



CRL.O.P.No.1139 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 03.06.2026

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.1139 of 2026

Mohamed Beer Sulthan, (M-34),
S/o.Kamalmusthafa,
D.No.62/68,
Krishthuva Anuppar Street,
Dharapuram,
Tiruppur-641 604.

... Petitioner

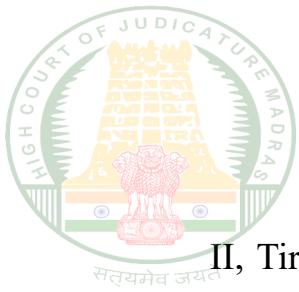
VS.

The State Represented by its;
1.The Superintendent of Prison,
Central Prison Coimbatore,
Coimbatore-641 018.

2.The Inspector of Police,
South Police Station,
Tiruppur-641 604.
(Crime No.293/2023 and
Crime No.469 of 2023).

... Respondent

PRAYER: Criminal Original Petitions filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023, to direct the 1st respondent to treat the sentences in C.C.No.580/2023 of the learned Judicial Magistrate-



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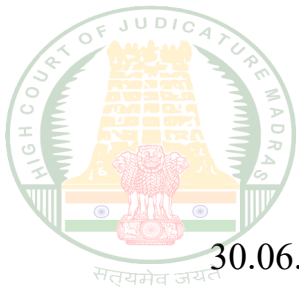
II, Tiruppur order dated 26.02.2024 and the same was confirmed by the learned Sessions Judge, Special Court for Trial of Cases under SC/ST (POA) Act, Tiruppur in Crl.A.No.288/2024 order dated 06.11.2025 and in C.C.No.473/2023 learned Judicial Magistrate Court-II, Tiruppur order dated 20.10.2023 and the same was confirmed by the learned Sessions Judge, Special Court for Trial of Cases under SC/ST (POA) Act, Tiruppur, in Crl.A.No.116/2024 order dated 30.06.2025 to run concurrently.

For Petitioner : Mr.S.Manoharan

For Respondent : Mr.A.Amarnath,
Government Advocate (Crl. Side)

ORDER

The petitioner was convicted by judgment dated 20.10.2023 in C.C.No.473 of 2023 by the learned Judicial Magistrate No.II, Tiruppur, and sentenced to undergo three years of Rigorous Imprisonment and to pay a fine of Rs.5,000/-, in default, to undergo Simple Imprisonment for one month for the offence under Section 382 IPC. On appeal in Crl.A.No.116 of 2024, the learned Sessions Judge, Special Court for Trial of Cases under the SC/ST (POA) Act, Tiruppur, by judgment dated



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30.06.2025, confirmed the trial Court's judgment dated 20.10.2023 and dismissed the appeal. Similarly, the petitioner was convicted by judgment dated 26.02.2024 in C.C.No.580 of 2023 by the learned Judicial Magistrate No.II, Tiruppur, and sentenced to undergo three years of Rigorous Imprisonment and to pay a fine of Rs.10,000/-, in default, to undergo Simple Imprisonment for one month for the offence under Section 382 IPC. On appeal in Crl.A.No.288 of 2024, the learned Sessions Judge, Special Court for Trial of Cases under the SC/ST (POA) Act, Tiruppur, by judgment dated 06.11.2025, confirmed the trial Court's judgment dated 26.02.2024 and dismissed the appeal.

2.Learned counsel for the petitioner submitted that both the cases (C.C.Nos.473 and 580 of 2023) tried by the same Court for offences under Section 382 IPC arising out of two incidents. Thereafter, the petitioner convicted and sentenced as stated above. In C.C.No.473 of 2023, the petitioner convicted on 20.10.2023, and the same Judge in C.C.No.580 of 2023 convicted the petitioner on 26.02.2024. However, while imposing the sentence in the second case, the earlier conviction not taken into consideration and no order passed directing the sentences to



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run concurrently. In support of his submissions, learned counsel for the petitioner relied upon the decision of the Hon'ble Apex Court in *V.K. Bansal v. State of Haryana and Others*, reported in 2013 SCC OnLine SC 573, and submitted that this Court is empowered to direct the sentences to run concurrently.

