



W.P.(MD) No.1424 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.04.2024

CORAM:

**THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA
and
THE HONOURABLE MR.JUSTICE K.RAJASEKAR**

**W.P.(MD) No.1424 of 2024
and
W.M.P.(MD) No.1460 of 2024**

Baskaran

... Petitioner

-vs-

- 1.Secretariat to Government
Home, Prohibition and Excise Department
Secretariat, Chennai-600 009
- 2.The Additional Director General of Police /
Inspector General of Prison
Egmore, Chennai-600 008
- 3.The Deputy Inspector General of Prison
Trichy Range, Trichy
- 4.The Superintendent of Prison
Central Prison, Trichy
- 5.The Commissioner of Police
Trichy City, Trichy
- 6.The Inspector of Police
K.K.Nagar Police Station
Tiruchirappalli

... Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of mandamus directing the respondents 1 to 3 and 5 & 7 to take necessary action against the fourth respondent based on the complaint dated 06.01.2024 and rescue petitioner's uncle namely Ravi @ Friends Ravi, son of Arumugam, aged about 49 years, Prison Number CT.No.22264.

For Petitioner : Mr.A.Joseph Jerry

For Respondents : Mr.A.Thiruvadi Kumar
Additional Public Prosecutor

ORDER

[Order of the Court was made by A.D.JAGADISH CHANDIRA, J.]

Prayer in this writ petition is to direct the respondents 1 to 3 and 5 & 7 to take necessary action against the fourth respondent based on the complaint dated 06.01.2024 and rescue petitioner's uncle, namely, Ravi @ Friends Ravi, son of Arumugam, aged about 49 years, CT.No.22264.

2. To be noted, even though the petitioner seeks for issuance of a writ of mandamus, it is brought to the notice of this Court by the learned Additional Public Prosecutor appearing for the respondents that the Superintendent of Prison, Central Prison, Trichy / fourth respondent has



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passed an order, dated 01.12.2023, reducing the Class of the petitioner's uncle from A-Class to B-Class permanently and suspending the privileges for five months and to that effect, he has also produced a copy of the said order before this Court.

3. In this regard, learned counsel for the petitioner would submit that no such order was served on the prisoner and even no opportunity of hearing was granted to him before passing such an order.

4. Taking into consideration the above submission, we are inclined to go into the merits of the order dated 01.12.2023, passed by the fourth respondent.

5. It is the case of the petitioner that his uncle, namely, Ravi @ Friends Ravi (CT No.22264) is a life convict and he is undergoing imprisonment in Central Prison, Trichy, for more than eighteen years without any adverse remarks. It is his further case that when he along with his uncle's friends, namely, Moorthi and Shanmugasundaram, went to meet his uncle on 21.12.2023, he was denied permission to meet his uncle and that he was informed that his uncle was in a solitary confinement and his right to visit



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relatives was also curtailed. Thereafter, the petitioner had met his uncle's legal advisor and during such time, he came to know that his uncle was subjected to torture and he was not given food and cloths and he was also assaulted by the prison authorities and thereby, he had sent a representation dated 06.01.2024 to the authorities concerned to take action against the prison authorities, who had tortured his uncle and since, no action has been taken based on his representation by the respondents, he has filed this writ petition.

6. The fourth respondent has filed a counter affidavit, wherein in Paragraph Nos.3 to 6, he has stated as follows:

“3. With regard to the averments contained in the para 2, 3, 4, 5, 6 & 7 of the affidavit, it is submitted that the petitioner's uncle Life Convict Prisoner No.22264, Ravi @ Friends Ravi, Son of Arumugam concerned in Coimbatore District, Saibaba Colony Police Station, Crime No.164/2004, u/s.302, 506(ii) IPC was convicted and sentenced to undergo Life imprisonment with fine of Rs.10,000/- in default to undergo Rigorous Imprisonment for 1 year for the offence under section 302 IPC, Rigorous Imprisonment for 1 years for the offence under section 506(ii) IPC (Fine paid) and these sentences were ordered to run



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concurrently by the Principal Session Judge, Kovai in S.C.No.249/2094, dated 17.06.2005 and the above said prisoner was admitted in Central Prison, Coimbatore on 17.06.2005. On appeal, the above sentence was confirmed by the Hon'ble Madras High Court in C.A.No.675/2005, Dated: 04.06.2007.

