

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:17.08.2016

Coram:

THE HONOURABLE MR.JUSTICE M.JAICHANDREN

W.P.No.20284 of 2014

M. Uma Manickam

... Petitioner

Vs

1.The State represented by its
the Secretary to Government of Tamil Nadu
Department of Home
Fort St. George
Chennai-9.

2.The Additional Director General of Prison &
Inspector General of Prison
C.M.D.A. Towers
Egmore, Chennai-8.

3.The Superintendent
Central Prison
Salem.

4.Jayakumar

5.Thirugnanam

...Respondents

Prayer : This writ petition has been filed to issue a Writ of Mandamus, directing the Respondents 1 to 3 to consider the petitioner's representation, dated 3.7.2014 and to take necessary action against the fourth and fifth respondents and to safeguard the life and liberty of the petitioner's husband, the detainee, Manickam @ Poonga Nagar K. Manickam, S/o. Kuppusamy, aged about 54 years, Convict No.10822, detained in Central Prison, Salem.

For Petitioner : M/s.S. Manoharan
For Respondents No.1 to 3 : Mr.K. Dhananjayan
For Respondents No.4 & 5 : No appearance

O R D E R

Heard the learned counsel, appearing on behalf of the petitioner, as well as the learned counsel, appearing for the respondents 1 to 3. There is no appearance for the respondents 4 and 5.

2. This writ petition has been filed, praying that this court may be pleased to issue a Writ of Mandamus, directing the respondents 1 to 3 to consider the representation of the petitioner, dated 3.7.2014, and to take necessary action, against the respondents, and to safeguard the life and liberty of the husband of the petitioner, namely, Manickam @ Poonga Nagar K.Manickam, detained at the Central Prison, Salem.

3. The petitioner has stated that she is the wife of Manickam @ Poonga Nagar K.Manickam, who is a convict prisoner, bearing Convict NO.10822, and has been undergoing life imprisonment, at the Central Prison, Salem.

4. The petitioner has stated that the fourth and the fifth respondents herein, are humiliating, harassing and torturing, the husband of the petitioner, every day, with mala fide intentions. Even, he has not been allowed to pray to God without any disturbances.

5. The fourth and the fifth respondents have been inducing the co-prisoners to create problems to the husband of the petitioner. The fourth and the fifth respondents have also been restricting the supply of good food to her husband, by giving arbitrary instructions to the prison cook.

6. It has also been stated that a co-prisoner, namely, Ragupathy, who had also been harassed, by the fourth and the fifth respondents, had committed suicide.

7. Similarly, a prisoner, by name, Sathish, had been brutally attacked by the said respondents. Likewise, the fourth and the fifth respondents had misbehaved with a number of prisoners and are involving in many illegal activities.

8. In spite of several representations having been submitted, the higher officials have not taken any action, against the fourth and the fifth respondents.

9. It has also been stated that the fourth and the fifth respondents are acting contrary to the prison rules prescribed in the Prison Manual and the guidelines issued by the High Courts and the Supreme Court of India.

10. In such circumstances, the petitioner has preferred the present writ petition, under Article 226 of the Constitution of India.

11. A counter affidavit has been filed, on behalf of the respondents 1 to 3, wherein the allegations made by the petitioner, in her affidavit, filed in support of the writ petition, have been denied.

12. It has been stated that the husband of the petitioner, had been convicted under Section 302, read with Section 109 of the Indian Penal Code and had been sentenced to undergo life imprisonment, and had also been imposed with a fine of Rs.50000/-, in default to undergo rigorous imprisonment for one year.

13. He has also been convicted and sentenced to undergo various punishments for the offences under Sections 201, 347, 364, 365 and 387 of the I.P.C., by a Judgment, dated 19.4.2014, passed in S.C.No.87 of 2003, on the file of the learned Fast Track Judge No.1, Chennai, in respect of a case registered, in Cr.No.986 of 2001, on the file of E-5 Pattinapakkam Police Station, and C.B.C.I.D., Metro Wing, Chennai.

14. It has been further stated that the convict had been detained in the Central prison, Vellore, on 19.4.2004. Later, he had been transferred to the Central Prison, Trichy, on 16.6.2004, on administrative grounds. Thereafter, he had been shifted to the Central Prison, Coimbatore, on 27.11.2007. When he had been confined, in the Central Prison, Coimbatore, he had instigated the co-prisoners to revolt against the authorities, who are vested with the duty of the administration of the Prison. He had also been causing disturbances to the authorities, who were in charge of the administration of the prison. Hence, he had been transferred from the Central Prison, Coimbatore, to the Central Prison, Salem, as per the order passed, by the second respondent, dated 28.11.2012.