3.Learned Government Advocate (Crl. Side) appearing for the respondents submitted that the petitioner ought to have made such a prayer at the time of sentencing in the second case. But he failed to bring the earlier conviction to the notice of the trial Court and no such order passed. Thereafter, even in the appeal in Crl.A. No.288 of 2024, the petitioner ought to have sought appropriate orders. At this stage, making such a prayer is not proper and the petition is liable to be dismissed.

4.Considering the submissions and on perusal of the materials, it is seen that the petitioner involved in a similar offences in the earlier case in C.C.No.473 of 2023. The occurrence took place on 12.06.2023, wherein the petitioner said to have snatched a chain from the victim while she was on a walk, and the chain subsequently recovered from the petitioner.



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With regard to the second case in C.C. No.580 of 2023, it is seen that the petitioner said to have shown Sai Baba photograph to the victim, who was aged about 9 years, and thereafter snatched the chain. In this case, admittedly, the identity of the petitioner not proved. Further, no recovery made and no witness identified the petitioner. It is also seen that the petitioner, for the first time in the in dock, stated that he look similar to the person who snatched the chain, but not proved.

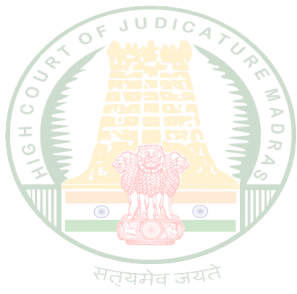
5.The Hon'ble Apex Court in *Benson v. State of Kerala* reported in (2016) 10 SCC 307, while dealing with a similar situation, held that under Section 427 Cr.P.C., in terms of sub-section (1), where a person is already undergoing a sentence of imprisonment, any subsequent sentence of imprisonment would normally commence only after the expiration of the earlier sentence. However, this normal rule is subject to the qualification and it is within the power of the Court to direct that subsequent sentence shall run concurrently with the previous sentence and further the Apex Court relied on its earlier judgment in *V.K. Bansal v. State of Haryana and Others*, reported in 2013 SCC OnLine SC 573, in which, in paragraphs No.10 held as follows:



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“10. ... It is manifest from Section 427(1) that the Court has the power and the discretion to issue a direction but in the very nature of the power so conferred upon the Court the discretionary power shall have to be exercised along the judicial lines and not in a mechanical, wooden or pedantic manner. It is difficult to lay down any straitjacket approach in the matter of exercise of such discretion by the courts. There is no cut and dried formula for the Court to follow in the matter of issue or refusal of a direction within the contemplation of Section 427(1). Whether or not a direction ought to be issued in a given case would depend upon the nature of the offence or offences committed, and the fact situation in which the question of concurrent running of the sentences arises.”

6. Thus, on going through the record, this Court directs the substantive sentences imposed in C.C.Nos.473 & 580 of 2023 by the learned Judicial Magistrate No.II, Tiruppur shall run concurrently. This Court grants this benefit in respect of substantive sentences to the petitioner's jail sentence but maintain the sentences of fine and default sentences. If the fine as imposed is not deposited, the default sentences shall run consecutively and not concurrently.



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7.In the result, this Criminal Original Petition is allowed.

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Index: Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation: Yes/No
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To

- 1.The Sessions Judge,
Special Court for Trial of Cases under SC/ST (POA) Act,
Tiruppur.
- 2.The Judicial Magistrate No.II,
Tiruppur.
- 3.The Superintendent of Prison,
Central Prison Coimbatore,
Coimbatore-641 018.
- 4.The Inspector of Police,
South Police Station,
Tiruppur-641 604.
- 5.The Public Prosecutor,
Madras High Court.



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M.NIRMAL KUMAR, J.

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