

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 21.10.2024

PRONOUNCED ON : 29.10.2024

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

W.P.No.19668 of 2024

and

W.M.P.Nos.21529 & 21531 of 2024

S.Kalavathi

... Petitioner

Vs.

1.State by

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

2.The Director General of Police and

Director General of Prisons and Correctional Service,
Whannels Road,
Egmore,
Chennai – 600 008.

3.The Deputy Inspector General of Prisons,

Vellore Range,
Vellore – 632 002.

4.The Superintendent of Prison,
Central Prison, Vellore – 632 002.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Mandamus, directing the respondents 1, 2 and 3 to consider the representation of the petitioner dated 02.07.2024 and to provide proper medical treatment to the petitioner's son namely Mr.Sivakumar son of Satish, aged 30 years, CT.No.2209, convict prisoner, now confined in the Central Prison, Vellore.

For Petitioner : Mr.P.Pugalenthi

For Respondents : Mr.E.Raj Thilak
Additional Public Prosecutor

ORDER

S.M.SUBRAMANIAM, J.

“All Criminals should be treated as patients and the jails should be hospitals admitting this class of patients for treatment and cure. It is a sign of a diseased mind”

- Mahatma Gandhi.

The writ petition on hand has been instituted to direct the respondents 1 to 3 to consider the representation of the petitioner dated 02.07.2024 and to provide medical treatment to the petitioner's son, who is a convict prisoner.

2. The son of the petitioner Mr.Sivakumar, S/o.Mr.Sathish is a convict prisoner (CT.No.2209) initially lodged in Central Prison, Vellore and now transferred to Central Prison, Salem, pursuant to the orders of this Court.

3. The convict prisoner Mr.Sivakumar was convicted in S.C.No.123 of 2014 and sentenced to imprisonment for life. The High Court confirmed the conviction and sentence. He is in actual imprisonment for about 10 years. During the 4th week of May, the petitioner, who is the mother of the convict prisoner came to know that her son was assaulted on 21.05.2024 by the Prison Authorities and detained in solitary confinement. The petitioner made a request to the Jail Authorities to permit her to see her son, but they refused to grant permission. Subsequently, the petitioner came to know that her son was assaulted by the Prison Wardens namely Mr.Mani, Mr.Prakash and Mr.Raja Suresh, based on certain false allegation of theft for a sum of Rs.4.5/- lakhs, silver jewellery and other articles from the house of the Deputy Inspector General of Prisons (DIG) / 3rd respondent. On 29.06.2024, during an interview by the legal practitioner with the son of the petitioner, he was informed that the prisoner was in solitary confinement in HS-4 Block

without proper medical treatment. The petitioner states that the life of the prisoner is in danger in the hands of the Prison Authorities / respondents 3 and 4. She was not permitted to see her son. No interview was permitted by stating that the prisoner is not eligible to avail the benefit for 90 days.

4. Mr.P.Pugalenthi, the learned counsel for the petitioner would submit that the prisoner was assaulted and subjected to harassment. He was kept in solitary confinement and tortured by the Prison Authorities, based on certain false allegations. The Prison Rules are not followed and rules of natural justice are violated. The representation sent by the petitioner to the Authorities went in vain. Thus, the present writ petition came to be instituted.

5. In view of the serious allegations of assault and harassment inside the prison to a life convict prisoner, this Court directed the Learned Chief Judicial Magistrate, Vellore to visit the prisoner Mr.Sivakumar and find out his position. Pursuant to the order of this Court, the Learned Chief Judicial Magistrate, Vellore visited the prison, conducted an inquiry and recorded the statement of life convict prisoner Mr.Sivakumar, S/o.Mr.Sathish at Central

Prison, Vellore. The report of the Learned Chief Judicial Magistrate, Vellore shocked the conscience of this Court, since allegations against the Prison Authorities including Deputy Inspector General of Prisons are serious in nature. Regarding the torture, the prisoner has narrated the events, which cannot be *prima facie* disbelieved. Learned Chief Judicial Magistrate, meticulously conducted inquiry and made an assessment and offered his opinion. The opinion and assessment of the Learned Chief Judicial Magistrate, Vellore is as under;

