule No.298 of Tamil Nadu Prison Rules, 1983. Therefore, this incident was duly reported through the Jailor's Report book and after enquiry the above prisoner was imposed with the prison punishment of 2 months interview cut as per Rule 302 (a) (4) of Tamil Nadu Prison Rules, 1983, since he involved in fight with prisoners for taking a ball containing contraband articles. A criminal complaint was also registered in Cr. No.306/14 is 42 of Prisons Act in M3 Puzhal Police Station by the Jailor for possession of cell phone inside the prison.

I submit that the Remand prisoner No.55694 Dhaya @ Gnanavarothayan S/o Namasivayam who involved in taking the ball containing contraband

articles was also in possession of a cell phone as detailed below which is prohibited article inside the prison recovered on 28.02.2014 during searching.

- 1) Nokia Model Cell Phone : 114
- 2) IMEI 9i) : 358148/05/38530/02
- 3) IMEI 9ii) :
- 358143/05/388570/0
- 4) Sim Card : Nil

The above incident was duly reported through the Jailor's Report Book and after enquiry the above prisoner was imposed with the prison punishment of 6 months interview cut as per Rule 302 (a) (4) of Tamil Nadu Prison Rules.

The TPDA Prisoners 1) No.3667 Nagoormeran S/o Yushope 2) No.3640 Dinesh @ Dinesh Kumar S/o Jeeva 3) No.3115 Karthik S/o Ravi @ Ramalingam 4) 3150 Ravi @ Korukupettai Ravi S/o Babu those involved for taking the bass containing contraband articles were also imposed with the prison punishment of 2 months interview cut as per Rule 302 (a) (4) of Tamil Nadu Prison Rules.

I submit that on 01.03.2014 the Remand Prisoner No.55694 Dhaya @ Gnanavarothayan S/o Namasivayam 2) Remand Prisoner No.59601 Sathish Kumar S/o Thiagarajan from Central Prison-II, Puzhal and two convict prisoners namely 1) Convict No.5369 Edmund S/o Santhannam 2) Convict No.5189 Sivanandan S/o Nandakumar were brought from Central Prison-I, Puzhal, with escort. An enquiry was conducted in view of the incident as stated supra, about the bass containing contraband articles which was thrown from Central Prison-I, Puzhal on 28.02.2014. On enquiry the prisoners are accepted that they are using cell phones inside the prison.

I also submit that in respect of convict Prisoner No.5180, Sivanandan S/o Nandakumar, a cell phone was recovered at Central Prison-I, Puzhal on 01.03.2014 during the search conducted by the warders namely, 1) Tr.Muthumani, Grade II Warder, 2) Tr.Simon, Grade II Warder and 3) Tr.Mari Ganesh, Grade II Warder, 4) Tr.Pandi Durai, Grade II Warder, a complaint was filed against him in M3, Puzhal Police Station in Cr. No.309/14 u/s 42 of Prisons Act.

As per para 4 of the affidavit the said prisoners were not tortured or ill treated as stated. Since the prison officials seized cell phones from the said prisoners, they have resorted to make false allegations against them that they have beaten up the prisoners. The allegation that they were assaulted by prison

officials is false. The petitioner might have leveled this allegation with a view to threaten the 4th respondent as he is the officer leading Special searching team and unearthed number of contraband articles from the prisoners. Therefore, this allegation is now raised with malafides to threaten the 4th to 7th respondents in order to prevent them from discharging their duties."

4. From the counter affidavit filed by the third respondent, as extracted above, it is evident that the detenus are facing disciplinary action for possessing mobile phones inside the prison in violation of the prison rules. It is also further evident from the counter affidavit that necessary medical treatment has been given to the detenus.

5. In such view of the matter, recording the above stand of the respondents, this petition is closed. The police authorities are directed that the detenus may be provided with the necessary medical treatment, if so required, as per rules.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

GLN

To

1. The Secretary to Govt.
Government of Tamil Nadu
Home, Prohibition & Excise Dept.
Secretariat, Chennai 600 009.

2. The Addl. Director General of Police
& Inspector General of Prisons
Egmore, Chennai 600 008.

3. The Superintendent of Prison
Central Prison - 2
Puzhal, Chennai 600 066.

4. The Public Prosecutor
High Court, Madras.

H.C.P. NO. 772 OF 2014

MP(CO)

EU 10.12.15