

THE HONOURABLE SRI JUSTICE P. KESHA RAO

WRIT PETITION No.6127 of 2013

ORDER:

There is no representation on behalf of the petitioner.

2. The prayer sought in the writ petition is as under:-

“...to issue any writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the 3rd respondent subjecting petitioner’s husband to solitary confinement who is under trial prisoner in respect of Cr.No.28/2013 on the file of P.S.Asifnagar is arbitrary, illegal and contrary to Articles 14 and 21 of the Constitution of India and consequently direct the 3rd respondent to remove the petitioner’s husband Mohammed Yousuf @ Kulchan Yousuf from solitary confinement and put the petitioner’s husband in the ordinary under trial prisoners barrack and pass such other order orders as this Hon’ble Court may deem fit and proper in the circumstances of the case.”

3. The respondents filed a counter-affidavit. From a perusal of the counter-affidavit it is revealed that the husband of the petitioner is an Under-Trial Prisoner (UTP) No.2317 in Crime No.28 of 2013 of Asif Nagar Police Station for the offence under Section 25(1)(b) of the Arms Act on the file of the learned VI Additional Chief Metropolitan Magistrate, Hyderabad. The husband of the petitioner is a repeated offender and has been admitting into the prison very often for several years. The husband of the petitioner was released from the prison on 30.11.2012 and again re-admitted into the prison on 19.02.2013. As

per Chapter XXXIX of the Andhra Pradesh Prison Rules, 1979 (for short, 'the Rules'), on treatment of under-trial prisoners, it is clearly specified on classification and segregation of under-trial prisoners vide Rule 739. The said Rule 739 of the Rules is as follows:

As far as possible, undertrial prisoners shall be confined each in a cell. The undertrial yard, shall also be divided, if possible, into separate divisions, so that prisoners who have been in prison before, shall be separated from those committed for the first time, adolescents from adults offenders, and special class from the ordinary class."

The husband of the petitioner being an old prisoner, who is committed to the prison on several times, shall be separated from the first time offenders or ordinary prisoners. Accordingly, the husband of the petitioner is confined in separate enclosure along with other high security prisoners where special attention and surveillance of guarding staff is there. It is specifically denied that the husband of the petitioner was in solitary confinement. According to the Rules, the husband of the petitioner is confined in a enclosure where all the prisoners are allowed daily routine including facilities of availing interviews with their relatives and friends, etc. In fact, the under-trial prisoner-Mohd. Yousuf has availed four number of interviews with his family members from 19.02.2013 onwards and there are no complaints of ill-health so far and his health condition is stable. As per the present Rules and the standing instructions, the prisoners admitted into prison shall be segregated into different categories

basing on the nature of crime/age/behaviour, etc., and shall be confined in different enclosures. The petitioner is asking the prison authorities to confine her husband in the ordinary under-trial prisoner's barrack, which is against the Rule 739 of the Rules. Therefore, the writ petition as filed is not maintainable.

4. Though a detailed counter-affidavit is filed, the petitioner has not filed any reply to rebut the averments made in the counter-affidavit. In that view of the matter, this Court is of the opinion that there are no merits in the writ petition and the same is liable to be dismissed.

5. Accordingly, the writ petition is dismissed.

As a sequel, miscellaneous petitions pending, if any, shall stand dismissed. No costs.

26th September 2019

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P. KESHAVA RAO, J