11. Opinion and Assessment:

11.1. Upon enquiry with the said Tr.Sivakumar, as per his statement and on perusing "in" and "out" registers, he was deputed to do service in Fuel Station and there after he was sent to the D.I.G. Quarters. As per his statement his services were utilized at the residence of D.I.G. Prisons and I believe his statement to that extent bonafine. But I am not in a position to come to the conclusion regarding theft of the said amount of Rs.4,25,000/- and ill treatment said to have caused to him solely on the basis of his statement, which requires a detailed enquiry with the other prisoners accompanied him. But due to the impact of some incident the said Tr.Sivakumar was kept in HS4 Block for 81 days (Solitary Confinement) and 14 days at Closed Prison Block (Solitary Confinement). As far

as tortures said to have been done to him by the Additional Superintendent of Central Prison, the Jailer, the O.C. Team Constables within the Prison and by the D.I.G. and her P.S.O at the residence of D.I.G. also requires a detailed enquiry and so I am not able to give my opinion at present. But one thing I could found that as per Rule 447 of Prison Manual Rules 1983, "No convict shall be employed on any Labour Outside the walls of Prison or permitted to pass out of Prison for the purpose of being employed without sanction of the Inspector General of Prison". On my request the Additional Superintendent of Central Prison, who is holding in charge of Superintendent of Central Prison, produced a copy of proceedings of the Superintendent of Central Prison dated 21.02.2019 for utilizing services of the said Tr.Sivakumar and other convicts, but the proceedings of Inspector General not produced.

11.2. A copy of the said proceeding is submitted for your lordship's perusal. On perusal of the said proceedings dated 21.02.2019, there are two proceedings of Inspector General referred, but the same is not produced. As per the said proceedings the services of the convicts were permitted to be utilized for Fuel Dispensing and Air Filling in the Fuel Dispensing and Air Filling in the Fuel Station and also for Gardening and Sanitation. But the said proceedings

does not provide for the utilizing services of convicts at the residence of D.I.G. as House maids. On enquiry with the said Tr.Sivakumar it so happens years together and the convicts are being treated as slaves. It is firm that there was abuse of powers in utilizing the services of convicts at the residence of D.I.G. with slavery treatment affecting the liberty of the convicts.

11.3. I further submit, as routine procedure of visiting Police lockups every month by C.J.M, I made visit to Bagayam Police Station on 30.08.2024, under whose limits the Central Prison and D.I.G. Bungalow situates. On inspection of certain registers, there was no such complaint was made to the Police Station regarding the theft of cash from the D.I.G. Bungalow.

11.4. I further submit that a detailed enquiry by an appropriate agency may bring out more facts regarding incidents stated by the said Tr.Sivakumar. Smt.Rajalakshmi, the D.I.G. of the Central Prison, Vellore, the Additional Superintendent of Central Prison Tr.Abdul Rahman, the Jailer Tr.Arul Kumaran, the O.C. Team Constables, P.S.O of D.I.G, the other convicts accompanied the said Tr.Sivakumar and the other prison authorities, prisoners, and all other persons concerned may be put under the enquiry so as to find out the truth and abuse of powers by the prison

authorities and ill treatment done to the convicts including the said Tr.Sivakumar.

11.5. I further submit that in order to give a fulfilled report, I called for some records and registers during my enquiry and I got copies of the same, so as to avoid tampering of same by prison authorities in future so as to suit to their stand. I also made a visit to HS4 Prison Block and closed Prison Block, wherein the said Tr.Sivakumar was kept in Solitary confinement.

11.6. The convict Tr.Sivakumar requests for transfer to Central Prison, Salem on the apprehension of being danger to his life and liberty, without making adverse remarks in his personal History sheet. Considering prevailing situation and surrounding circumstances, his request requires consideration. The statement of Tr.Sivakumar is recorded and submitted as directed which contains more details.

