



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT  
RESERVED ON : 10.09.2020  
DELIVERED ON : 09.11.2020  
CORAM:  
THE HONOURABLE MR.JUSTICE RMT. TEEKAA RAMAN

WEB COPY

WP(MD).No.9656 of 2015

A. Kumaresan ... Petitioner  
Vs.

1. The State of Tamil Nadu  
rep. by the Principal Secretary,  
Home (Prison - 1) Department,  
Fort St. George, Chennai - 09.

2.The Additional Director General of Police &  
Inspector General of Prisons,  
CMDA Tower No.I, Gandhi Irwin Road,  
Egmore, Chennai- 8.

3.The Deputy Inspector General of Prisons,  
Madurai Range,  
Madurai - 16.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ Certiorari calling for the records pertaining to the impugned order of minor punishment in No.11635/C.S.1/2011, dated 17.11.2011 on the file of the second respondent and the impugned order in G.O.Ms(2D).No.22, Home (Prison -1) Department, dated 23.01.2015 on the file of the first respondent and quash the same.

For petitioner : Mr. T. Lajapathi Roy  
For Respondents : Mr. M. Muniyasamy  
Additional Government Pleader

**ORDER**

This Writ Petition has been filed to quash the impugned order of minor punishment in No.11635/C.S.1/2011, dated 17.11.2011 on the file of the second respondent and the impugned order in G.O.Ms(2D). No.22, Home (Prison -1) Department, dated 23.01.2015 on the file of the first respondent.

2. The petitioner, the then Additional Superintendent of Prisons challenging the quantum of punishment awarded by the third respondent confirmed by the respondents 2 and 3..



3. Brief facts :-

3(a) Remand Prisoner No.6544, Arunkumar, S/o,. Palani and remand Prisoner No.6545, Baskaran, S/o. Pallakku, who are concerned in Avaniyapuram Police Station Crime No. 134/2010 and 270/2010 for the offence under Section 379 IPC were ordered to be remanded by the Judicial Magistrate No.VI, Madurai and they admitted in Central Prison, Madurai, on 13.10.2010. Later P.T. Warrants were issued to these prisoners by the Judicial Magistrate, Thirumangalam in connection with Thirumangalam Police Station Crime No.281 of 2010 under Section 380 of IPC and another PT warrant was also issued against them by Bangaluru, Magistrate Court in connection with Bogalur Police Station Crime No. 106 of 2009 under Section 395 IPC.

3(b). In the meantime, bail orders were received from the Judicial Magistrate Court, Thirumangalam, on 15.07.2010 in respect of case registered by Thirumangalam Police Station in Crime No. 281 of 2010 u/s. 380 IPC and from the Judicial Magistrate No.VI, Madurai on 16.07.2010 evening at 4.25 p.m., in respect of the case in Crime Nos. 134 of 2010 and 270 of 2010 u/s. 379 of IPC concerned in Avaniyapuram Police Station. However, the petitioner released the said prisoners only on 17.07.2010. Hence, disciplinary proceedings have been initiated against him under Rule 17(a) of Tamil Nadu Civil Services (Discipline and Appeal) Rules vide Charge Memo No.511/CA/2010, dated 17.10.2010 by the third respondent.

4. For the said charges, the petitioner has offered his explanation, dated 23.02.2011, stating that bail order copy for remand prisoner Arunkumar and Baskaran were received in Central Prison, Madurai at 19.05 hours on 15.07.2010 and 15.25 hours on 16.07.2010 respectively. P.T. Warrants of Karnataka State, Bogalur Police Station was pending against these two prisoners. When these prisoners were to be produced before the Additional Chief Judicial Magistrate, Bangaluru on 28.06.2010, the Police escort could not be obtained due to the classical Tamil Conference, which was conducted from 23.06.2010 to 27.06.2010 in Coimbatore. This was informed to the concerned Court and the Police Station and requested for the next date of hearing. But, intimation regarding the next hearing date was not received. Since the rules of Karnataka State for release of prisoners, when P.T. Warrant was pending and bail bonds received for original case, was not known, the fact was informed to the Additional Chief Judicial Magistrate, Bangaluru, and the concerned Police station on 16.07.2010. Again, police escort was called for, on 17.07.2010 at 7.00 hours from the Bogalur Police Station, Karnataka for the production of the above said prisoners for the pending PT warrants. But, escort was not received on 17.07.2010. Hence, the above said two remand prisoners were released on own surety bond on 17.07.2020 and the fact was informed to the concerned Court and Police Station and the petitioner prayed for closing departmental enquiry as there is lapse in duty on his part.

