



Creation of Separate Prison for Remand Prisoners From Convict Prisoners - A Study

RESEARCH SCHOLOR

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RESEARCH GUIDE

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ABSTRACT

The study aims to see the remand prisoner's Rights mainly for reformation and rehabilitation – This study further highlights the reason why the separate prison need for the remand prisoner's apart from the present system now existing – how the repeated crimes can be avoided – to avoid the first offender to be a habitual offender by having a conduct with convict prisoner's in the present jail system existing – need for exception of remand prison from convict prisoner's and its reasons.

Key words - Remand Prisoner – Convict Prisoner – Jail Reforms Committee – Remand Prisoner Rights – The Model Prison Mainly - Reformation and Rehabilitation – Over Crowded in Prison.

Methodology

The research is based on non empirical sources of data are secondary in nature and extensive information and data has also been gathered form websites.

Introduction

Remand Prisoners are not criminals. The law presumes that the remand prisoner is an innocent person until proved the criminal case beyond reasonable doubts. So, the courts termed the Under Trial Prisoner as ' Accused'. Other than 'Criminal' or 'Convict'. The very purpose of criminal justice system in the country is having an idea not only to protect the rights of victim, but also the convicts and Under Trial Prisoners. Hence, under trial prisoners are having bundle of rights in order to prove his or her innocence. But, in present

scenario, the Under Trial Prisoners (remand prisoners) and the convict prisoners are held custody in the same Prison or Jail. While the remand prisoners have mingled with convict prisoners in Prison, there is a chance to have a meeting of minds between convicts and Under Trial Prisoner and collusion of evil ideas can be formed between them leads a fresh remand prisoner into a hard core criminal to repeat the crime or doing serious crime again. Therefore, let us discuss why the remand prisoners should be isolated from the convict prisoners in detail.

1.1 Under Trial Prisoners- Meaning:-

According to 78th Report of Law Commission of India (1979), Under Trial Prisoner is a person, who is in a Judicial Custody or remand during an investigation.

In a simple terms, an Under Trial Prisoner (Remand Prisoner) is a person, who has been arrested for criminal case and detained in prison during the period of investigation, inquiry or trial and is waiting to appear before the Court of Law.

1.2. Under Trial Prisoner's Population:-

In Tamil Nadu State, 9- Central Prisons and 5- Special Prison for woman, 12- Borstal School, 3- Special Sub Jails one for men and 2 for women, 14- District Jails, 96- Sub Jails – for men 88 and 8 for women and 3 open air prison are existing.

1.3. **Prison Population as on 13.05.2021**

Category	Male	Female	Total
Authorized Accommodation	21044	2548	23592
Actual Prison Population	13985	611	14596

Category – wise Population

Category	Male	Female	Total
a) Convicts	4159	173	4332
b) Under Trial	1122	59	1181
c) Remand Prisoners	7208	349	7557
d) TPDA	1493	30	1523
e) NSA	-	-	-
f) COFEPOSA	-	-	-
g) Others	7	-	7

The remand prisoners' in the total population of prisoners in nearly 2/3 population of prison and why remand prisoners are large in – number held in prison is to be considered and viewed seriously. Because, the remand prisoners are till innocents until their case is proved beyond reasonable doubts in the Court of Law.

1.4. Over Crowded in Prison:-

The high rate of Remand Prisoner held in prison which ultimately lead to a over crowded in the prison. In order to reduce the over crowded in prison that the process of investigation and trial of the case should be completed without unreasonable delay.

1.5 Reasons for Remand Prisoners held long days in Prison:-

The poor accused finds the difficulty to furnish the surety for bail. In some cases, when the case is very serious in nature, the court often denied to grand bail and the rule “Bail is a right and Jail is an exception” not considered. In some cases, the courts have granted bail with strict conditions on sureties and it becomes an impossible task for the poor to find persons sufficiently solvent to stand as sureties.

1.6. Running “Law School”t in Prisons:-

Now a days, due to over crowded in prison population that the mingling of remand prisoners among the convict prisoner easily will result with the acquittance and contacts with hard core criminals. The convict prisoner, as a “well known lawyer” teachers and guide the fresh remand prisoners and Under Trial Prisoners that how to behave in the courts. It should be avoided. Because it will lead to a remand prisoner to became a habitual offender to repeat to do the crime again and again.

1.7. Right solution for remand prisoners:-

According to recommendation by Mulla Committee on Jail reforms, the Indian Penal Code should be suitably in the light of the contemporary ideology of reformation and rehabilitation of offenders e.g., it may provide alternatives to prison sentences and eliminate distinction between simple and rigorous imprisonment.

Hence, separate prison for Under Trial and remand prisoners to be maintained. While maintain a separate prison for remand prisoners, there is a chance for creation of scientific classification methods of separating remand prisoners from convict prisoners.

The Model Prison Manual:-

The Model Prison Manual states that no convicted prisoner shall be kept in the same area in which under trial prisoners are kept or be allowed to have a contact with under trial prisoners.

In State of Rajasthan Vs. Balchand @ Baliay, the Supreme Court has ruled that it is not necessary to detain the accused person in court if the appearance of the accused can be secured by other means. The Supreme Court also stated that bail and not jail should be the norm.

So, the separate, distinct prison for remand prisoners is to be created and maintained for reformation and rehabilitation of remand prisoners and it is the need of the hour too.

1.8 Conclusion:-

Remand prisoners and under trial prisoners are only innocents before the Court of Law. While they are held in prison, should not have a chance to become hard core criminals by mingling along with convict prisoner's contacts.

The number of remand prisoners in the prisons can be reduced by granting bail as a rule and jail as an exception by Court of Law and also speeding up the Trial. Therefore, there should be a separate prison for remand prisoners to be created for their reformation and rehabilitation.

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