11.7. I further submit that the Hon'ble High Court was pleased to direct me to submit my report on 27.08.2024 as per the order dated 09.08.2024. I further submit that the said order was communicated on 28.08.2024. In pursuance of the same I have addressed a letter to the Superintendent of Central Prison to arrange for isolated room for making enquiry and also to keep

the copies of related registers for my perusal and made visit on 30.08.2024 and conducted enquiry with the said Tr.Sivakumar as stated supra. I also recorded the statement and got typed. Again made a visit of Central Prison on 03.09.2024 and met the said Tr.Sivakumar. I have handed over the entire statement to him and read it in full. I also read out the entire statement to him and obtained signature from him.

11.8. I am of the opinion that the services of Tr.Sivakumar was utilized at the residence of the D.I.G, Central Prison, Vellore, contrary to the Rules. My final assessment is that apart from the tortures said to have been done to the said Tr.Sivakumar, without any specific order, the said Tr.Sivakumar kept in the Solitary Confinement for 81 days in HS4 Block and 14 days at Closed Prison.

11.9. I further submit that I did my level best for compliance of the direction of the Hon'ble High Court.”

6. The statement obtained from the convict prisoner was taken into consideration, as it cannot be wholly disbelieved and this Court directed the Government and the Director General of Prisons and Correctional Service to register a case and initiate departmental disciplinary proceedings.

Accordingly, the Superintendent of Police, Crime Branch-Crime Investigation Department (CBCID), CID 1, Egmore, Chennai registered a case in FIR No.1 of 2024 dated 06.09.2024 against the Prison Authorities. The Director General of Prisons and Correctional Service recommended for initiation of disciplinary proceedings to the Government. The Superintendent of Police, CBCID filed a status report submitted by the Investigating Officer on 20.09.2024.

7. The report of the Investigating Officer reveals that on 11.09.2024 scenes of crime inside and outside the Vellore Central Prison were visited, rough sketches and observation mahazars were prepared in the presence of official witnesses. The co-convict prisoners were examined and their statements are recorded. Documents were obtained from the Superintendent of Prisons at Vellore Central Prison. Statement of convict prisoner was also obtained. The preliminary investigation conducted by the Investigating Officer revealed that around 8 convict prisoners were made to do domestic works in the house of the Deputy Inspector General of Prisons, Vellore located with the Academy of Prisons and Correctional Administration (APCA) campus between 05.09.2023 and 20.05.2024. Especially convict

prisoners Mr.Sivakumar and Mr.Amalraj were made to do domestic work inside the residence of DIG Prisons, Vellore Range. The details are given as follows;

<i>Sl.No.</i>	<i>Names of Convicts</i>	<i>Nature of Work</i>
1	Sivakumar	Laundry, ironing and arranging clothes, house cleaning (He was let into the residence of DIG Prisons)
2	Amalraj	Cooking (He was let into the residence of DIG Prisons)
3	Yesupatham	Cooking (He was let into the residence of DIG Prisons)
4	Manikandan	Poultry care and management
5	Palani	Gardening
6	Vediyappan	Goat herding
7	Arjunan	Gardening and cleaning
8	Singaram	Carpentry work

8. Rule 472 of Tamil Nadu Prison Rules, 1983 also indicates that the convict prisoners can be utilized for certain specified works under the written orders of the Superintendent.

9. The Investigating Officer found that employing the convict prisoners for domestic works inside the residences of Prison Authorities is strictly prohibited, even in the quarters occupied by the Subordinate Prison Officials. The preliminary report revealed certain facts and the findings of

the Investigating Officer are as under,

(1) It has come to light that the Deputy Inspector General of Prison, Vellore Range has utilised few convict prisoners to do her house hold chores. The Rules/guidelines with regard to utilizing convict prisoners for this kind of job will be clarified with the help of senior prison officials.

(2) One of such convict prisoner Mr.Sivakumar had stolen few silver articles, electronic equipments and cash of Rs.4.25 Lakhs from the house of DIG, Prisons, Vellore Range. Apart from those articles, Mr.Sivakumar had stolen few cash kept in almirah and shelf on various occasions prior to this episode.

