

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Fifth day of December Two Thousand Nineteen

PRESENT

The Hon`ble Mr Justice R.SUBBIAH

and

The Hon`ble Mr Justice G.K. ILANTHIRAIYAN

CRIMINAL MISCELLANEOUS PETITION No.10815 of 2019

IN CRL.A.ANO.673 OF 2018

THIAGARAJAN

[PETITIONER]

Vs

[RESPONDENT]

1 STATE BY
THE INSPECTOR OF POLICE,
K-1, SEMBIUM POLICE STATION,
CHENNAI.
CR.NO.127 OF 2010.

2 INSPECTOR GENERAL OF PRISONS
EGMORE, CHENNAI-600 008.

3 SUPERINTENDENT OF PRISONS
CENTRAL PRISON VELLORE,
VELLORE.

4 SUPERINTENDENT OF PRISONS
CENTRAL PRISON PUZHAI,
CHENNAI-600 066.

Petition praying that in the circumstances stated therein the High Court will be pleased to direct the respondent to transfer the petitioner namely Thiagarajan (Convict No.5315) from Central prison, Vellore to Central Prison, Puzhal, Chennai pending the above appeal No.673/2018.

Order : This petition coming on for orders upon perusing the petition and upon hearing the arguments of M/S.V.T.BALAJI Advocate for the petitioner and of MRS.M.PRABHAVATHI ADDL.PUBLIC PROSECUTOR on behalf of the Respondent the court made the following order:-

[Order of the Court was made by **R.SUBBIAH, J**]

The present petition has been filed seeking a direction to the respondents to transfer the petitioner viz., Thiagarajan (Convict No.5315) from Central Prison, Vellore to Central Prison, Puzhal, Chennai, pending the above Criminal Appeal.

<https://hcservices.ecourts.gov.in/hcservices/>

2. Learned counsel for petitioner submits that the petitioner/appellant is a life convict, convicted for offence u/s.302 IPC in S.C.No.557 of 2010 on the file of learned VII Additional Sessions Judge, Chennai, under judgment dated 04.10.2013. Initially, petitioner was confined at Central Prison, Puzhal, Chennai, and thereafter, transferred to Central Prison, Vellore. Since the jail authorities have tried to register a false case against the petitioner, he sent a legal notice dated 16.08.2018 to the Inspector of Puzhal Police Station not to foist a false case against him. Immediately, on the next day, the petitioner was transferred to Central Prison, Vellore. Petitioner's family and his relatives are resident of Chennai and they find it very difficult to meet the petitioner and hence, the present petition has been filed seeking the aforesaid relief.

3. Relying on the detailed counter filed by fourth respondent, learned Additional Public Prosecutor, submits that the petitioner has involved in prison offences while he was in Central Prison, Puzhal, Chennai, and hence, he was transferred from Central Prison, Puzhal to Central Prison, Vellore. The details of offences committed by petitioner are narrated in the counter, which read thus:

Sl. No.	Date	Prison Offence Committed	Action taken/prison punishment awarded
1.	19.10.2015	Found in possession of 1 No. Nokia Mobile Phone, 1 No. Airtel SIM Card and 1 No. Battery, which are contraband inside prison and the same were seized from the detenu	(i) Case registered against the detenu in Puzhal Police Station. (ii) Prison privileges were suspended for 3 months for the detenu.
2.	09.12.2015	1 No. Nokia Mobile Phone along with 1 No. IDEA Card was seized from the detenu, which are contraband inside prison	(i) Case registered against the detenu in Puzhal Police Station. (ii) Prison privileges were suspended for 3 months for the detenu.
3.	30.08.2016	Was suspiciously moving at the back of the block and when the para warder tried to stop the detenu to search him, the detenu pretended to not to heard the warder, and went away. The detenu used to move around the blcok premises in a dominating manner like a Dada	The detenu apologised. Severely warned

Sl. No.	Date	Prison Offence Committed	Action taken/prison punishment awarded
4.	28.12.2017	When the then Jailor was on rounds at 3.30 AM, the detenu was found to be awake and talking suspiciously. A search was carried out and the detenu was found in possession of (i) 1 No. Nokia Model Cell phone; (ii) 1 No. Vodafone SIM Card, (iii) 1 No. IDEA SIM Card, and (iv) 1 No. Battery, which are contrabands inside prison.	(i) Case registered against the detenu in Puzhal Police Station, and (ii) Prison privileges were suspended for the detenu for one month.
5.	04.08.2018	The detenu induced and gathered other prisoners and formed a gang inside prison created unrest in prison by raising slogan against prison administration for asking him to go to work allotted to him. The detenu created a commotion and stopped other prisoners also from going to workshop.	Proposal submitted to Additional Director General of Police/Inspector General of Prisons to transfer the prisoner for the bad influence he has on other prisoners here.
6.	11.08.2018	CT No.5960 - Suresh S/o.Jayaraman was found hiding LAVA Mobile phone, 2 SIM Cards and 1 Battery. Upon enquiry, it was found that the above said prisoner Suresh had borrowed it from the petitioner/detenu herein CT No.5315 Thiagarajan S/o.Palani	Case registered against the prisoners and they were shifted to different Blocks.

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Sl. No.	Date	Prison Offence Committed	Action taken/prison punishment awarded
7.	28.08.2018	When the Central Parliamentary Committee was visiting the prison premises, the detenu induced and gathered other prisoners and formed a gang unlawfully and raised slogan against the prison administration and created a commotion for asking them to go to work. The detenu also stopped other prisoners also from going to workshop.	Proposal submitted to Additional Director General of Police/Inspector General of Prisons to transfer the prisoner from Central Prison - 1 (Puzhal) and there is threat that the prisoner might influence other prisoners to get undisciplined.

4. Learned Additional Public Prosecutor further submits that despite several warnings and counselling, petitioner has not rectified his mistake. Hence, in order to prevent the petitioner from being a bad influence to other prisoners, he was transferred to Central Prison, Vellore, as per the order of Additional Director General of Police/Inspector General of Prisons, vide Order No.32117/PW2/2018 dated 05.09.2018. Submitting as above, learned Additional Public Prosecutor strongly opposes this petition.

5. This Court has considered the rival submissions and perused the materials on record.

6. We are of the view that the power to transfer a prisoner from one prison to another is within the domain of jail authorities. Except in case of extraordinary situation, this Court cannot mechanically direct transfer of a prisoner from one prison to another. Absolutely, we do not find any such extraordinary situation in the present case.

Accordingly, the Criminal Miscellaneous Petition is dismissed. Post the main Criminal Appeal No.673 of 2018 in the third week of January'2020.

-sd/-
05/12/2019

This order, on being produced, be punctually observed and carried into execution by all concerned

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Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE INSPECTOR OF POLICE,
K-1, SEMBIUM POLICE STATION,
CHENNAI.

2 INSPECTOR GENERAL OF PRISONS
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3 SUPERINTENDENT OF PRISONS
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CENTRAL PRISON PUZHAL, CHENNAI-600 066.

5 THE PUBLIC PROSECUTOR
HIGH COURT,MADRAS

+1 C.C. to M/S.V.T.BALAJI Advocate on payment of necessary
charges SR.NO. 25077

Order

in
CRL MP.10815/2019

IN CRL.A.ANO.673 OF 2018

Date :05/12/2019

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