

IN THE HIGH COURT OF JUDICATURE AT MADRASDated : **04.08.2017**

CORAM:

**THE HONOURABLE MR.JUSTICE A.SELVAM
and
THE HONOURABLE MR.JUSTICE P.KALAIYARASAN****H.C.P.No.996 of 2017**

Nirosha

.... Petitioner

Vs.

1. The Superintendent
Central Jail,
Puzhal, Chennai.2. The Superintendent
Central Jail,
Cuddalore.

....Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS, directing the respondents to produce the person of Shri.Rathimaran, S/o.Boominathan, serving the sentence in the second respondent prison before this Court and thereby grant his custody to the petitioner for the purpose of giving proper treatment for the serious medical ailments of the detenu.

For Petitioner :Mr.N.Suresh

For Respondents :Mr.V.M.R.Rajentran,
Additional Public Prosecutor

ORDER

(Order the Court was made by P.KALAIYARASAN, J)

This Petition has been filed under Article 226 of the Constitution of India, praying to issue writ of Habeas Corpus directing the respondents to produce Rathimaran, S/o.Boominathan serving the sentence in the second respondent prison and grant his custody to the petitioner for the purpose of giving proper treatment for the serious medical ailments.

2. It is averred in the petition that Sri.Rathimaran along with other accused was convicted by Additional District and Sessions Judge, Tindivanam in S.C.No.28 of 2009 and on Appeal, this Court reduced the sentence in Crl.A.No.481 of 2009. The detenu has to serve the jail sentence for one year. The detenu is the husband of the petitioner. The detenu is suffering from serious ailment of liver infection. He was given treatment in Cuddalore Government Hospital, then at Government Royapettah Hospital at Chennai and then in Government Stanley Medical College and Hospital at Chennai. But no proper treatment has been given. When the petitioner visited the detenu in the first respondent prison on 08.06.2017, the detenu was not able to speak properly. She was given to understand that the

detenu is having acute and chronic stomach pain and other problem relating to liver. She sent representation through registered post on 10.06.2017 requesting to give custody of the detenu for the purpose of giving treatment in a proper private hospital. The petitioner is ready to spend money for the treatment of her husband in a private hospital. Unless he is treated in a private hospital, his condition will not improve. She is having two children at tender age and she has come forward with this petition for giving proper treatment in any private hospital with any conditions that may be imposed by this Court.

3. The respondents in their counter averred that in CrI.A.No.481 of 2009, dated 16.09.2016, the sentence for the detenu has been modified to undergo imprisonment for one year under Section 326 IPC; imprisonment for one month under Section 341 IPC and imprisonment for six months under Section 148 IPC and all the sentences are to run concurrently. The convict prisoner No.13804 Rathimaran, S/o.Bhoominathan was admitted in Central Prison, Cuddalore on 26.04.2017 with history of Diabetic Mellitus in irregular treatment, anxious talkative with tremors in hands (Alcoholic withdrawal syndrome). He was sent to Headquarters Hospital, Cuddalore for treatment on 06.05.2017 and he had been as inpatient

there from 08.05.2017. On 19.05.2017 he was referred to Government Stanley Medical College Hospital, Chennai; there he was diagnosed to have Ethanol related De-compensatory Liver Disease / Ascites / Portal Hypertension / Oesophageal Candidiasis. He was discharged on 03.06.2017 with the advise to continue prescribed medicines and to attend Government Headquarters Hospital, Cuddalore, if needed.

4. As per the advise of the Medical Officer, Central Prison, Cuddalore, he was sent to Government Headquarters Hospital, Cuddalore on 12.06.2017 and admitted as inpatient. He was diagnosed as Cirrhosis of Liver with portal Hypertension and discharged on 14.06.2017 with advise to attend Gastro Entrology out patient at Medical College Hospital and to continue the advised drugs. He was admitted in Government Headquarters Hospital, Cuddalore from 14.07.2017 to 17.07.2017 for the opinion of Physician and Medical Gastro Enterologist. After obtaining the opinion, he was referred to Government Stanley Medical College and Hospital to obtain surgical Gastro Enterologist opinion. He was transferred to Central Prison, Puzhal, Chennai on 20.07.2017. Then he was admitted at Government Stanley Medical College and Hospital at Chennai as inpatient on 20.07.2017 and he is continuing treatment

there. The representation given by the petitioner was suitably replied.

5. The detenu Rathimaran has been convicted and sentenced to imprisonment of six months for the offence under Section 148 IPC; imprisonment of one month for the offence under Section 341 IPC and imprisonment of one year for the offence under Section 326 IPC by this Court in CrI.A.No.481 of 2009 dated 16.09.2016. Sentences are to run concurrently. Pursuant to the Judgment in appeal, the detenu was recommitted to the prison on 26.04.2017 to undergo the remaining sentence. There is no dispute that the convict is suffering from Cirrhosis of Liver with portal Hypertension and treatment is also being given in Government Stanley Medical College and Hospital, Chennai as inpatient.

6. The petitioner is anxious to give treatment to her husband in a private hospital at her expenses and save his life. Since the prisoner has been diagnosed to have Ethanol related De-compensatory Liver Disease / Ascites / Portal Hypertension / Oesophageal Candidiasis, he is now treated as inpatient in Government Stanley Medical College and Hospital, Chennai, pursuant to the order of this Court, dated 13.07.2017. However, since the

petitioner wants to give effective treatment in a private Hospital at her expenses, this Court is of the view that the prisoner, Convict No.13804, Rathimaran S/o. Boominathan is to be treated at his choice for his ailment.

7. Having regard to the above submissions and considering the facts and circumstances, we dispose of this Habeas Corpus Petition with the following directions:

"(i) The respondents are directed to take steps to give treatment to the convict No.13804, Mr.Rathimaran in a private hospital chosen by the petitioner and the detenu, within a period of one week from the date of receipt of a copy of this order.

(ii) If the hospital authorities are prepared to admit him as inpatient in the said hospital, he shall be admitted as inpatient in the said hospital for the purpose of treatment for his ailment.

(iii) The hospital authorities will be at liberty to go for any kind of treatment, according to the medical advice;

(iv) It is further directed that so long as Mr.Rathimaran undergoes treatment as inpatient at the said hospital, the Jail Authorities during the said period, shall provide proper escort to the convict in order to ensure

the safety and security of the convict, round the clock. They shall also impose suitable conditions to that effect. The expenses of the escort shall be borne by the petitioner.

(v) The convict should also abide by the conditions to be imposed by the authorities concerned.

(vi) The private hospital authorities, is directed to permit the police escort to be present along with the convict, at the hospital, round the clock."

(vii) After the treatment is over, based on the medical advise, he shall be taken back to Central Prison, Cuddalore and lodged;

(viii) The entire expenditure for the treatment of Mr.Rathimaran in the said hospital shall be borne only by the petitioner.

(ix) The petitioner shall also be permitted to be with the detenu in the hospital to assist him."

सत्यमेव जयते

WEB COPY (A.S., J.) (P.K., J.)
04.08.2017

Index : Yes / No
tsvn

To

1. The Superintendent
Central Jail, Puzhal, Chennai.
2. The Superintendent
Central Jail, Cuddalore.
3. The Public Prosecutor

High Court, Madras.

**A.SELVAM, J.
AND
P.KALAIYARASAN, J.**

tsvn



**Pre-Delivery Order in
H.C.P.No.996 of 2017**

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