(3) In order to recover those stolen materials, Deputy Inspector General of Prison Mrs.Rajalakshmi used the help of the sub-ordinates, they inturn assaulted him in few occasions to enforce recovery. The nature of injury will be ascertained by subjecting the victim Mr.Sivakumar to medical examination by a Medical Board. Further, all co-prisoner who were lodged with the victim Mr.Sivakumar during the period of detention in High Security Block and Closed Prison Block are to be examined further to

ascertain the nature of alleged torture.

(4) It has been further ascertained that during the course of recovery, he was frequently shifted from one cell to another viz., High Security Prison, Closed Prison etc. The Standard Operative Procedures/Rules with regard to shifting the prisoner from one detention cell to another within the prison will be examined by getting clarification from the prison officials.

10. Again the case was adjourned and subsequently the Superintendent of Police, CBCID filed further status report of the Investigating Officer on 21.10.2024. The second status report reveals that the Investigating Officer collected further details and documents were collected. The co-prisoners / convicts confined in the High Security Block (HS4) and Closed Prison (CP) of Central Prison, Vellore were examined and their statements are recorded. The co-prisoners seems to have informed the Investigating Officer that the victim Mr.Sivakumar along with another convict Manikandan were beaten up. Further inquiry revealed that the convict prisoner Mr.Sivakumar along with other convict prisoner had been engaged in household chores at the residence of the Deputy Inspector General of Prisons, since July 2023.

11. It is further stated in the report that Mr.Sivakumar involved in a theft of cash from DIG's official residence. However, no such criminal case has been registered by the DIG for properly filing a complaint for theft. The Investigating Officer recorded the statement of Prison Officials and to ascertain the bodily injury as alleged by Mr.Sivakumar, a request to the Dean Government Medical College, Salem and the Superintendent, Central Prison, Salem for subjecting the victim for medical examination is under process.

12. The status report filed by the Superintendent of Police, CBCID would reveal that *prima facie* case has been made out against the Prison Authorities, who have been implicated in criminal case and in the departmental disciplinary proceedings. Some of the prison officials are already placed under suspension.

13. It is necessary to send a strong message to the Prison Authorities that they are not supposed to abuse their official position. The convict prisoners inside the prison are in disadvantageous position. Therefore, any kind of exploitation by the Prison Authorities cannot be subjected to normal

view, but serious actions are highly warranted. Prison Authorities are solely accountable and responsible for the happenings inside the prison to the convict prisoners. When the convict prisoners are utilised for residential works in the residences of the Prison Authorities and monitored by the Subordinate Prison Authorities, both the actions are offences and illegal, and serious actions against such Prison Authorities engaging prisoners as well as the Uniformed Personnel are just and necessary. There cannot be any comprise in dealing with such nature of offences and misconduct by the Prison Authorities.

14. It is to be understood that prisoners are neither slaves nor are they to be tortured in such inhuman ways to punish them for their crimes. In our legal system, any kind of torture to any fellow human being should be shunned. Human lives have its own value. The convicts ought to be punished only in the manner known to law. Instead torturing them will not mitigate but propagate crimes. Subjecting prisoners to cruelty will propagate further commission of crimes by them.

15. Jails are places, where Jail authorities are given more power over

the rights of the prisoners. In such circumstances, power must be exercised with care and caution. Abuse of power when having control over powerless prisoners will create havoc and undermine the ethos of criminal justice system. Nobody can unduly exercise power over another individual in this free world but it is only in places like prisons where authorities have been given power over certain rights of prisoners. When such is the case, any misuse or abuse of powers shall not be taken in a normal manner but needs to be dealt with seriously. Already the prisoner is bereft of his fundamental right to liberty which is a punishment rendered in consonance with the procedures established by law. But on top of that to strip him of his other basic necessities, rights and eligibilities is a gross abuse of power and cannot be viewed leniently. Further inflicting pain and inhuman torture over powerless individuals is antithesis to Justice.

16. The main reason for having prisons is to restrict the fundamental right to liberty of the prisoner by restricting his movement and preventing him from further committing crimes. Meanwhile, steps for reformation is undertaken inside the prison to ensure that once the prisoner walks out free, he can mingle with the society and carry on with his life in a more reformed

way.

