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HCP.Nos.250 & 265 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.02.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH
AND
THE HONOURABLE MR. JUSTICE SUNDER MOHAN

H.C.P.Nos.250 & 265 of 2024

HCP.No.250 of 2024

Meyyappan

...Petitioner

Vs.

1.State rep. by
The Director General of Prison,
Egmore, chennai – 8.

2.The Superintendent of Prison,
Central Prison – II,
Puzhal, Chennai – 66.

3.The Inspector of Police,
NIA, Cochin.

...Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, by removing the detenue PUSHPARAJ @ PUKKUTI KANNA, son of Balachander, from solitary confinement by providing medical treatment.



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For Petitioner : Mr.R.Sankarasubbu
For Respondents : Mr.E.Raj Thilak,
Additional Public Prosecutor
assisted by Mr.C. Aravind

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U.Karpooranayagi

...Petitioner

Vs.

1.The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai – 600 009.

2.The Superintendent of Prison,
Central Prison – II,
Puzhal, Chennai – 66.

3.Parasuraman

4.Thirumalai

5.Kannan

...Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus, directing the respondents to produce the body and person of the petitioner's husband Umaramanan, son of Kanthasami, aged 49 years, and other Sri Lankan injured prisoners namely Sujanthan, son of Chokkalingam, Dhanukaroshan, son of Siripala, Vella Suranga, son of Gamage Sannath and Ladiya, son of Chandrasena, now confined in Central Prison – II, Puzhal, Chennai before this Court and to



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provide proper medical treatment to the petitioner's husband and others and further directing respondents 1 and 2 to take appropriate action against respondents 4 to 6, who had assaulted the petitioner's husband and others.

For Petitioner : Mr.P.Pugalenth

For R1 & R2 : Mr.E.Raj Thilak,
Additional Public Prosecutor
assisted by Mr.C. Aravind

COMMON ORDER

(Order of the Court was made by *M.S.RAMESH, J.*)

The grievance of the petitioners herein in both these Habeas Corpus Petitions is that the Prison Authorities have used excessive force on some of the named remand prisoners, owing to which, they have sustained bodily injuries and hence, they seek for medical attention.

2. According to the learned counsels appearing on behalf of both the petitioners, these prisoners have been kept under solitary confinement and apart from their Advocate, they were not permitted to meet their relatives. Since the injuries caused to these prisoners are severe, they seek for immediate medical treatment.



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3. Per contra, the learned Additional Public Prosecutor produced a copy of the Medical Report of the Civil Assistant Surgeon, Central Prison Hospital, Central Prison – II, Puzhal, Chennai, dated 08.02.2024, of one of the prisoner, namely Pushparaj (RP.No.92529/2022), which evidences that there were no external or internal injuries in the body of the prisoner and that his vitals are stable and in good condition. He further submitted that no excessive force was employed on the bodies of these prisoners and that when a surprise inspection was conducted in the prison cells, several mobile phones with sim cards, chargers, etc., were recovered. Based on such recovery, the Jailer had preferred a complaint to the Sub-Inspector of Police, Puzhal Police Station, which was registered in Crime No.66/2024 under Section 42 of the Prisons Act, 1894.

4. The facts, as put forth by the petitioners, have been denied by the respondents. While the Prison Authorities claimed that owing to the seizure of the mobile phones, sim cards, etc., from the prison cells and a complaint has been given and no physical force was used on them, the petitioners'



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claim that their Advocates had witnessed the prisoners in the prison and had seen the injuries.

5. This Court, exercising its powers under Article 226 of the Constitution of India, will not venture to adjudicate such disputed facts. However, the Court will not also be a mute spectator when certain allegations are made of excessive physical force being used on prisoners. In order to strike a balance and safeguard the rights of these prisoners, we are of the view that all the prisoners named in the present petitions can be referred to the Civil Assistant Surgeon, attached to the Central Prison Hospital, Central Prison – II, Puzhal, Chennai, with a direction to send a copy of the medical report to the petitioners also.

6. There is yet another aspect in the matter, which may require to be addressed. Under Rule 300 of the Tamil Nadu Prison Rules, 1983, when the Superintendent of Prisons is of the opinion that some of the offences under the Indian Penal Code (IPC) mentioned therein are established against any prisoner, he is required to refer the case to the Magistrate exercising



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jurisdiction for enquiry in accordance with the procedures contemplated under the Code of Criminal Procedure. But, in cases, when the Superintendent is of the view that when a prisoner has committed any act that would constitute a prison offence and an offence under the IPC, he is entitled to exercise his discretion to either use his own powers of punishment prescribed under Chapter-XVIII or in the alternate to move the Magistrate possessing jurisdiction to enquire into it in accordance with the Code of Criminal Procedure.

7. In the instant case, the Superintendent has exercised his discretion to prefer a complaint before the jurisdictional Police, which has been registered in Crime No.66/2024, dated 04.02.2024 by the Sub-Inspector of Police, Puzhal Police Station. Having opted to give the complaint, he had foregone his discretion of exercising his powers of punishment under the Prison Rules. If that be so, the prisoners, who are the subject matter in these two petitions, cannot be deprived of any of the privileges to which they are entitled to under the Prison Rules. Likewise, the Prison Authorities cannot now impose any punishment against these prisoners in connection with the



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incident, which is the subject matter of Crime No.66/2024. In case any of the privileges have been deprived to these prisoners for their alleged involvement in connection with Crime No.66/2024, the same shall be restored forthwith.

8. In the light of the above findings, there shall be a direction to the Superintendent of Prisons, Central Prison – II, Puzhal, Chennai, to subject all the prisoners, who are the subject matter in both these Habeas Corpus Petitions, to the Civil Assistant Surgeon, Central Prison Hospital, Central Prison – II, Puzhal, Chennai, forthwith. In case any medical aid is required to the prisoners, after examination, the Hospital shall extend the required medical aid. Likewise, all privileges, to which the prisoners are entitled to under the Prison Rules, shall also be extended to them forthwith. With these directions, both the Habeas Corpus Petitions stand closed.

[M.S.R., J] [S.M., J]
08.02.2024

Index: Yes
Speaking order
Neutral Citation: Yes
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M.S.RAMESH, J.
and
SUNDER MOHAN, J.

hvk

To

- 1.The Principal Secretary to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai – 600 009.
- 2.The Director General of Prison,
Egmore, chennai – 8.
- 3.The Superintendent of Prison,
Central Prison – II,
Puzhal, Chennai – 66.
- 4.The Inspector of Police,
NIA, Cochin.
- 5.The Public Prosecutor,
High Court of Madras.

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