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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.02.2022

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.21872 of 2021

M.Mohamed Riyaz

...Petitioner

Versus

1. The Deputy Director,
The Directorate of Enforcement,
Shastri Bhavan, Haddows road,
Chennai - 600 006.

2. The Superintendent of Prison,
Central Prison at Puzhal - II,
Thiruvallur - 600 066.

...Respondents

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, 1973 to set aside the impugned order in Crl.M.P.No.577 of 2021 dated 01.04.2021 passed by the learned XII-Additional Special Court of Central bureau of investigation and direct the 2nd respondent to provide "special class"category to the petitioner namely Mr.M.Mohamed Riyaz S/o. Mohamed Hanifa under rule 815 of Tamil Nadu Prison rules 1983 immediately.

For Petitioner : Mr.M.Mohamed Saifulla

For Respondents: Mr.Kalicharan for
Mr.Rajnish Pathiyal
Special Public Prosecutor for R1.
Mr.E.Raj Thilak,
Additional Public Prosecutor
For R2.

O R D E R

This Criminal Original Petition has been filed to set aside the impugned order in Crl.M.P.No.577 of 2021 dated 01.04.2021 passed by the learned XII-Additional Special Court of Central bureau of investigation and direct the 2nd respondent to provide "special class"category to the petitioner namely Mr.M.Mohamed Riyaz S/o. Mohamed Hanifa under rule 815 of Tamil Nadu Prison rules 1983 immediately.



2.The petitioner/accused in C.C.No.26 of 2019 was arrested and remanded for the offence under Sections 3 and 4 of Prevention of Money Laundering Act 2002.

3.The learned counsel for the petitioner submitted that the petitioner had filed a petition in CrI.M.P.No.577 of 2021 under Section 815 of Tamil Nadu Prison Rules 1983 seeking for special class category. Along with this petition, the petitioner had filed his Master degree certificate issued by the Madras University, the traces showing the income tax deductions and income tax returns. Earlier his wife Rizwana Salima Banu had given the representation to the Superintendent of Prison, Central Prison II, Chennai seeking special class facility for her husband. The Superintendent of Prison vide his communication dated 09.09.2021 letter No.9291/Tha.Ku.1/2021 had replied stating that her husband Mohamed Riyaz S/o Mohamed Hanifa with Under Trial Prisoner No.48078 to approach the concerned Court. Thereafter only the above petition was filed. He further submitted that before the lower Court all the relevant documents have been filed. The lower Court as per Section 815 of Tamilnadu Prison Rules 1983 has to look into the facts that whether under Trial prisoner is eligible for special status for which educational qualification, habit of living and income to be considered and nothing more. If these conditions are satisfied, the Court to make initial recommendation for classification under Special class. In this case, the lower Court had gone beyond the scope of Section 815 and gone into the merits of the case and held the petitioner had not produced any materials to show that he is accustomed to superior mode of living and petition was dismissed.

4.The learned Additional Public Prosecutor filed the counter stating that the petitioner was remanded and admitted in prison on 05.07.2019. Earlier his wife had approached the prison and she was directed to approach the concerned Court, hence she had approached the Court and the Court had rejected the same.

5.Considering the submissions and on perusal of the materials, it reminding the concerned Court, while deciding the classification petition under Rule 815 of Tamil Nadu Prison Rules the Court to see, whether the remand accused had educational qualification which gives status and habit of living by looking at his income and economic status. Hence normally, it is the degree certificate and or income tax returns which are the documents normally verified, to confirm the superior mode of living and thereafter special class classification is granted. The merits of the case not be looked into while deciding the petition under Section 815 of Tamil Nadu Prison Rules 1983.

6.The learned counsel for the 1st respondent/the Deputy



Director, the Directorate of Enforcement submits that accused had committed serious offence and objected for granting special class.

7.This Court finds that the reason given by lower Court while rejecting the petition under Section 815 of Tamil Nadu Prison Rules 1983, is not proper. Petitioner a Post Graduate, earning sufficient income, Income Tax records confirms thereafter nothing more needed. Merits of the case not to be a reason while considering the Special Class facility petition. In view of the same, this Court set aside the Order passed by the XII Additional Special Court Central Bureau of Investigation and direct the Superintendent of Prison to provide special class facility to the petitioner.

8.With the above directions, this Criminal Original Petition is disposed of.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

dpq/mdl

To

1. The XII Additional Special Court of
Central Bureau of Investigation,
Chennai - 104.
2. The Deputy Director,
The Directorate of Enforcement,
Shastri Bhavan, Haddows road,
Chennai - 600 006.
3. The Superintendent of Prison,
Central Prison at Puzhal - II,
Thiruvallur - 600 066.
4. The Public Prosecutor,
High Court, Madras.

CRL.O.P.No.21872 of 2021

NK(CO)
RGA(25/02/2022) (28/02/2022)