17. Jail Authorities must be more aware of their duties and the power accorded to them by law, which must be used in a responsible manner. Power is not granted for exhibiting it over powerless people. It is given by law to use it in a responsible manner for the benefit of people and society at large.

18. There exist a common sentiment among people that eventually prisoners are criminals and they can be treated harshly. Such commoner outside the jails living in the free world fail to understand the level of freedom guaranteed to them by our Constitution. To be inside a prison is a punishment in itself and to top that with such brutal torture is against the essence of right to life of any individual. Prison was not a liveable place at one point, it was through the birth of present day civilisations that we have come a long way in building a healthy criminal reformation system.

19. The idea behind prisons is to keep the convict away from the society, (a) To bring down the crimes and protect the peace in the society and (b) to reform them. Rather to torture them is never an object nor a healthy

process.

20. Prisoners lodged in prison belong to different social and economic strata of the society. More often people from vulnerable and disadvantaged sections of the society are voiceless and are unable to fight for even their basic rights. It is the duty of the 'State' and the prison officials to treat all equally and make sure that steps for reformation are taken rather than imposing more and more punishments on them, thereby, promoting them to commit further crimes. There are no good or bad people. It is always the circumstances that turn a man into a different person either for good or bad. And that choice is always with the person facing such pressures. Once a person enters a prison as a convict, they are already faced with a hardship of a bleak future. And jail should serve as a place of introspection to bring out more humaneness from them. Rather putting them through further torture and mental trauma pushes them towards commission of further crimes, thereby inhibiting their reformation process. The object of jails is reformation and not subjugation.

21. The rights of the prisoners are well enumerated by the

Constitutional Courts across the Country. Even recently, the Hon'ble Supreme Court of India reiterated the rights of the prisoners. When there are large scale allegations of employing prisoners in the residences of the Prison Authorities and engaging Uniformed Personnel working last Grades for residential purposes are to be condemned and it amounts to abuse of power by the Prison Authorities.

22. In this context, the Director General of Prison has to initiate all appropriate actions to ensure that the prisoners and the Uniformed Personnel are not engaged for household works in the residences of the Prison Authorities. However, in this regard, the Prison Authorities, who have misused their position have been suspended by Government vide G.O.(2D).Nos.317, 318 and 319, Home (Prison-I) Department dated 22.10.2024.

23. In the present case, pursuant to the interim directions issued by this Court, criminal case has been registered and departmental actions are also initiated at the instance of the Director General of Prisons. Action initiated must be proceeded with and all the offenders are to be tried in the manner

known to law.

24. In view of the facts and circumstances, the following orders are passed;

- (1) The Superintendent of Police, CBCID is directed to proceed with the investigation in the criminal case registered in FIR No.1 of 2024 dated 06.09.2024 by following due procedures. The Trial Court is requested to expedite the trial as expeditiously as possible.
- (2) The respondents 1 and 2 are directed to proceed with the departmental disciplinary proceedings under the relevant rules and conduct an inquiry by following the rules and conclude the same as as expeditiously as possible.
- (3) It is made clear that pendency of a criminal case is not a bar of concluding departmental disciplinary proceedings initiated under the Services Rules. All the records are available with the Government and the Director General of Prisons and CBCID. Therefore, there is no impediment for the Government to conduct the departmental disciplinary proceedings and conclude the same and pass appropriate final orders independently even during the pendency of the criminal case registered.
- (4) The respondents 1 and 2 are directed to conduct frequent and surprise inspections to ensure that the prisoners are not engaged / employed by the Prison Authorities in their residences for household works. In the event of any complaint / information from

any person, an inquiry must be conducted and all appropriate actions are directed to be initiated.

25. With the above directions, the Writ Petition stands disposed of.

Consequently, connected Miscellaneous Petitions are closed. No costs.

[S.M.S., J.] [V.S.G., J.]
29.10.2024

GD/Jeni

Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No

To

- 1.The Principal Secretary to Government,
State,
Home, Prohibition and Excise Department,
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- 2.The Director General of Police and
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