

Hemalatha Vs. the Superintendent of Central.

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Court : Chennai

Decided On : Mar-13-2012

Judge : K.K.Sasidharan, J.

Appeal No. : W.P.(MD)No.2848 of 2012 and M.P.(MD)No.1 of 2012

Appellant : HemalathA.

Respondent : The Superintendent of Central.

Advocate for Def. : Mr.A.Navaneetha Krishnan, Adv.

Advocate for Pet/Ap. : Mr.Veera Kathiravan, Adv.

Judgement :

ORDER

1. The Writ Petition, at the instance of the wife of a remand prisoner now lodged at Central Jail, Trichirappalli, seeks a Writ of Mandamus, directing the Superintendent of Central Prison, to transfer the remand prisoner to any of the private Speciality Hospitals at Trichy and more specifically, Geethanjali Hospital, Trichy for immediate medical attention and assistance at her cost.

BRIEF FACTS:

2. The petitioner is the wife of one V.Dhivaharan, accused in Crime Nos.23 of 2012 and 24 of 2012 on the file of Edayur Police Station and Needamangalam Police Station, respectively. The accused was arrested on 02 February, 2012 and thereafter, he was remanded to judicial custody. According to the petitioner, the remand prisoner is the Founder and Correspondent of a Women's College at Mannargudi Village and he is also a Philanthropist with deep roots in the Society.

3. The bail applications preferred before the Sessions Court, Thiruvarur and the High Court were dismissed.

4. According to the petitioner, her husband is a chronic diabetic patient. He had undergone a major heart surgery in 1998 and as such, he is now under constant medication. He is also having a problem in his neuro veins. He is taking treatment for his heart ailment and also for neurological problems. He also suffered a left ventricle dysfunction and this also necessitated continuous medication.

5. It is the grievance of the petitioner that the condition of her husband is worsening day-by-day on account of lack of medical attention. The petitioner, through her advocate, submitted a representation on 24 February, 2012, requesting the Superintendent of Central Prison to transfer her husband to a Super Speciality Hospital at Trichy. The said representation was not considered. Therefore, she seeks a positive direction to shift her husband to a private Speciality hospital at Trichy or Geethanjalai Hospital, Trichy for immediate treatment.

6. When the Writ Petition came up for admission on 08 March, 2012, the learned counsel for the petitioner submitted that the remand prisoner was produced before the learned Judicial Magistrate, Needamangalam and the petitioner met him from the Court premises and she was convinced that he requires emergent treatment. He was found in a depressed condition and his weight was also reduced considerably. In view of the gravity of situation, as projected by the learned counsel for the petitioner, I have directed the Superintendent of Central Prison, Trichy, to produce the remand prisoner before the Dean, Trichy Government Medical College Hospital forthwith. The Dean was directed to constitute a medical team comprising the Cardiologist and Diabetologist and examine the under-trial

prisoner. The Dean was further directed to submit a report to this Court with regard to the claim for shifting to a private hospital.

7. The Writ Petition was taken up for further consideration on 12 March, 2012. The learned Additional Advocate General produced a sealed cover forwarded by the Dean, A.G.M. Government Hospital, Trichy.

8. I have perused the report prepared by the Cardiologist and Diabetologist. The report of the Cardiologist and Diabetologist proceeds as if the condition of the patient was normal. The material portion of the report reads thus:

Patient comfortable, Pulse 80/min, BP-130/84 mmHg, CVS and RS are normal. ECG shows Sinus Rhythm 86/min, ST flattening in lead I, a VL and V6 (old ECG report Sinus Rhythm ST flattening in V4-V6) ECHO shows CAD Hypokinesia of inferior wall & inferior septum, Mild hypokinesia of other segments of LV, LV dysfunction mild. LVEF 51%.

DIAGNOSIS - Type 2 DIABETES MELLITUS / SYSTEMIC HYPERTENSION/CORONARY ARTERY DISEASE - Post CABG Status mild LV Dysfunction/Chestpain - possibly nocturnal Angina.

As per the investigations done here at Annal Gandhi Memorial Government Hospital, Tiruchirappalli, the glycemic control is satisfactory. So the patient is advised to continue the present Anti-diabetic medications as per the records. The pt advised FBS and PPBS after 2 weeks.

9. Even though the report proceeds as if the patient was comfortable and his condition was satisfactory, the medical team has further added that patient needs medical supervision, hospitalization and Neurologist observation. The said statement was per se against the medical opinion with regard to the observed condition of the remand prisoner. The medical report was not accompanied by the opinion of the Dean as to whether it is necessary to admit the patient immediately in the Government Hospital or in a Speciality Hospital. When I have indicated about the report submitted by the medical team, the learned counsel for the petitioner submitted that the Neurologist has not examined the remand prisoner

and as such, the report is not complete. Therefore, I directed the learned Additional Advocate General to examine the patient by a Neurologist and thereafter, submit a report through the Dean, Government Medical College College Hospital, Trichy as to whether the remand prisoner should be admitted in a hospital for better treatment.