4.Further, it is submitted that the above said Life Convict Prisoner No.22264, Ravi @ Friends Ravi, Son of Arumugam was transferred to Central Prison Trichy on 07.09.2017 for administrative grounds as per the orders of the 2nd respondent Additional Director General of Police/Director General of Prisons, Chennai letter No.35554/PW2/2017. Dated 5.9.2017.

5.Further, it is submitted that the Life Convict Prisoner No.22264, Ravi @ Friends Ravi, Son of Arumugam was also concerned in another case of Bagayam Police Station, Crime No.146/2011, u/s. 147, 148, 294(b), 323, 353, 324, 307 IPC by the Assistant Session Judge, Vellore in S.C.No.29/2012, and the Bail Bond was executed Cr.No.146/2011 as per order of Principle Sessions Court, Vellore in Cr.M.P.No.229/2018 in D.No.2274 dated 7.03.2018.

6.Further, it is submitted that the Life Convict Prisoner No.22264, Ravi @ Friends Ravi, son of Arumugam, was also concerned in another case of Trichy K.K.Nagar Police Station, Crime No.661/2022, u/s.294(b), 352, 353, 505, 505 IPC and 3 of PPDL Act



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and 45(2)(3)(10)(12) r/w 46 Prisons Act by the Judicial Magistrate Court, Trichy in Cr.M.P.No.12520/2023 and the Bail Bond was executed as per order of Judicial Magistrate Court, Trichy in Cr.M.P.No. 12520/2023 in D.No.1168 dated 19.8.2023.

On 01.12.2023 the above said Life Convict Prisoner No.22264 Ravi @ Friends Ravi, s/o.Arumugam who was incarcerated in 2nd Block of Prison Hospital had sexually abused one Remand Prisoner No.9576 Saravanakumar, s/o.Senthilkumar. The above activities of Life Convict Prisoner No.22264 Ravi @ Friends Ravi, s/o.Arumugam came to be known by another Remand Prisoner No.9577 Kalimuthu, s/o.Balu and reported to higher officer. The above matter was enquired by the Jailor of this prison and the same allegation was proved beyond doubt. Hence, the Jailor made a report in the Jailor Report Book. (Copy enclosed).

The above act of Life Convict Prisoner No. 22264 Ravi @ Friends Ravi, s/o.Arumugam is totally against the Prison Manual Rule. Hence, the Superintendent of this Prison had given prison punishment as follows:-

The above Life Convict Prisoner No.22264 Ravi @ Friends Ravi, s/o.Arumugam was degraded to "B" Class Prisoner from "A" Class Prisoner permanently and the all other prison privileges were cancelled for 5



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months from 01.12.2023 and ordered to shifted him to CP Block No.1 from the Hospital 2nd Block to avoid any untoward incidents among the prisoners by the prisoner has his interview with advocate. Hence, the above said Life Convict Prisoner No.22264 Ravi @ Friends Ravi, s/oArumugam was shifted to CP Block No.1, where 34 more number of other prisoners are also lodged and it is not a solitary confinement as alleged by the petitioner.

For the above said sexual abusul activities of the Life Convict Prisoner No.22264 Ravi @ Friends Ravi, s/o.Arumugam, he was awarded the above prison punishment and moreover, he was not at all assaulted by the prison authorities and also he is not undergoing any tortures and providing food as per manual and has not been isolated. The prison authorities acts according to the Prison Manual Rules. The prison authorities have not violated the rules and regulations.”

7. The fourth respondent has also filed an additional counter affidavit, wherein in Paragraph Nos.3 to 7, he has stated as follows:

“3.With regard to the averments contained in para 3 of the affidavit, it is submitted that on 01.12.2023 the above said Life Convict Prisoner No. 22264 Ravi @ Friends Ravi s/o Arumugam who was



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incarcerated in 2nd Block of prison Hospital had sexually abused one Remand Prisoner No.9576 Saravanakumar s/o.Senthilkumar and the above activities of the life convict prisoner No.22264 Ravi @ Friends Ravi s/o Arumugam came to be known by another Remand Prisoner No.9577 Kalimuthu s/o.Balu and this incidence was reported to the higher officer. The above matter was enquired by the Jailor of this prison and the same allegation was proved beyond doubt. Hence, the Jailor made a report in the Jailor Report Book.

