

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.04.2016

Coram:

THE HONOURABLE MR.JUSTICE M.JAICHANDREN
and
THE HONOURABLE MR.JUSTICE S.NAGAMUTHU

H.C.P.No.587 of 2016

H.Ram Mandal

... Petitioner/Detenuue

Vs.

1. The Government of Tamil Nadu,
rep. by its Secretary,
Department of Home (Prison-IV)
Department, Fort St. George,
Chennai-600 009.
2. The Additional Director General of Prisons,
Thalamuthu Natarajan Maaligai,
2nd Floor, Gandhi Irwin Road,
Egmore, Chennai-600 008.
3. The Superintendent,
Central Prison, Puzhal,
Chennai-600 006.

... Respondents

Petition filed under Article 226 of the Constitution of India, for issuance of a writ of Habeas Corpus, directing the respondents to produce the body of the petitioner H.Ram Mandal, Life Convict No.5781, now confined in Central Prison, Puzhal, Chennai, before this Court, pursuant to his representations dated 09.09.2015, 12.10.2015 and 14.12.2015 and direct the respondents to transfer the petitioner from Central Prison, Puzhal, Chennai, to Central Prison, Berhampore, Murshidabad, West Bengal.

For Petitioner : Mr.B.Nambiselvan

For Respondents : Mr.A.N.Thambidurai,
Additional Public Prosecutor
(Crl.side)

O R D E R

(Order of the Court was made by M.JAICHANDREN, J.)

This Habeas Corpus Petition has been filed, praying that this Court may be pleased to direct the respondents to transfer the petitioner, who is a Life Convict No.5781, from Central Prison, Puzhal, Chennai, to Central Prison, Berhampore, Murshidabad, West Bengal, based on his representations dated 09.09.2015, 12.10.2015 and 14.12.2015.

2. A counter affidavit has been filed on behalf of the 3rd respondent, on 06.04.2016. The relevant portion of the counter affidavit is extracted here under:

'2. I submit that the petitioner/Life Convict Prisoner No.5781, Ram Mandal, S/o. Haren Mandal was arrested by Kancheepuram (CBCID) Police Station in Crime Number 02/2014. He was convicted by the learned Sessions Mahila Court, Chengalpattu in S.C.No.192/2014 dated 28.11.2014 and sentenced to life imprisonment for the offence u/s.302 r/w.34, 392 r/w.34 and 341 Indian Penal Code.

3. It is submitted that a representation was received from the said prisoner dated 14.12.2015 seeking transfer to his native place Berhampore Central Prison, Murshidabad District, West Bengal State. As per the Prison Rules, this office is not having power to transfer any Convict Prisoner. Hence, we forwarded the same to the Additional Director General of Police and Inspector General of Prisons, Tamil Nadu, vide letter No.5781/R.2/2016 dated 19.01.2016 and the same was under process.

4. I further submit that according to the Tamil Nadu Prison Manual Vol.II-1983.

Rule 572 Transfer pending appeal : The prisoners shall not ordinarily be transferred until the expiry of the period allowed for appeal, or until the result of their appeal is known.

The Petitioner's Appeal is still pending in this Hon'ble High Court in CrI.A.No.169/2015. Hence, as per the above said rule the petitioner is not eligible to seek transfer until the result of his appeal in this State.'

3. In view of the above averments made in the counter affidavit, we are of the view that the relief sought by the petitioner, in this Habeas Corpus Petition, cannot be granted by this Court, at this stage. Accordingly, the present Habeas Corpus Petition is dismissed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To:

1. The Secretary,
Government of Tamil Nadu,
Department of Home (Prison-IV)
Department, Fort St. George,
Chennai-600 009.
2. The Additional Director General of Prisons,
Thalamuthu Natarajan Maaligai,
2nd Floor, Gandhi Irwin Road,
Egmore, Chennai-600 008.
3. The Superintendent,
Central Prison, Puzhal,
Chennai-600 006.
(in duplicate for communication to Detenue)
4. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.B.Nambiselvan, Advocate, S.R.No.21967

H.C.P.No.587 of 2016

NRJK (CO)
CA(25/04/2016)