10. When the matter was taken up today, Dr.Karthikeyan, Dean, K.A.P.Viswanatham Government Medical College and Annal Gandhi Memorial Government Hospital, Trichy along with Dr.M.Abdul Aleem, Professor of Neurology, K.A.P.V. Government Medical College and A.G.M.Government Hospital, Trichy were present.

11. The learned Advocate General produced a report prepared by the Professor of Neurology indicating that the remand prisoner was examined at 07.30 a.m., today. The report contains details of the examination and the final opinion.

12. The opinion given by the Professor of Neurology reads thus:

Final Neurology Opinion:

As far as this patient at present as per his neurological status on examination and on available investigation, does not need admission and treatment in any Centre.

13. I have asked the Dean as to whether on the basis of the medical report dated 09 March, 2012, and the subsequent report of the Neurologist dated 13 March, 2012, it is necessary to admit the remand prisoner either in a Government Hospital or in a Super Speciality Hospital at Trichy. The Dean submitted that it is not necessary to take outside treatment at present and as such, hospitalisation of the remand prisoner is not necessary.

14. The Dean has also filed a report dated 13 March, 2012, which reads thus:

1. It is submitted that all facilities are available for the Welfare of the inmates of Central Prison at Trichirappalli. (i) A 30 bedded well equipped Hospital with a Doctor for 24 hours; (ii) One Pharmacist;

(iii) One Staff Nurse;

(iv) Three Male Nursing Assistants;

2. The following Medical Equipments are available for better treatment of inmates and they are

(i) Electro Cardiogram, (ii) X-ray Unit, (iii) Bio-Chemical Investigations. All drugs for common disorders available. Doctor is attending nearly 200 out patients daily in the Prison Hospital and in emergency cases, Specialist Doctors from Medical College Hospital are attending on the request of Prison Authorities.

Besides, a well equipped Ambulance with two duty Drivers also available in the Central Prison.

4. Specialist Doctors like, Cardiologist, Diabetologist, Neurologist and Psychiatric are attending the inmates in the Jail weekly. On all Saturdays prison patients are being referred to Medical College Hospital for further management.

5. Central Prison is situated nearly 2 1/2 kms from Medical College Hospital which is hardly a five minutes travel.

6. Every Tuesday the Residential Medical Officer and Assistant Residential Medical Officer are visiting the Prison.

So, the prisoner does not need any outside treatment and need not be admitted in the Hospital at present.

15. The learned counsel for the petitioner contended that the remand prisoner has undergone an open heart surgery at Apollo Hospital, Chennai, during the year 2003 and as such, he is on regular medication. According to the learned counsel, the State cannot stand in the way of giving better treatment to a prisoner. The petitioner is prepared to bear the entire expenses for treatment. There is a separate ward for prisoners in the Government Hospital at Trichy. The said fact shows that there are no sufficient facilities available in the Central Jail at Trichy. The learned counsel further contended that there are no sufficient transportation facilities to transfer the remand prisoner from the Jail to the Hospital, in case urgent treatment is to be given. According to the learned counsel, there are three

private Super Speciality Hospitals at Trichy and the remand prisoner can be admitted in anyone of those hospitals, at the expense of the petitioner.

16. The learned Advocate General opposed the prayer made by the petitioner for transfer of the remand prisoner to any of these private hospitals. According to the learned Advocate General, the remand prisoner is now in a perfect condition. The medical report clearly indicates that he does not require hospitalisation at all. The petitioner now wanted luxury stay for the prisoner at a private hospital. The materials available on record do not indicate an emergent situation, so as to transfer the prisoner to a private Speciality Hospital. According to the learned Advocate General, the experts have now given an opinion that the remand prisoner is in a healthy condition and as such, there is no need to admit him in a hospital. Therefore, the Writ Petition is liable to be dismissed.

FACTUAL ANALYSIS:

17. There is no dispute that the remand prisoner underwent an open heart surgery at Apollo Hospital, Chennai during the year 2003. He is stated to be on regular medication. The remand prisoner was examined by the Cardiologist on 01 March, 2012. The Cardiologist advised him to continue the medication, as per the advice given earlier by the Apollo Hospital. Thereafter, he was examined by the Cardiologist and Diabetologist on 09 March, 2012. The experts have found that the condition of the remand prisoner was satisfactory. He was advised to continue the present anti-diabetic medications, as per records. They have also advised him to review the case after two weeks.

18. The core question is whether immediate hospitalisation of the remand prisoner is necessary in the facts of the present case.

19. The husband of the petitioner is a remand prisoner. He is on judicial remand, as per the order passed by the learned Judicial Magistrate. His bail applications were also dismissed.