4.The above act of Life Convict Prisoner No. 22264 Ravi @ Friends Ravi, s/o.Arumugam is totally against the Prison Manual Rule. Hence, the Superintendent of this Prison had given prison punishment as follows.

The above Life Convict Prisoner No.22264 Ravi @ FriendsRavi, s/o.Arumugam was degraded to “B” Class Prisoner from “A” Class Prisoner permanently and the all other prison privileges were cancelled for 5 months from 01.12.2023 and ordered to shifted him to CP Block No.1 from the Hospital 2nd Block to avoid any untoward incidents among the prisoners by the prisoner has his interview with advocate. Hence, the above said Life Convict Prisoner No.22264 Ravi @ Friends Ravi, s/oArumugam was shifted to CP Block No.1, where 34 more number of other prisoners are



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also lodged and it is not a solitary confinement as alleged by the petitioner.

5.For the above said sexual abusul activities of the Life Convict Prisoner No.22264 Ravi @ Friends Ravi, s/o.Arumugam, he was awarded the above prison punishment and moreover, he was not at all assaulted by the prison authorities and also he is not undergoing any tortures and providing food as per manual and has not been isolated. The prison authorities acts according to the Prison Manual Rules. The prison authorities have not violated the rules and regulations.

6.It is further submitted that the life convict prisoner No.22264 Ravi @ Friends Ravi's prison privileges only were stopped and the medical treatments are provided whenever necessary and not stopped as alleged by the 3rd party and is totally false allegations. His health condition is stable and good. (The Medical officer's report is enclosed).

7.With regard to the averments contained in para 6 of the affidavit, it is submitted that, convict prisoners and remand prisoners are lodged separately in their respective blocks. No one is allowed to enter the other blocks. But, from this para affidavit, it came to light that the above prisoner had violated block discipline by moving from his convict block to remand block that resulted in animosity among the above said



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prisoners. Hence, it is proved beyond doubt that the above said prisoner had totally violated the prison rules, discipline and thereby totally disturbed the prison administration.”

8. A supporting affidavit has also been filed by one Rajatamilarasu, Advocate of the prisoner, who had met the petitioner's uncle during first week of December, 2023, in support of the averments contained in the accompanying affidavit filed by the petitioner and also mentioning the details of the prison staff, who had assaulted the petitioner's uncle.

9. Mr.A.Thiruvadi Kumar, learned Additional Public Prosecutor appearing for the respondents, on instructions, would submit that the petitioner's uncle was originally confined in Coimbatore Prison and he was transferred to Vellore Prison and during such time, he had indulged in some prison offences and thereby, he was transferred to Central Prison, Trichy, on 07.09.2017 and since then, he is in Central Prison, Trichy. He would further submit that in respect of the indiscipline activity done by the petitioner's uncle i.e., indulging in homosexual offence, an enquiry was conducted against him and that a major punishment of reduction of Class from A-Class to B-Class and a minor punishment of suspending the privileges for a period of five



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months were imposed on him and that the allegation of assault or ill-treatment is denied. He would further submit that the prison staffs, who are named in the supporting affidavit, are the members of the Search Team and they are involved in curtailing anti-social activities inside the prison and thereby, their names have been mentioned to prevent them from discharging their official duties. He would further submit that only on account of indiscipline activities, punishments have been imposed on the petitioner's uncle. Further, he would deny the allegation of solitary confinement. Further, he would submit that insofar as the representation of the petitioner dated 06.01.2024 is concerned, it has been received by the respondents and necessary action will be taken in accordance with law. He would further submit that only in order to threaten the prison staff such a petition has been filed. Further, in the petitioner's representation, no averments have been made against the prison staff and it is only a motivated one in order to wreck vengeance against the prison staff. Further, he has also produced the original files relating to the punishment imposed on the petitioner's uncle before this Court.

10. Heard the learned counsel on either side and perused the original files.



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11. Based on the allegation that the petitioner's uncle, who is a life convict, has indulged in the acts of indiscipline, which is one of the offences as listed in Rule 297(61) of the Tamil Nadu Prison Rules, 1983 (hereinafter, referred to as “the Rules”), action has been taken against the petitioner's uncle. A perusal of the original files produced by the learned Additional Public Prosecutor shows that punishment was imposed on the petitioner's uncle under Rule 302 of the Rules, which empowers the authority concerned to impose major and minor punishments as listed therein on the prisoner. However, we find that before imposing such a punishment, the procedures as contemplated under Rules 303 and 304 of the Rules have not been followed by the authority concerned.

