

K. VINOD CHANDRAN & M.R. ANITHA, JJ.

W.P.(CrI.)No.7 of 2021

Dated this the 11th day of January, 2021

K. Vinod Chandran, J.

Read our orders dated 08.01.2021. After the interim report filed by the Additional District Judge, we have received a medical examination report carried out by the two doctors who were deputed by the DMO on our directions to visit the Prison and examine Sri. Tittu Jerome. The same is marked as Annexure C2 along with the typed copy.

2. As per our directions, the DGP (Prisons) has authorized the DIG of Prisons and Director SIEKA, Central Zone Sri.P. Ajay Kumar to conduct an enquiry and make an interim report. The authorization is marked as Annexure C3. The interim report dated 09.01.2021 is marked as Annexure C4.

3. The learned Government Pleader has also produced before us the proceedings of the Superintendent ordering an enquiry against the smuggling of liquor, to the premises by four convicts; one of whom is the son of the petitioners' herein. The said proceeding is marked as Annexure C5. The Medical Officer, Central Prison, Poojappura on 08.01.2021 has also

purportedly examined the convicts Tittu Jerom, Shinu, Unnikkuttan and Syam Sivan and submitted a report to the DIG of Prisons which is marked as Annxure C6.

4. As of now, on our directions, the convict has been admitted to the Medical College Hospital, Thiruvananthapuram and the medical report dated 09.01.2021 of the Unit Chief S5, Department of General Surgery, Government Medical College Thiruvananthapuram is also produced before us, which is marked as Annexure C7.

5. We are unhappy at the manner in which the enquiry report has been submitted by the DIG who has been authorized by the DGP, Prisons. We see that the report indicates that the complaints raised by the convicts is a retaliatory measure to the enquiry ordered by the Prison officials against the smuggling of liquor into the prison premises. It is also stated that the report of the Medical Officer, Central Prison does not indicate the convicts having been subjected to any torture or having suffered any injury. In this context, we refer to Annexure C6 report of the Medical Officer, Central Prison which has been prepared after examination of the convicts at 1.45 p.m. It is specifically noticed

that on examination, it is observed that Tittu Jerome and Shinu had complaints of abdominal pain and generalized back ache. The other two convicts are also said to have only complaints of generalized body pain. It is specifically noted that the external general examination reveals no visible injury. This is quiet contrary to the report filed by the Consultant Physician and Junior Consultant Physician who examined Sri. Tittu Jerome on our directions at 4 p.m on the same day i.e. after the examination by the Medical Officer, Central Prison.

The visible abnormalities have been specified in the report and on examination of the body the following has been recorded:

- "Abdomen: Generalized tenderness present over abdomen.
- More tenderness over left inguinal region.
- Tenderness over left renal angle present
- Multiple contusions over back present
- There is multiple cane marks over both feet (plantar aspect)
- Advice and instruction
- Blunt injury abdomen
- ? Renal injury (left)

6. It is quiet strange that the Medical Officer, who examined the body of the convict at 1.45 did not notice the facts as recorded by two Medical Officers at 4 p.m. We are also not

satisfied with the report filed by the DIG in which *prima facie* we find an attempt to safeguard the Prison personnel, who are involved in the alleged incident of torture inflicted on the inmates of the Central Prison. In this context, we also notice a paper report which quotes the DIG as having informed the Press that the complaint raised by the convicts is a retaliatory measure of the enquiry initiated by the Prison officials. We record our anguish in such details being made available to the media before the report is submitted to this Court. We direct the DGP, Prisons to conduct an enquiry on the aspects above noticed and file a report within a period of two weeks.

8. We record the fact as submitted by the learned Special Government Pleader that disciplinary action is already initiated against the alleged erring officials and they have been transferred from the Central Prison, Poojappura. We would not interfere with that. But, however, we are still of the opinion that the concerns raised by us in the above order has to be examined by the DGP, Prisons and a report filed before this Court.

9. In the facts and circumstances, we direct the Commissioner of Police to immediately produce the convict

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admitted to the Medical College before the Jurisdictional Magistrate (over the locality in which the Central Prison, Thiruvananthapuram is located). The Jurisdictional Magistrate, on such production, shall record the oral statement of the convict/victim and shall take further steps as he deems fit under the Code of Criminal Procedure, 1973.

We post the matter on 13.01.2021 for a report on the compliance of our orders. We direct the prisoner to be returned to the Medical College Hospital and he shall be discharged only on our further orders.

H/o.

Sd/- K.VINOD CHANDRAN, JUDGE
Sd/- M.R.ANITHA, JUDGE

/true copy/

Jayalalitha
21.1.2021
ASSISTANT REGISTRAR

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11/1/21

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11.1.21

IN THE HIGH COURT OF KERALA AT ERNAKULAM

Present:

THE HONOURABLE MR. JUSTICE K. VINOD CHANDRAN

&

THE HONOURABLE MRS. JUSTICE M. R. ANITHA

Monday, the 11th day of January 2021/21st Pousha, 1942

WP(Cr1.) No.7/2021(S)

PETITIONERS

1. JEROM KOCHUKUTTY,
TITTU BHAVAN, THANNITHADAM,
ELAMPAL P.O., KOLLAM.
2. VALSAMMA, TITTU BHAVAN,
THANNITHADAM, ELAMPAL P.O., KOLLAM.

RESPONDENTS

1. THE STATE POLICE CHIEF, POLICE HEADQUARTERS,
VAZHUTHACAUD, THIRUVANANTHAPURAM - 695 014.
2. THE INSPECTOR GENERAL OF POLICE (PRISONS),
POOJAPPURA, THIRUVANANTHAPURAM - 695 012.
3. THE SUPERINTENDENT OF POLICE (PRISONS),
CENTRAL JAIL, POOJAPPURA, THIRUVANANTHAPURAM-695 012.

Writ Petition (criminal) praying inter alia that in the circumstances stated in the affidavit filed along with the WP(Cr1.) the High Court be pleased to issue an interim direction to the 3rd respondent to produce the petitioner's son Tittu Jerom (convict in Sessions Case No.381/2018 of the Sessions Court, Kottayam) before this Honourable Court, pending disposal of the writ petition.

This petition again coming on for orders upon perusing the petition and the affidavit filed in support of WP(Cr1.) and this Court's order dated 08/01/2021 and upon hearing the arguments of SRI.K.P. SATHEESAN (SENIOR ADVOCATE) along with M/S.P.MOHANDAS (ERNAKULAM), GOKUL D.SUDHAKARAN, K. SUDHINKUMAR, SABU PULLAN & S.K.ADHITHYAN, Advocates for the petitioners and of GOVERNMENT PLEADER for R1 to R3, the court passed the following:

P.T.O.

rs.