



WEB COPY



W.P.No.1608 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.02.2023

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR

and

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

W.P.No.1608 of 2023

M.Aysha Parveen
W/o.Mohamed Zahir

.. Petitioner

Vs.

1. The State rep. by its
Director General of Prisons
No.2, Gandhi Irwin Road, CMDA Building
Egmore, Chennai-600 008.
2. The Superintendent of Prison
Central Prison at Vellore.
3. The Superintendent of Prison
Central Prison at Puzhal-I.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India
praying for issuance of a writ of Mandamus to direct the 1st respondent to
transfer to the husband of the petitioner / convict prisoner namely,
Mohamed Zahir, S/o.Muthu Mohamed (C.T.No.3395) from Central Prison,

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Vellore to Central Prison at Puzhal-I temporarily for the purpose of enable him to interview with family members in pursuance of the petitioner's representation dated 09.03.2021.

For Petitioner : Mr.M.Mohamed Saifulla
For Respondents : Mr.R.Muniyapparaj
Additional Public Prosecutor

ORDER

[Order of the Court was made by M.SUNDAR, J.,]

This order will now dispose of the captioned Writ Petition.

2. This order has to be read in conjunction with and in continuation of earlier proceedings made by us on 24.01.2023 which reads as follows:

'Captioned writ petition has been filed seeking mandamus for transfer of convict prisoner Mr.Mohamed Zahir, Son of Mr.Muthu Mohamed from Central Prison, Vellore to Puzhal-I prison temporarily.

2. The prisoner's spouse is the writ petitioner.

3. Mr.M.Mohamed Saifulla, learned counsel on record for writ petitioner submits that the convict has been in prison for more than seven years. Adverting to two representations, one dated 09.03.2022 and another dated 13.05.2022, learned counsel articulated, highlighted the circumstances which are hampering the visiting rights of the family and submitted that transfer plea is



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predicated on this ground. Learned counsel also points out that the convict prisoner was originally lodged in Puzhal-I prison but was transferred on alleged prison offence but the same ended in acquittal.

4. Mr.R.Muniyapparaj, learned Additional Public Prosecutor; accepts notice on behalf of all three respondents, requests for a short accommodation to get instructions and revert to this Court.

5. List on 27.01.2023.'

3. Today, Mr.M.Mohamed Saifulla, learned counsel on record for petitioner and Mr.R.Muniyapparaj, learned Additional Public Prosecutor for all the three respondents are before us.

4. We are informed by both sides that 09.03.2022 representation seeking transfer of a convict prisoner from Central Prison, Vellore to Central Prison, Puzhal, where he was originally lodged has since been disposed of in and by proceedings made by first respondent vide order dated 25.01.2023 bearing reference No.3224/P.W.2/2023 and sent to learned Public Prosecutor by the second respondent under cover of a letter even dated 25.01.2023 bearing reference No.3395/R1/2023.



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5. Learned counsel for petitioner points out that the representation is dated 09.03.2022 (wrongly mentioned as 09.03.2021 in the prayer in the petition), captioned Writ Petition was filed in this Court on 10.01.2023 and the aforementioned 25.01.2023 order negating the request of the petitioner has been made pending writ petition.

6. Be that as it may, as the petitioner's representation has been disposed of and as the captioned writ petition is for mandamus, we deem it appropriate to dispose of the captioned Writ Petition recording the stated position but preserving all the rights and contentions of the petitioner to assail the aforementioned order 25.01.2023 bearing reference No.3224/P.W.2/2023 made by first respondent negating the petitioner's request for transfer from Central Prison, Vellore to Central Prison, Puzhal in the manner known to law. There shall be no order as to costs.

(M.S.,J.)

(M.N.K.,J.)

22.02.2023

Index : Yes

Speaking

Neutral Citation : Yes

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High Court, Madras.



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M.SUNDAR, J.,
and
M.NIRMAL KUMAR, J.,

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