12. At this juncture, it would be more beneficial to refer Rules 303 and 304 of the Rules, which are extracted hereunder:

“303. Awarding punishments.- (1) ...

(2) No prisoner shall be punished unless he has been informed of the offence alleged against him and given a proper opportunity of presenting his version of the case. The competent authority shall conduct an inquiry into the case. No prisoner shall be punished except in accordance with the terms of rules.

...”



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“304. Enquiry before punishment.- (1) Prisoners are liable to be punished for prison offences as per rules irrespective of the class in which they are placed.

(2) No prisoner shall be punished for any statement or complaint made to a Visitor.

(3) Whenever prisoners are produced before the Superintendent for punishment, the Superintendent shall conduct a thorough enquiry in a fair manner. It shall not become a mechanical process for the mere awarding of punishments. Enquiry shall be conducted as promptly as possible. During enquiry, the accused shall be present. Witnesses shall be brought in one at a time.

(4) Every precaution shall be taken to ensure that the enquiry is conducted in an orderly manner. Prisoners shall be thoroughly searched before being brought before the enquiry officer. Violent prisoners may be properly secured during enquiry.

(5) In case of serious violation of prison discipline, the Superintendent may order the recording of statements of the persons concerned. When the Superintendent thinks that recording of statement is not necessary, he shall briefly record the salient facts of the case in the appropriate column in the punishment book in Form No.15. If a prisoner has committed any infringement of the prison rules through ignorance or excusable carelessness, the Superintendent, shall admonish him without recording in the said Form.



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(6) The officer, who conducts the preliminary investigation shall present his report and witnesses, if any. The report shall be presented in a language that is commonly understood in the locality or by the accused. Where necessary and available, an interpreter may be provided. The accused and his witnesses, if any, shall be heard.

(7) After the Superintendent is satisfied, that all relevant facts of the case have come to light, he shall record his decision in the register. After enquiry, the punishment shall be promptly implemented as per rules.

(8) The punishment awarded to prisoners shall be noted down in the punishment book in Form No.15. The Jailor shall certify that the punishments have been carried out. The punishment book shall be placed before the Superintendent for his perusal as soon as the punishment has been carried out.”

13. In an identical situation, this Court in the case of **S.Nalini vs. The Superintendent of Prison**, reported in **2012 (2) MWN (Cr.) 161 (DB)**, finding that the prison authority has not conducted an enquiry in accordance with Rule 304 of the Rules before awarding punishment on the prisoner under Rule 302(b)(7) of the Rules, had set aside the order of punishment.



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14. Similarly, in the instant case also, the order of punishment, dated 01.12.2023, passed by the fourth respondent, does not speak about affording the prisoner an opportunity of presenting his version before passing the said order. Further, we find that the petitioner's uncle has neither been heard nor allowed to present his version. Since the punishment imposed on the petitioner's uncle is a major punishment, before imposing such punishment, a strict compliance of the Rules is necessary. Therefore, we are inclined to pass the following orders:

- (i) The writ petition is allowed.
- (ii) The order dated 01.12.2023, passed by the fourth respondent, though it is not challenged in this writ petition, is quashed.
- (iii) The fourth respondent is at liberty to issue a notice afresh to the prisoner, conduct an enquiry in accordance with Rules 303 and 304 of the Rules and pass orders on merits and in accordance with law.
- (iv) The Deputy Inspector General of Prison, Trichy Range, Trichy / third respondent is directed to



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pass appropriate orders on the petitioner's representation dated 06.01.2024 in accordance with law.

- (v) No costs. Consequently, connected miscellaneous petition is closed.

[A.D.J.C., J.] [K.R.S., J.]

16.04.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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To:

1. Secretariat to Government,
Home, Prohibition and Excise Department,
Secretariat, Chennai-600 009.
2. The Additional Director General of Police /
Inspector General of Prison,
Egmore, Chennai-600 008.
3. The Deputy Inspector General of Prison,
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4. The Superintendent of Prison,
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5.The Commissioner of Police,
Trichy City,
Trichy.

6.The Inspector of Police,
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A.D.JAGADISH CHANDIRA, J.
AND
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W.M.P.(MD) No.1460 of 2024

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