15. The illegal activities, committed by the convict, have been narrated in detail, in the counter affidavit filed on behalf of the respondents 1 to 3 herein. The details of the offences committed by the convict, while in prison, have been tabulated as follows:-

Sl.No.	Date	Name of the Prison & Gist of offences committed	Details of punishment awarded
1	07.06.2004	Central Prison, Vellore Attacked one co-prisoner on his back and head, after strangulating his neck with a towel.	Transferred to Central Prison, Trichy.
2	22.03.2005	Central Prison, Trichy When the frisking team attempted to frisk him @ Central Prison, Trichy, he threatened by shouting in high pitch tone that the team should come for frisking, only after removing their shoes and told "Do you know who am I? I am a person one who came to prison after murdering a political leader M.K. Balan."	"Remission was cut for 20 days"
3	05/03/2010	Central Prison, Coimbatore He threatened one Convict No.10049 Ganesan S/o.Raman by saying that "Hey index finger boy"! I will kill you right here! Beware!	Remission was cut for 15 days
4	05/03/2010	He put one roll of beedi on the Jailors table, speaking to jailer in a singular tone that "one roll of beedi was being sold for Rs.150/-, you are looking after your own duty, do you not hear what I say, see what I am going to do"	Remission was cut for 15 days.
5	05/03/2010	Being accompanied by a co-prisoner 'Selvan' he assaulted one Convict No.13195 Ganesan S/o.Manoharan saying, why it was late for dropping newspaper and also snatched all the newspapers from him.	He was "Warned" for it.

Sl.No.	Date	Name of the Prison & Gist of offences committed	Details of punishment awarded
6	01/12/2012	When he was searched by prison staff headed by Thiru.Dharmaraj at 06.30 A.M., after he was transferred from Central Prison, Coimbatore to Central Prison, Salem on administrative grounds as per ADGP/IGP's orders, one cell phone - Nokia model No.2700-2 (without simcard & battery) was seized from him.	This incident was recorded in Jailor's Report Book.
7	17/04/2013	Central Prison, Salem During the interview made by an advocate Shajahan with him, he presented one representation to the advocate, which was withhold by Thiru.Pavunraj, Interview Assistant Jailor. He threatened that "I had faced military people itself".	"Severely Warned"
8	18/11/2013	When one convict prisoner No.6070 Rajini S/o.Selvamani was not allowed to meet him at High Security Block, he told Thiru.Chinnaraj, Chief Head Warder that, "Why you are not allowing other prisoners meeting me", I will shuffle the whole prison, go and tell your Superintendent."	'Interview' was cancelled for one month.
9	02/12/2013	He threatened one Grade II Warder Thiru. Kaviarasan who was frisking him when an advocate came for interviewing him and asked him that who had given him the authority for frisking him.	"Severely warned"

Sl.No.	Date	Name of the Prison & Gist of offences committed	Details of punishment awarded
10	09/07/2014	When he was frisked at high security block, cash amount Rs.3477/-, Axis Bank ATM card-1, Lighter - 3 Nos. Torch Light - 1 No., Small scissor - 2 Nos. were seized from him.	This incident was also recorded in Jailor's Report Book.

16. It has also been stated that it is the habit of the convict to threaten the prison officials, who had questioned the illegal activities committed by him. The fourth and the fifth respondents have been carrying on their duties, strictly as per the rules and regulations applicable to the prisoners, and as per the guidelines prescribed by the courts of law.

17. In view of the submissions made by the learned counsels, appearing on behalf of the parties concerned, and on a perusal of the records available, this Court is of the considered view that the allegations made by the petitioner, against the fourth and the fifth respondents herein, are ill-founded. There are, absolutely, no materials, placed before this Court, to substantiate the allegations, made by the petitioner.

18. Further, it is noted from the counter affidavit, filed on behalf of the respondents 1 to 3 herein, that the husband of the petitioner, namely, Manickam @ Poonga Nagar K.Manickam, who is undergoing life imprisonment, for the offences under Section 302 of the Indian Penal Code and for other serious offences under the said Code, had been involved in various other illegal activities, while in prison. There is nothing available, before this Court, to show that the prison authorities had been ill-treating the husband of the petitioner. It is also noted that the bald allegations made by the petitioner, against the prison officials, including the fourth and fifth respondents herein, are baseless and frivolous in nature.

19. In fact, a number of allegations have been made against the convict, in the counter affidavit, filed on behalf of the respondents, which are punishable under the various provisions prescribed in the Prison Manual. Even though the convict is entitled to his fundamental rights, while in prison, as held by the Supreme Court in a number of decisions, he cannot have any liberty to violate the rules and regulations to be followed by him, as a prisoner. Further, no prima facie case

is made out, with relevant materials, to prove that there is a threat to the life and liberty of the husband of the petitioner.

20. In such circumstances, this Court finds it appropriate to dismiss the writ petition, as it is devoid of merits. Hence, the writ petition stands dismissed. No costs.
rnb

s/d-
Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

To

1.The State represented by its
the Secretary to Government of Tamil Nadu
Department of Home
Fort St. George
Chennai-9.

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Inspector General of Prison
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