

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 568 OF 2005

Smt. Rajamma Khistayya Pulli and Another. ..Petitioners.
Versus
State of Maharashtra. ..Respondent.

Mr. Prashant Aher for the Petitioner.
Mrs. M. M. Deshmukh, APP for the State.

Coram : RANJIT MORE &
SARANG V. KOTWAL, JJ.
Date : **July 13, 2017.**

P. C. :

1. Heard the learned Counsel appearing for the Petitioner and the learned APP for the State. The petition is filed by the parents of deceased Surendra Pulli for compensation of an amount of Rs. 10 lakhs on the ground of death of their son due to unhygienic conditions in prisons and denial of basic medical treatment to their son when he was lodged in the prison.

2. Deceased son of the Petitioners – Surendra Pulli was arrested on 3rd September 2001 by the officers of Aarey sub-police station in C.R. No. 82 of 2001 on the allegation of commission of the offence punishable under section 302 of IPC. Initially Surendra was kept in Thane Central Prison. He was thereafter transferred to Nashik Central Prison. The record discloses that Surendra was suffering from

tuberculosis while he was lodged in Nashik Central Prison. The record further shows that he was given treatment in Nashik Civil Hospital and whenever necessary he was brought to JJ Hospital at Mumbai. Since deceased Surendra was in advanced stage of tuberculosis, he was transferred to Arther Road Prison from Nashik Central Prison on 8th June 2004. In the month of May 2004 it was detected that Surendra was HIV positive. Since tuberculosis was in advanced stage, he was transferred to Arther Road Prison from Nashik Prison and ultimately he succumbed to the disease on 10th October 2004.

3. As stated above, parents of deceased Surendra, i.e., the Petitioners have claimed compensation on the ground of unhygienic conditions in prison and not providing medical treatment to Surendra. The learned Counsel appearing for the Petitioner submitted that though doctors at Nashik Central Prison and Arther Road Prison were aware that Surendra was HIV positive, yet anti retroviral treatment was not given to him and in the absence of this treatment, the medicines of tuberculosis were proved to be ineffective.

4. In short, the contention of the Petitioners is that their son died because of the negligence of prison authorities as well as of

the doctors of the said prisons.

5. Dr. Prakash Vitthal Ware, chief medical officer of Arther Road Prison as well as one Ashok Shivram Karkar, senior jailor attached to Arthur Road Central Prison and Narendra Vitthal Patil, medical officer attached to Nashik Road Central Prison have filed separate affidavits. We have gone through the same. These affidavits disclose that the Petitioners' son – Surendra Pulli was given proper treatment for tuberculosis in Nashik Central Prison. Deceased Surendra was detected with HIV positive in the month of May 2004 and thereafter for proper treatment he was transferred to Arthur Road Prison so that he would get proper treatment from expert doctors in JJ Hospital. The affidavits on record also reveal that deceased Surendra while detained in Nashik Central Prison was getting treatment from Nashik Civil Hospital as well as whenever necessary he was brought to Mumbai at JJ Hospital. Affidavits further show that at the relevant time, anti retroviral treatment was not available in the Government hospital, however, best possible treatment was given to the deceased Surendra in the Government hospital. The Petitioners have not denied the contention of the doctors of Arthur Road Prison that anti retroviral treatment was not available in the Government hospital by filing any rejoinder.

5. In above circumstances, we find that proper medical treatment was given to the Petitioners' deceased son – Surendra. There is nothing to show that the Petitioners' son contacted tuberculosis because of the unhygienic conditions in the prison.

6. In the light of above, we do not find merit in the writ petition and the same is accordingly dismissed.

[SARANG V. KOTWAL, J.]

[RANJIT MORE, J.]