



IN THE HIGH COURT OF JUDICATURE AT MADRAS
Dated 18.07.2019

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WEB COPY

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Cr1.OP.No.18577 of 2019

Peter Rajamanickam

..Petitioner/Convict

Vs

1.State rep by
The Inspector of Police,
SPE/CBI/ACB, Chennai - 600 006.

2.The Superintendent of Prisons,
Central Prisons-I,
Chennai - 600 066.

..Respondents/Complainant

Prayer:- This Petition filed under section 482 Cr.P.C., to direct the 2nd respondent herein to classify the petitioner/convict who was convicted and sentenced in CC.No.5 of 2005, dated 20.02.2019, on the file of the learned Principal Special Judge, Special Court for CBI Cases, Chennai and classify the petitioner to "A" class in Central prison-I, Puzhal, Chennai.

For Petitioner : Mr.V.Kannadasan

For R-1 : Mr.K.Srinivasan, SPP (CBI)

For R-2 : Mr.K.Prabaharan, APP

ORDER

The above petition has been filed seeking to direct the 2nd respondent namely the Superintendent of Prisons, Central Prisons-I, Puzhal, Chennai to classify the petitioner/ convict who was convicted and sentenced in C.C.No.5 of 2005 dated 20.02.2019, on the file of the learned Principal Special Judge, Special Court for CBI Cases, Chennai, to "A" Class in Central Prison-I, Puzhal, Chennai.

2 The petitioner along with other accused was convicted and sentenced by the learned Principal Special Judge, Special Court, for CBI Cases, Chennai by order dated 05.12.2008 in C.C.No.5 of 2005. Against the judgment of conviction and sentence, the petitioner has preferred an Appeal before this Court in



Crl.A.No.10 of 2009, and the same was dismissed on 22.09.2017, and against the dismissal of the criminal appeal, the petitioner has preferred the Special Leave Petition in S.L.P.No.8061 of 2018 before the Hon'ble Supreme Court of India, and the same was also dismissed on 5.10.2018. Thereafter, the petitioner voluntarily surrendered before the Trial Court on 11.06.2018, and he was lodged to the Central Prison-I, Puzhal, Chennai on the same day.

3 Thereafter, on 20.02.2019, the petitioner had filed a petition in Crl.M.P.No.8074 of 2018, under Rule 225 and 226 of the Tamil Nadu Prison Rules 1983, seeking for a direction to recommend him to be classified and treated as "A" Class prisoner. The Trial Court by order dated 20.02.2019, in Crl.M.P.No.8074 of 2018, had directed the 2nd respondent / The Superintendent of Prisons, Central Prisons-I, Puzhal, Chennai-66, to forward the representation of the petitioner/convict to the State Government within a period of four weeks from the date of receipt of copy of this order and further directed that, on receipt of the representation of the petitioner/convict, the Government shall consider the same independently as per Rule 227 of the Tamil Nadu Prison Rules 1983, strictly in accordance with law by going in detail with regard to the eligibility of the petitioner/convict for "A" Class facility recommended and pass appropriate orders within a further period of three months thereafter. He would further submit that since the order passed by the Trial Court has not been complied so far, the petitioner has come forward with this petition.

4 The learned counsel for the petitioner would submit that despite the order being passed by the Trial Court on 20.02.2019, and the petitioner being eligible for "A" Class the respondents have not forwarded the recommendation to the Government in order to tentatively treat the petitioner as "A" Class prisoner.

5 The learned Additional Public Prosecutor would submit that despite the order dated 20.02.2019, passed by the Trial Court directing the petitioner to give a representation, the petitioner has not given any representation to the 2nd respondent so far, and in such circumstances the respondents are unable to comply with the order of the Trial Court.

6 At this juncture, the learned counsel for the petitioner would submit that he would immediately advice the petitioner to give a representation. He would further refer to Rule 226 of the Tamil Nadu Prison Rules, 1983, and would pray that in such circumstances a direction may be issued to the respondent, to tentatively treat the petitioner as "A" Class, on receipt of the petition till the orders of the Government confirming the same is passed / received.



7 This Court has carefully considered the rival submissions and also perused the materials available on record.

8 It is opposite to refer to Rule 226(1) of the Tamil Nadu Prison Rules, 1983 which is extracted hereunder:

226. Classification by Courts. (1) The High Court, Sessions Judges, Additional Sessions Judges, Assistant Sessions Judges, Chief Judicial Magistrates, Chief Metropolitan Magistrates, Metropolitan Magistrates, Sub-Divisional Judicial Magistrates, Judicial First-Class Magistrates (the last two through the Chief Judicial Magistrate) in cases tried by them originally, or in any other case, the District Magistrate, shall make the initial recommendation for classification of prisoners in Class "A" to the Government by whom these recommendations shall be confirmed or reviewed.

Prisoners recommended by Courts for classification in Class "A" shall be tentatively treated as belonging to the class recommended till the orders of Government confirming or reviewing the recommendations are received.

9 As per Rule 226(1) of the Tamil Nadu Prison Rules, 1983, a person recommended by Court for classification in class "A", shall be tentatively treated as belonging to the class recommended till the orders of the Government confirming or reviewing the recommendations are received. However, in this case, it is submitted by the learned Additional Public Prosecutor that so far the petitioner has not given any representation to the prison authorities seeking to treat him as Class "A" prisoner.

10 In view of the same, the petitioner is directed to give a fresh application seeking to treat him as "A" Class Prisoner along with the order passed by the Trial Court and relevant supporting documents. On such application being filed and till such time the application is considered on merits in accordance with law, by the Government, the petitioner shall be tentatively treated as the petitioner belonging to Class "A" in view of Rule 226(1) of the Tamil Nadu Prison Rules, 1983.

11 With this direction, the above petition stands closed.

Sd/-

Joint Registrar(J)

//True Copy//

Sub Assistant Registrar

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To

1.The Inspector of Police,
SPE/CBI/ACB, Chennai - 600 006.

2.The Superintendent of Prisons,
Central Prisons-I, Chennai - 600 066.

3.The Public Prosecutor,
High Court, Chennai.

+1cc to Mr.V.Kannadasan, Advocate, S.R.No.62245

Cr1.OP.No.18577 of 2019

CA(CO)

RRS (20/08/2019)