



W.P.No.31711 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.10.2024

CORAM :

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM
AND
THE HON'BLE MR.JUSTICE V.SIVAGNANAM

W.P.No.31711 of 2024

Visalakshi
W/o Nagendran

.. Petitioner

v.

1. State of Tamil Nadu
represented by its Secretary
Home (Prison) Department
Fort St.George
Chennai 600 009

2. The Additional Director General of Police
and Inspector General of Prison
Tamil Nadu Prison Department
Gandhi Irwin Road, Egmore
Chennai 600 008

3. The Superintendent of Prison
Central Prison, Vellore

4. The Superintendent of Prison
Central Prison, Puzhal-I, Chennai

.. Respondents



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Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the respondents to strictly follow the directions of this Hon'ble Court in W.P.No.28879 of 2022 order dated 29.11.2022 by transferring the petitioner's husband P.Nagendran, a life convict (No.1236), now confined at Central Prison, Vellore - the 3rd respondent prison to the Central Prison-1, Puzhal, Chennai - the 4th respondent for proper medical treatment at Rela Hospital, Chennai.

For Petitioner :: Mr.S.Hameed Ismail

For Respondents :: Mr.S.Rajakumar
Additional Public Prosecutor

ORDER

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

The writ of mandamus has been instituted to direct the respondents to strictly follow the directions of this Hon'ble Court in W.P.No.28879 of 2022 dated 29.11.2022 by transferring the petitioner's husband Mr.P.Nagendran, Life Convict No.1236, now confined in Central Prison, Vellore, the third respondent prison to the Central Prison, Puzhal, Chennai, the fourth respondent for proper medical treatment at Rela Hospital, Chennai.

2. The learned counsel for petitioner Mr.S.Hameed Ismail would strenuously contend that the convict prisoner is seriously ill and on earlier



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occasion, treatment was provided to him in Rela Hospital. He underwent liver transplantation surgery and has been taking treatment. When an application is filed seeking transfer of prisoner from Vellore to Puzhal and to provide treatment in Rela Hospital at Chennai, it was not considered by the authorities. Thus the present writ petition came to be instituted. The learned counsel for petitioner would further submit that the respondents have failed to implement the orders of this Court dated 29.11.2022 passed in W.P.No.28879 of 2022 and therefore the petitioner is constrained to seek the relief to implement the directions issued by this Court in the said order.

3. A question arises whether writ proceedings would be entertainable to implement the orders passed by this Court in the earlier writ petition. Admittedly, the earlier writ petition in W.P.No.28879 of 2022 was disposed of by this Court on 29.11.2022, two years back with a direction, which reads as under:-

“11. In view of the above discussion, we find no reason to direct Nagendran's retention at the Central Prison, Puzhal, as prayed for by the petitioner. Of course, whenever Nagendran is produced for check up at CMC, Vellore or the Government



Medical College and Hospital, Vellore, if the doctors opine that they cannot handle his case, it is needless to state that he be produced at Rela Hospital for treatment and kept in the Central Prison, Puzhal.

In the result, this writ petition stands dismissed. No costs.”

4. While dismissing the writ petition, this Court made an observation that only in the event of an opinion either from the Government Medical College and Hospital, Vellore or CMC, Vellore, the prisoner may be produced at Rela Hospital for treatment and kept in the Central Prison, Puzhal. Thus, this Court has not directed the respondents to provide treatment at Rela Hospital and a decision is to be taken after producing the convict prisoner for medical examination before the Government Medical College and Hospital, Vellore or CMC, Vellore.

5. In the context of the above orders of this Court, the third respondent filed a counter affidavit, which would reveal that the prisoner has been provided treatment based on the medical reports already available in the prison department. In the subsequent writ petition filed by the petitioner in



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W.P.No.11684 of 2024, this Court passed final orders on 11.06.2024. In the said order, this Court directed the respondents therein to consider the representation submitted by the petitioner dated 22.04.2024 to transfer the convict prisoner from Central Prison, Vellore to Central Prison, Puzhal and pass appropriate orders on merits. Yet another writ petition was filed challenging the order of rejection to grant leave. The said writ petition filed in W.P.No.22892 of 2023 was disposed of by this Court on 08.11.2023 granting leave to the convict prisoner for thirty days with escort. After the expiry of leave, the prisoner is now lodged in Central Prison at Vellore.

6. We have considered all the earlier orders of this Court. This Court had taken a lenient view considering the health condition of the prisoner and permitted him to take treatment in Rela Hospital and thereafter, treatments are provided by the respondents by following the medical records.