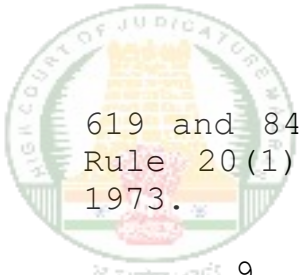


5. The learned counsel appearing for the petitioner would contend that both the disciplinary authority and the Appellate Authority have failed to consider the fact that though the bail order was received on 15.07.2010, however, bail bond was received only on 16.07.2010 and the Prisoners were released on 17.07.2010. He further submitted that there is no lapse on the part of the petitioner and hence, it cannot not be shifted to the shoulders of the petitioner. Furthermore, some of his junior has subsequently promoted, while this petitioner was forced to retire as a Superintendent of Police and hence, he submitted that though the punishment is minor in nature he was successfully prevented from becoming Deputy Superintendent of Police on the date of the retirement and hence, he challenged the impugned order on the ground of personal bias as well as he is not responsible for the lapse alleged.

6. Mr. M. Muniassamy, learned Additional Government Pleader appearing for the respondents would submit that as per Section 296 (C) of the Code of Criminal Procedure, mandates that immediate release of custody within one day. That in the instant case, the petitioner has chosen to release the custody of the prisoners only one day after and hence, referred Section 296(C) of the Code of Criminal Procedure and Rule 30 (5) of the Tamil Nadu Prison Rules, 1983.

7. It is to be stated that Rule 30(5) of the Tamil Nadu Prison Rules, 1983, one of the duties assigned to the Additional Superintendent of Prisons is attending to release of prisoners on bail, appeal, fine payment etc., As per Rule 126 of the Tamil Nadu Prison Rules, 1983, every subordinate officer shall make himself acquainted with the rules, regulations and other executive instructions issued by superior officers relating to his office and no plea of ignorance shall be accepted as an excuse for neglect or omission the rules prescribed by Government regulating the conduct of public officers are applicable to all subordinate officers. As per Rule 619 of the Tamil Nadu Prison Rules, 1983, if an order for the release of a prisoner otherwise than on medical grounds is received before 5.00 pm., or on any of the prison holidays referred to in Rule 441, it shall be acted upon forthwith. If such an order is received after 5.00 p.m., on any any day, whether it is a prison holiday or not, it shall be acted upon on that day itself if possible and in any event on the morning of the next day. As per Rule 843 of the Tamil Nadu Prison Rules, 1983 on receipt of a warrant of a Court directing the release on bail of an under trial or remand prisoner, he shall be at once released and his property shall be made over to him.

8. In the counter statement, the specific stand of the respondents is that the petitioner has violated Rules 30(5), 126,



619 and 843 of the Tamil Nadu Prison Rules, 1983 and violated the Rule 20(1) of the Tamil Nadu Government Servant's Conduct Rules, 1973.

9. The learned Additional Government Pleader further contended that if the bail bond should have been executed on the same day viz., on 16.07.2010 itself, then, the Prisoners should have been released on their own bond. The petitioner did not do release them on 16.07.2010 and released the prisoners only on 17.07.2010. After verification of the explanation offered by the petitioner and also taking note of the fact that the bail order copy was passed by the concerned Criminal Court and received by the Prison incharge on 16.07.2010. However, the bail bond was not received and the bail bond was received only on 16.07.2010 and the prisoners were released on 17.07.2010. The explanation offered by the petitioner that bail bond was not received on the said date is found to be factually correct and hence, it appears that the above factual position has not been considered by the authorities below.

10. Admittedly, there was a PT warrant is pending against the accused. He has taken steps to intimate the said police station regarding the grant of bail in the other case pending against the very same accused. Insofar this case is concerned, as the bail bond was received on 16.07.2010 and on the next day he was released on bail and hence, I find that both the authorities have not properly looked into the relevant records and arrived at the conclusion.

11. Hence, this Court is of the considered view that time of release of the prisoners viz., one day from the receipt of the bail bond and not from the order alone and in the circumstances of the case, bail bond was admittedly received only on 16.07.2010 and the prisoners were released on 17.07.2010 and hence, on the factual position, I find that the reasoning rendered by the respondents are not proper and the punishment inflicted already is set aside and the Writ Petition is allowed in toto. No costs.

Sd/-

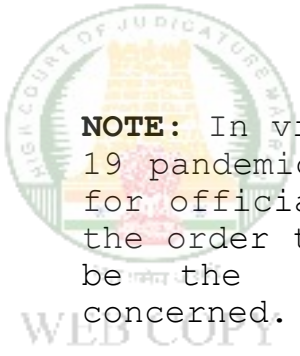
Assistant Registrar (CS II)

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Sub Assistant Registrar(CS)

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**NOTE:** In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Principal Secretary,  
Home (Prison - 1) Department,  
Fort St. George,  
Chennai - 09.

2.The Additional Director General of Police &  
Inspector General of Prisons,  
CMDA Tower No.I, Gandhi Irwin Road,  
Egmore, Chennai- 8.

3.The Deputy Inspector General of Prisons,  
Madurai Range,  
Madurai - 16.

+1 CC to M/s.GP ( SR-21725[F] dated 10/11/2020 )

+1 CC to M/s.T. LAJAPATHI ROY, Advocate ( SR-21960[F] dated 11/11/2020 )

WP(MD).No.9656 of 2015  
09.11.2020

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