20. The petitioner now seeks a direction to shift the remand prisoner to a Super Speciality Hospital, Trichy and more specifically, Geethanjali Hospital, Trichy for

giving him expert treatment as an inpatient. However, there is nothing on record to show that the remand prisoner has, at any time, complained of any illness before the Assistant Surgeon, Central Prison Hospital, Trichy.

21. The examination conducted by the medical team shows that the patient was comfortable and his organ functions were normal. The ECG and ECHO also does not give any indication of complication. The glycemic control was found satisfied. The remand prisoner was advised to continue the present anti- diabetic medications as per records. The medications were prescribed by the private hospital, where the remand prisoner took treatment earlier.

22. There is no dispute that the convict and remand prisoner would not lose their constitutional rights, on account of their incarceration. In case a prisoner requires immediate medical attention, the prison authorities should immediately respond and he should be taken to a nearby hospital.

23. The Court is not an expert in matters like this. The Court can only consider the report submitted by the Medical Officers, who are the Specialists in the respective field. The primary complaint of the petitioner relates to the neurological problems of the remand prisoner. The Professor of Neurology, K.A.P.V. Government Medical College and A.G.M. Government Hospital, Trichy himself examined the remand prisoner today and certified that there is no neurological dysfunction and hospitalisation of the remand prisoner is not necessary at present. When the report of the Dean and the Specialists are against the version given by the petitioner, the Court has no other way than to accept the official report.

24. The report submitted by the Dean also contains the details of the facilities now available at the Central Prison, Trichy. According to the Dean, the prison is attached with a 30 bedded well equipped hospital with a doctor for 24 hours. It has got one Pharmacist, one staff nurse and three male Nursing Assistants. The Prison hospital was given all the modern medical equipments including Electro Cardiogram. Bio-Chemical Investigations facilities are also available. There is a well equipped ambulance with two duty drivers allotted to the hospital at Central Prison. The Specialist Doctors like Cardiologist, Diabetologist, Neurologist and Psychiatrist are attending the inmates of the jail weekly on all Saturdays. In case

any of the patients require hospitalisation, they would be referred to the Medical College Hospital for further management. The Central Prison is stated to be 2 1/2 kms away from the Medical College, which is hardly five minutes travel. The distance as indicated by the Dean was disputed by the learned counsel for the petitioner. The learned members of the Bar who were present in Court confirmed the fact that the distance would be about 4 kms. The report of the Dean further contains an indication that the medical officers would be available throughout day and night on rotation.

25. Therefore, on a careful consideration of the materials available on record, which includes the reports submitted by the Specialists, I am of the view that immediate hospitalisation of the remand prisoner is not necessary. The petitioner specifically wanted hospitalisation of remand prisoner in a private hospital. The learned Advocate General seriously doubted the bona fides of such a contention, as according to him, the petitioner wanted to give her husband a luxury home stay in an air-conditioned suite at Geethanjali Hospital, notwithstanding the fact that he is a remand prisoner. I am not examining the issues raised by the learned Advocate General. The Court is concerned only about the health condition of the remand prisoner in the light of the reports submitted by the experts.

DIRECTIONS:

26. The Assistant Surgeon attached to Central Prison Hospital, Trichy is directed to examine the remand prisoner everyday and in case he requires the assistance of Specialists, he should immediately contact the Dean, Government Medical College Hospital, Trichy, directly or through the Jail Superintendent and on such request, immediate medical assistance should be given. Similarly, in the event of the remand prisoner complains of any kind of illness and the duty doctor is of the opinion that immediate hospitalisation is necessary, he should be taken to the Government Medical College Hospital, Trichy forthwith.

27. The medial team attached to the Central Prison should see that not only the husband of the petitioner but also all other inmates are medically treated well and their grievances are addressed to.

28. The learned counsel for the petitioner contended that the hospital ambulance is ill equipped and as such, the transit would be a problem, in case the remand prisoner complains of chest pain or other ailments. The learned Advocate General, on instructions from the Dean, submitted that the hospital ambulance is well equipped. The ambulances now operated by Multi Speciality Hospitals are, in fact, Mini Hospitals and it is equipped with sophisticated equipments to give emergency treatment while in transit.

29. The Superintendent of Central Prison, Trichy must ensure that the jail doctor is on duty on rotation basis throughout day and night, besides nursing and para-medical staff. Fully equipped ambulance with driver and nurses should be available at the prison round the clock. In case the remand prisoner makes any complaints, the same should be attended to immediately.

30. Therefore, on a careful consideration of the entire factual matrix including the medical reports, I am of the view that the petitioner has not made out a case for shifting the remand prisoner to a private Speciality Hospital or Geethanjali Hospital at Trichy.

31. In the upshot, I dismiss the Writ Petition. Consequently, the connected miscellaneous petition is also dismissed. No costs.

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