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W.P.No.1757 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.02.2023

Coram

The Hon'ble Mr. Justice **M.SUNDAR**
and

The Hon'ble Mr. Justice **M.NIRMAL KUMAR**

W.P.No.1757 of 2023

&

W.M.P.No.1872 of 2023

Mrs.Evelyn Genela
W/o. Selvam

... Petitioner

-VS-

1. The State rep. by its
The Director General of Prisons
No.02, Whannels Road, Egmore
Chennai – 600 008

2. The Superintendent of Prison
Central Prison at Trichy

3. The Superintendent of Prison
Central Prison at Puzhal-I
Thiruvallur – 600 066

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, to
issue a Writ of Certiorarified Mandamus to call for the records pertaining to



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M.M.No.6066/CN.2/2022 dated 20.07.2022 passed by the 1st respondent and quash the same and consequently direct the husband of the petitioner/convict prisoner namely C.Selvam, son of Chinnadurai from 2nd respondent to 3rd respondent.

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

ORDER

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

The petitioner, wife of convict prisoner, namely C.Selvam has filed this writ petition challenging the rejection of request for permanent transfer of C.Selvam, son of Mr.Chinnadurai (Convict No.23170) from Central Prizon Trichy to Central Prison I, Puzhal. The said request has been rejected by proceedings dated 20.07.2022 bearing reference மு.மு.எண்.6066/சிற.2/2022 and challenging the said proceedings the petitioner has filed this writ petition.

2. The contention of the petitioner is that the petitioner earlier was awarded punishment of hanging in S.C.No.392 of 1997 by the Principal



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District and Sessions Judge, Tirunelveli against which the petitioner preferred an appeal before this Court in Crl.A.No.1010 of 1998 and this Court confirmed the sentence against which the petitioner had filed an appeal before Apex Court in Crl.A.No.1999 of 1999 and in the meanwhile, the petitioner sent a mercy petition to the Governor but the same was rejected. Thereafter, the petitioner sent a mercy petition to President of India which was considered and his sentence of hanging was modified to life imprisonment but with a condition that the convict shall remain in prison for the whole of the remainder of his natural life and there shall be no remission of the term of imprisonment. This order was passed on 25.06.2012. The convict prisoner (petitioner's husband) was initially lodged in Central Prison, Palayankottai and thereafter he had been transferred to various central prisons in Cuddalore, Vellore, Madurai, Salem, Coimbatore and lastly to Trichy. The petitioner's husband had some grievance with the Central Prison authorities, Salem while he was confined there for which he had been brutally attacked. Thereafter, the petitioner had filed a complaint before the Human Rights Commission. Thus, the petitioner's husband had gained wrath of the prison authorities and some of the inmates in the prison



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were inimical towards him. It is averred that petitioner's husband was always living with fear. Thereafter, the convict prisoner had some dental problem for which he was shifted to Central Prison, Puzhal for treatment. When the petitioner's mother-in-law visited her son (convict prisoner) , he informed her that he is feeling safe in Central Prison, Puzhal where he was given medical treatment and it would be better that if he is retained in Central Prison, Puzhal. The petitioner's mother-in-law had sent a representation dated 15.02.2022. Since no action was taken, she filed W.P.No.16206 of 2022 before this Court and this Court on 24.08.2022 had disposed of the writ petition recording that the representation dated 15.02.2022 had been rejected by order dated 20.07.2022 and the same has been communicated. This rejection order is under challenge in the present writ petition.

3. Mr.R.Muniyapparaj, learned Additional Public Prosecutor filed his counter and submitted that petitioner's husband is a troublemaker who ganged up the inmates of the prison into groups and there was always commotion on competitive situation. Besides several warnings, he continues to indulge in such activities and for said reason, he was transferred from one



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prison to other. Learned Additional Public Prosecutor further submitted that the petitioner and her mother-in-law have been sending representations taking turns and also filing cases with design. He further submitted that after rejection of the representation dated 15.02.2022, the petitioner's mother-in-law had sent another representation dated 07.12.2022 which is under consideration.

4. Be that as it may, from the submissions it is seen that the petitioner's husband seems to be a person who has been detained in almost all the central prison in the State and he had been constantly transferred depending upon the situation considering the safety and discipline. For better appreciation, it would be appropriate to extract paragraphs 6 to 8 of the counter affidavit, which read as follows:

'6) Further it is submitted that the petitioner's husband Selvam, S/o.Chinnadurai Life Convict Prisoner No.23170 requested of permanent transfer to Central Prison-I, Puzhal was rejected by the Director General of Police/ Director General of Prisons and Correctional Service, Chennai 1st respondent Memo No.6066/PW.2/2022 dated 20.07.2022 due to security problem in prison and administrative purpose.

