
(2014) 05 MAD CK 0012

In the Madras High Court

Case No : H.C.P. No. 1432 of 2014 and M.P. No. 1 of 2014

R. Rukumani

APPELLANT

Vs

Government of Tamil Nadu

RESPONDENT

Date of Decision : 30-05-2014

Acts Referred:

Arms Act, 1959 — Section 3
Penal Code, 1860 (IPC) — Section 302

Citation : (2014) 2 MLJ(Cri) 651

Hon'ble Judges : S. Vaidyanathan, J; Aruna Jagadeesan, J

Bench : Division Bench

Judgement

S. Vaidyanathan, J.—The Petitioner, is the wife of K. Ramaraj, who is undergoing imprisonment for more than 3 years as Life Convict No. 4579 and confined to Central Prison, Puzhal, Chennai. She has come forward with this Habeas Corpus Petition to direct the respondents to produce the body of her husband K. Ramaraj, before this Court, pursuant to her representation dated 05.05.2014 and to direct the respondents to transfer her husband K. Ramaraj, Life Convict No. 4579 from Central Prison, Puzhal, Chennai to Central Prison, Madurai. She has also sought ordinary leave for a period of 30 days to her husband K. Ramaraj, pending disposal of the above Habeas Corpus Petition. The said Ramaraj, was working as Lieutenant in the Indian Army and attained the age of superannuation on 30.04.2011. The Fast Track Court No. V, Chennai, by Judgment dated 20.04.2012, has convicted him and sentenced to undergo imprisonment for life for the offence under Section 302 IPC and also imposed a fine of Rs. 50,000/-, in default to undergo rigorous imprisonment for six months. He was also sentenced to undergo one year simple imprisonment for the offence under Section 3 of the Indian Arms Act, 1959. Aggrieved against the Judgment of the trial Court, the said Ramaraj, filed Criminal Appeal in C.A. No. 301 of 2012 before this Court and the said Judgment was confirmed by this Court, by Judgment dated 12.12.2013 and hence he is undergoing life imprisonment for the past more than 3 years as a Life Convict No. 4579 and now he is confined in Central Prison, Puzhal, Chennai.

2. The learned counsel for the petitioner submitted that the petitioner's husband K. Ramaraj is now suffering from Cataract disease in his two eyes and 60% of his eye sight was lost and in spite of the treatment given by the Eye Hospital, Egmore, Chennai, he could not recover from the said disease and since he is a chronic diabetic, he could not recover from the said Cataract disease. He further submitted that the petitioner's husband, while working in Indian Army, deposited a sum of Rs. 50,000/- for Ex-serviceman Contributory Health Scheme and in that Scheme, he is entitled to medical benefits to a maximum of Rs. 5,00,000/-. Hence, according to the learned counsel for the petitioner, to give effective treatment, it is just and necessary that the petitioner's husband should be admitted in Aravind Eye Hospital, Madurai and the entire expenses will be borne by the above said Ex-serviceman Contributory Health Scheme.

3. Further, it is the contention of the learned counsel for the petitioner that since the petitioner is living at Madurai, she could not travel from Madurai to Chennai to see her husband and therefore, she made a representation on 05.05.2014 to grant parole for a period of 30 days to get treatment at Aravind Eye Hospital, Madurai and also sought for transfer of her husband Ramaraj, Life Convict No. 4579 from Central Prison, Puzhal, Chennai to Central Prison, Madurai. As the representation has not been considered, the petitioner has come forward with this Habeas Corpus Petition with the above said prayer.

4. The learned Government Advocate (Crl. side) has submitted that Life Convict Ramaraj murdered Dilshan, as he fired the young boy with a riffle. A Division Bench of this Court, has confirmed the Judgment of the Fast Track Court No. V, Chennai, on 12.12.2013 in Crl. A. No. 301 of 2012. In the said Judgment, Hon'ble Mr. Justice P.N. Prakash has started the Judgment as follows:

Adam ate the forbidden apple and he was expelled from Heaven. Dilshan, a lad of 13, yearned for almonds and got expelled from Earth!!

This Ramaraj, who has expelled Dilshan from the Earth is seeking for leave for his treatment at eye hospital.

5. The learned Government Advocate (Crl. side) by filing the counter affidavit filed by the 3rd respondent has submitted that the leave sought by the petitioner was refused and the Life Convict Ramaraj's case has been referred to Government Hospital Royapettah by the Doctors of Government Ophthalmic Hospital, Egmore, as the said Ramaraj is having high blood sugar and it is risky to do surgery. The learned Government Advocate (Crl. side) further submitted that the Medical Officer of Central Prison-1, Puzhal has recommended that Ramaraj could be referred to Royapettah Government Hospital and it is not necessary to take treatment at Aravind Eye Hospital, Madurai and hence he prayed for dismissal of the Habeas Corpus Petition.

6. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl. side).

7. The reason given by the Doctors cannot be questioned as we cannot sit on appeal over the opinion of the Doctors. But, the petitioner has made out a case that she wants to take her husband to Aravind Eye Hospital at Madurai to get a second opinion and the Doctors therein also are specialized in Eye surgery. Hence, the Government Ophthalmic Hospital, Egmore, referring the Life Convict Prisoner to Government Hospital, Royapettah is not going to give any solution to the problem. There is nothing wrong in getting a second opinion from Aravind Eye Hospital, thereby the patient (Life Convict) and the petitioner would feel comfortable to get treatment from Aravind Eye Hospital, as the medical expenses is going to be borne only by the Ex-serviceman Contributory Health Scheme. Therefore, we are of the view that the petitioner's demand that her husband should be taken to Aravind Eye Hospital, Madurai for treatment is fully justified.

8. However, as per Tamil Nadu Suspension of Sentence Rules, 1982, the Life Convict is not entitled to leave for 30 days. At this juncture, It is useful to refer to Rule Nos. 22 and 23 of the said Rules, which is extracted below:

Rule No. 22 Eligibility for ordinary leave:

(i) No prisoner shall be granted ordinary leave unless he has completed three years of imprisonment from the date of initial imprisonment.....

Rule No. 23 Petition for ordinary leave:

(i) The petition for ordinary leave shall be submitted by the prisoner or by a relative of the said prisoner to the Government direct or sent through the Superintendent of Prison where the prisoner to whom leave is to be granted is confined

(2) Each petition for ordinary leave shall be accompanied with a statement of the names of two sureties who are willing to execute the bond for the prisoner's release on leave and take care of the prisoner during the period of leave. In the petition, it shall be stated, among other things, the names and address of the prisoner's relatives with whom he wishes to stay during his leave period.

Since the petitioner's husband has completed only two years of life imprisonment, this Court is of the view that he is entitled to have only 15 days' leave.

9. Since the petitioner has not made any representation with regard to shifting her husband from Central Prison, Puzhal, Chennai to the Central Prison, Madurai, we are not inclined to pass any orders on that issue and it is open to the petitioner or her husband to make a representation to the authorities concerned to shift the Life Convict from Central Prison, Puzhal, Chennai to the Central Prison, Madurai and the authorities shall pass appropriate orders for retention of the Life Convict permanently at Madurai, within a period of 48 hours from the date of receipt of such representation. In case of any adverse order being passed, the jail authorities may permit the petitioner's husband to be shifted from Central Prison, Puzhal, Chennai to the Central Prison, Madurai temporarily

to enable him to get treatment and follow up surgery by granting 15 days" leave for getting second opinion and if required also for surgery. Accordingly, we pass the following order:

(a) it is open to the petitioner or her husband to make a representation to the authorities concerned to shift the Life Convict from Central Prison, Puzhal, Chennai to the Central Prison, Madurai and on such representation being made, the authorities shall pass appropriate orders for retention of the Life Convict permanently at Madurai, within a period of 48 hours from the date of receipt of such representation.

(b) If the authority concerned feels that the said Life Convict K. Ramaraj, should not be retained at Madurai and detained only at Puzhal Prison, Chennai, it is open to them to pass appropriate orders.

(c) On passing of such order, either favourable or adverse as against the petitioner or the Life Convict, the jail authorities shall grant 15 days" leave to the Life Convict No. 4579, namely, K. Ramaraj, who is now confined at Central Prison, Puzhal, Chennai from the date of passing of such order.

(d) The Superintendent of Central Prison concerned is hereby directed to pass appropriate orders releasing the Life Convict, granting him 15 days" leave as aforesaid, for the purpose of taking treatment in Aravind Eye Hospital, Madurai, followed by surgery, if required, to be decided by the Doctors, during the period of 15 days, when he is on leave.

(e) It is made clear that the Life Convict should be brought back to the jail authority concerned by 06.00 p.m. on the 16th day of granting leave, without fail.

(f) The Jail Authorities during the period of leave, shall provide proper escort to the Life Convict in order to ensure the safety and security of the Life Convict. They shall also impose suitable conditions to that effect.

(g) The petitioner and the Life Convict should adhere to the Rule 23 extracted supra.

It is made clear that violation of any of the conditions would warrant cancellation of the order and arrest of the Life Convict.

With the above direction, the Habeas Corpus petition is closed. Connected miscellaneous petition is also closed.

Registry is directed to list this matter before the Regular Bench on 23.06.2014 for compliance.