

**THE HIGH COURT OF MEGHALAYA AT
SHILLONG****: ORDER :****WRIT PETITION No. 355 of 2015****Shri K.K. Wahlang Versus State of Meghalaya and Ors.****Date of Order :: 26.04.2017****HON'BLE THE CHIEF JUSTICE SHRI DINESH MAHESHWARI****HON'BLE SHRI JUSTICE S.R. SEN**

Shri K. Paul, for the petitioner.

Shri S. Sen Gupta, GA, for the respondents No. 1 and 2.

Shri. VGK Kynta, Sr. Advocate, for respondent No. 3.

Shri. HS Thangkhiew, Sr. Advocate, for respondent No. 4

BY THE COURT: (per Hon'ble the Chief Justice) (Oral)

In this petition seeking a writ of habeas corpus, the petitioner has alleged that his cousin, Shri Paul N. Kharkongor is in illegal detention in the mental health institute of San-ker, Mawlai Mawroh, Shillong.

The petitioner has indicated that the alleged detenu got separated from his wife and is having a son, about 16 years of age; but the child Master Basan N. Khongthah used to stay with his mother whereas the detenu used to live a life of solitude with less or no interaction with his neighbours and other relatives. The petitioner has made several allegations against the respondent No. 4, who is said to be another first cousin of the alleged detenu like the petitioner himself. According to the petitioner, the respondent No. 4, taking advantage of the adverse circumstances of the alleged detenu, drew herself close to him and then, forcibly sent him to the mental hospital at San-ker. The petitioner has also alleged that respondent No. 4 was trying to look for the buyers of the property of the detenu.

While considering the matter at the earlier stage, this Court considered it appropriate to obtain the status of mental health of the detenu and a Commission comprising of Director of Social Welfare and Director of Health Services was issued for the purpose. After the report of the Commission, the matter was adjourned on several occasions while granting time to the learned counsel for the parties for making submissions. However, having regard to the circumstances of the case, ultimately the detenu was ordered to be produced before this Court and when he was produced from San-ker on 10.03.2017, we conferred with him *in camera*; and he was also allowed to meet and confer with his son, who was present in the Court.

Having regard to the circumstances, this Court also found it just and proper that an account be opened in the name of the alleged detenu; and the rent received from the tenants of the property belonging to him be deposited therein. As directed by this Court, a savings bank account has been opened in Laitumkrhah Branch of the State Bank of India in the name of the alleged detenu and the pass book of this account is said to be lying with the authorities of San-ker. It was noticed on 13.04.2017 that an amount of Rs. 20,000/- was transferred in the account of the alleged detenu from the account of one Mr. Barilang Jyrwa, said to be the brother of respondent No. 4.

Further, having regard to the peculiar circumstances, this Court requisitioned a fresh medical report as regards the alleged detenue from the medial officer attending on him in San-ker. In compliance of the order passed by this Court, the Director of San-ker has submitted a report on "Psychiatric Evaluation" of the alleged detenu in a sealed cover. We have perused this report and have also allowed the learned counsel for the parties to go through the same. As the present matter is proposed to be concluded by this

order, it appears just and proper to reproduce the summary of the findings in the said "Psychiatric Evaluation", which reads as under:

"SUMMARY: *This cross section examination and observations over the past month reveal that Paul has no active psychotic features except for negative symptoms like lack of motivation to perform routine activities of daily living. He is cooperative with the staff and his mental status over the last three months has remained stable. There has been significant improvement in his behaviour since the last report. He should continue to be stable provided he receives adequate care and supervision of his medication as well as motivation to complete his Activities of Daily Living (ADL)."*

During the course of consideration of the matter and while conferring with the Court, Shri Paul N. Kharkongor has shown reasonable alertness and has adequately responded to the queries. He has expressed the desire to settle himself in his own house and for that matter, he feels that his son, though young in age, would be living with him and would be of adequate support. Shri Paul K. Kharkongor does not appear to be incapable of making his own preferences.

Having given thoughtful consideration to the entire matter and having taken into comprehension the relevant facets of the matter, we are clearly of the view that Shri Paul N. Kharkongor cannot be said to be in any illegal confinement and there appears no reason to issue any writ in this matter as prayed for or to enter into any other dispute, as sought to be projected by the petitioner and respondent No. 4.

It appears that Shri Paul N. Kharkongor was earlier admitted to San-ker under the force of circumstances, but the present 'Psychiatric Evaluation' clearly shows that there is significant improvement in his behaviour. However, there is a caveat entered in the medical report that he is likely to remain stable when receiving adequate care and supervision of his medication as also motivation to complete his activities of daily living.

In the totality of circumstances, we are of the view that interest of justice shall be served by providing that Shri Paul N. Kharkongor is free to go to the place of his choice and preference but, looking to the fact that he was a

reported case of abnormal psychology and had been in San-ker since the year 2013; and looking to the indications in the present Psychiatric Evaluation, we are further of the considered view that at least for some time, he be provided with an independent additional support for his well being and lookafter, without interfering with his regular activities and personal desires.

Having formed the opinion that Shri Paul N. Kharkongor be provided an independent additional support, we have requested the Member Secretary, State Legal Services Authority for providing the services of a Para Legal Volunteer (PLV), who may remain friendly with Shri Paul N. Kharkongor, and who would ensure his proper lookafter by visits at regular intervals. In response, the Member Secretary has suggested for the services of a PLV, Shri Kitboklang Nongphlang, who is said to be actively involved in the legal aid activities. The said Shri Kitboklang Nongphlang, PLV has appeared before us and on being explained the requirements, is willing to take up the task. We find the said PLV a suitable person to be entrusted with the task of being friendly with Shri Paul N. Kharkongor and to take his care at whatever place he wishes to settle, by making visits at regular intervals, say at least once a week. The said PLV shall be expected to make reports of his visits and interactions with Shri Paul N. Kharkongor on regular basis to the State Legal Services Authority; and he shall be paid the remuneration admissible as per the scheme of the State Legal Services Authority.

With the observations and the requirements foregoing, this petition stands disposed of.

JUDGE

CHIEF JUSTICE

Sylvana

Item No. 7