7) I further submitted that the averments contained in Para 4 and 5 of the affidavit, it is submitted that the above said Life Convict



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Prisoner No.23170 Selvam, S/o.Chinnndurai was effected transfer to the prisons noted below on various occasions on administrative grounds as per orders of the 1st respondent Director General of Police/Director General of Prisons and Correctional Service, Chennai as follows:

Additional Director General Police and Inspector General of Prisons / Court, Order Details	Transferred Prisons Details		
	From	Date of Transfer	To
Government Order No.646, Home Department dated 30.04.2003 and Additional Director General Police and Inspector General of Prisons Memo No.24078/PW.2/2003, Dated 07.08.2003	Central Prison, Palayankotta	09.08.2003	Central Prison, Cuddalore
Government Order No.510, Home Department dated 24.05.2006 and Additional Director General Police and Inspector General of Prisons Memo No. 20248/PW.2/2006, Dated 24.05.2006	Central Prison, Cuddalore	25.05.2006	Central Prison, Vellore
Government Order No.344, Home Department dated 26.03.2006 and Additional Director General Police and Inspector General of Prisons Memo No. 52718/PW.2/2007,	Central Prison, Vellore	29.03.2008	Central Prison, Madurai



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<i>Dated 28.3.2008</i>			
<i>Additional Director General of Prisons, Order No.52718/PW.2/2008, Dated:01.05.2008</i>	<i>Central Prison, Madurai</i>	<i>01.05.2008</i>	<i>Central Prison, Trichy</i>
<i>Additional Director General of Prisons Order No.34093/CS.3/2012-2, Dated 10.10.2012</i>	<i>Central Prison, Trichy</i>	<i>14.10.2012</i>	<i>Central Prison-1, Puzhal</i>
<i>Additional Director General of Prisons Order No.12879/PW.2/2013, Dated 06.08.2013</i>	<i>Central Prison-1, Puzhal</i>	<i>09.08.2013</i>	<i>Central Prison, Vellore</i>
<i>Additional Director General of Prisons Order No.34068/PW.2/2016, Dated 16.09.2016</i>	<i>Central Prison, Vellore</i>	<i>17.09.2016</i>	<i>Central Prison, Salem</i>
<i>Additional Director General of Prisons Order No.5511/PW.2/2018, Dated 13.04.2018</i>	<i>Central Prison, Salem</i>	<i>15.04.2018</i>	<i>Special, Sub Jail, Poonamalle</i>
<i>Additional Director General of Prisons Order No.5511/PW.2/2018, Dated 13.04.2018</i>	<i>Special Sub Jail, Poonamalle</i>	<i>21.10.2018</i>	<i>Central Prison, Salem</i>
<i>Additional Director General of Prisons Order No.41164/PW.2/2018, Dated 20.11.2018</i>	<i>Central Prison, Salem</i>	<i>21.11.2018</i>	<i>Central Prison, Cuddalore</i>
<i>Additional Director General of Prisons</i>	<i>Central Prison,</i>	<i>31.08.2019</i>	<i>Central Prison, Trichy</i>



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<i>Order No.31749/PW.2/2019, Dated 30.08.2019</i>	<i>Cuddalore</i>		
<i>Additional Director General of Prisons Order No.38481/PW.2/2019, Dated 04.11.2019</i>	<i>Central Prison, Trichy</i>	<i>06.11.2019</i>	<i>Central Prison, Coimbatore</i>
<i>Additional Director General of Prisons Order No.33661/PW.2/2020, Dated 28.07.2021</i>	<i>Central Prison, Coimbatore</i>	<i>29.07.2021</i>	<i>Central Prison, Trichy</i>
<i>Additional Director General of Prisons Order No.44974/PW.2/2021, Dated 30.12.2021 (For Medical Purpose)</i>	<i>Central Prison, Trichy</i>	<i>01.01.2022</i>	<i>Central Prison-I, Puzhal</i>

8. Further, it is submitted that the above said Selvam, s/o.Chinnadurai Life Convict Prisoner No.23170 was admitted in Central Prison, Trichy on 16.09.2022 after his medical treatment. Again, he was transferred to Central Prison-I, Puzhal on 28.01.2023 for his dental medical treatment referred by the Prison Medical Officer, Central Prison, Trichy.

5. Learned Additional Public Prosecutor is unable to give the details of treatment provided to the convict prisoner Selvam. Further it is seen that subsequent representation given by the petitioner on 07.12.2022 is a separate cause of action. The prison authorities shall take appropriate action



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on the same. The rights of the petitioner are preserved in this regard. As far as this petition is concerned, this Court finds no reason to interfere with the impugned order.

6. In the view of the above, this writ petition is dismissed. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

(M.S,J.) (M.N.K.,J.)
22.02.2023

Index: Yes/No
Neutral Citation : Yes/No
gpa

To

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4. The Public Prosecutor
Madras High Court
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