7. The counter filed by the third respondent would reveal that the prisoner was taken to Rela Hospital on several occasions during the years 2022, 2023 and 2024 for review. However, it is stated by the respondents



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that the lenient view taken by the Courts have been abused by the prisoner.

In paragraphs 20 & 21 of the counter affidavit, the third respondent has stated as follows:-

“20. It is humbly submitted that in compliance with the order dated 18.04.2024 in W.P.No.11169 of 2024, the prisoner P.Nagendran was admitted as inpatient at Rela Hospital for 3 days from 24.04.2024 to 26.04.2024 and as per the medical reports of the Doctor the health condition of the Prisoner was improved. It is pertinent to submit that now during the course of the investigation done by K-1 Sembium Police in connection with Cr.No.293 of 2024, it came to light that during the period of stay in the Hospital between 24.04.2024 to 26.04.2024, certain accused who were involved in the above case in Crime No.239 of 2024 had frequently visited the prisoner Nagendran at Rela Hospital and conspired together with the prisoner and planned for the commission and execution of the offence in the case supra mentioned.

21. It is further humbly submitted that the prisoner who was admitted at the Rela Hospital at the relevant point of time, specifically instructed his associates to collect illegal payments and engaged his son Aswathaman (A3) in Crime No.293 of 2024 to plan and execute the murder as



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conspired among themselves. It is respectfully further submitted that the another accused in the above Crime No.293 of 2024 in his confession has clearly stated that on 24.04.2024, his son Aswathaman (A-3) met convict prisoner / Nagendran at Rela Hospital and conspired with convict prisoner / Nagendran whereby the convict prisoner directed A-3 for the execution of murder of Armstrong. It is also important to state that the Life Convict prisoner Nagendran is arrayed as A-1 in the Final Report filed in Crime No.293 of 2024, which is taken cognizance in P.R.C.No.120 of 2024 on the file of learned X Metropolitan Magistrate Court, Egmore on 04.10.2024, u/s 191(2), 191(3), 118(1), 103, 351(3), BNS r/w 31(2) and 49, 248 BNS and 5 of Explosive Act 1908 & 25(1)(a) Arms Act.”

8. Paragraphs 20 & 21 of the counter affidavit would be sufficient to form an opinion that the convict prisoner deserves no further lenient view from the hands of this Court. However, the Court has to ensure medical treatment to be provided to the prisoner based on the medical records available. All along the prisoner was allowed to take treatment as per his choice and in view of his further involvement in the alleged offences as



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narrated in paragraphs 20 & 21 of the counter affidavit, we have to consider for providing medical treatment to the prisoner as per the averments stated in paragraph 22 of the counter affidavit. The third respondent in paragraph-22 of the counter has stated that the prisoner has been produced for check up on 28.10.2024 at the Government Medical College and Hospital, Vellore. If the doctor referred him to Hepatologist department for further management, then the prisoner has to be provided treatment at Rajiv Gandhi Government College and Hospital, Chennai.

9. The learned Additional Public Prosecutor would submit that the prisoner will be taken for further examination to the CMC, Vellore and thereafter a decision will be taken as per the advice of the doctors at CMC, Vellore.

10. In view of the said submission, we are inclined to direct the respondents to take the prisoner to CMC, Vellore for medical examination and thereafter provide medical treatment as per the medical advice, if any, by the CMC, Vellore. For taking the prisoner to CMC, Vellore and for



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providing treatment in CMC, Vellore, the petitioner has to meet out the expenses, since CMC, Vellore collects charges for providing such medical treatment. The CMC, Vellore being a speciality hospital, we hope that adequate treatment will be provided to the prisoner.

11. With the above observation, the writ petition stands dismissed.

Consequently, W.M.P.No.34450 of 2024 is also dismissed. No costs.

Index : yes

(S.M.S.,J.)

(V.S.G.,J.)

Neutral citation : yes/no

29.10.2024

SS

To

1. The Secretary to Government
Home (Prison) Department
Fort St.George
Chennai 600 009
2. The Additional Director General of Police
and Inspector General of Prison
Tamil Nadu Prison Department
Gandhi Irwin Road, Egmore
Chennai 600 008
3. The Superintendent of Prison
Central Prison, Vellore



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4. The Superintendent of Prison
Central Prison-I, Puzhal, Chennai

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5. The Public Prosecutor
High Court, Madras



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S.M.SUBRAMANIAM,J.

AND

V.SIVAGNANAM,J.

SS

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