

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 23.04.2015

CORAM

THE HONOURABLE DR.JUSTICE S.TAMILVANAN
AND
THE HONOURABLE MR.JUSTICE C.T.SELVAM

H.C.P. No.3391 of 2014

Michael Augustin Dixon @ Pavan

... Petitioner

-v-

1. The Additional Director General of Prison,
CMDA Tower-II,
No.1, Gandhi Irwin Road,
Egmore, Chennai-600 008.
2. The Superintendent of Prisons,
Central Prison Puzhyal-I,
Chennai-600 066.
3. The Intelligence Officer,
Narcotics Control Bureau,
South Zonal Unit,
Chennai.

... Respondents

Habeas Corpus Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Habeas Corpus to call for the records relating to the judgments passed by this Court in

1.C.A.No.197/2013 on 21.03.2013 against the C.C.No.327 of 2003 on the file of Special Judge, I Additional Special Court for NDPS Cases, Chennai

2.C.A.No.391/2011 on 04.01.2013 against the C.C.No.259/2003 on the file of Special Judge, I Additional Special Court for NDPS Cases, Chennai.

3.C.A.No.516/2011 on 02.04.2013 against the C.C.No.265/2003 on the file of Special Judge, I Additional Special Court for NDPS Cases, Chennai.

(4) C.A.No.279/2013 dated 06.01.2013 on the file of the Madurai Bench of the Madras High Court against C.C.No.658/2013 on the file of Additional District and Sessions Judge and Special Court under NDPS Act, Pudukottai

to run all the sentences and also the default sentence to run concurrently and release the petitioner forthwith, who is confined in Central Prison, Puzhal, Chennai.

For Petitioner : Mr.T.Muruganantham

For Respondents : Mr.N.P.Kumar
Spl. PP for NCPS Cases

O R D E R

(Order of the Court was made by S.TAMILVANAN,J.)

The scope of the relief sought for in this H.C.P., is limited. The learned counsel for the petitioner submits that the detenu is convicted by the trial court for the offence under Section 8(c) of NDPS Act, 1985 and he is undergoing imprisonment for more than 12 years and seeks a direction to the respondents to run all the sentences and also the default sentence to run concurrently and to release the petitioner forthwith, who is confined in Central Prison, Puzhal, Chennai. The details of the conviction is as follows:

S.No.	Case No.	Conviction under	Imprisonment	Default sentences
	C.A.No.391/2011 against C.C.No.259/2003 on the file of 1 st Additional Special Court for NDPS Acts, Chennai.	8(c) r/w. 29, 21(C) 23 (C), 27A and 28 of NDPS Act.	10 years R.I. for each of the offences and all the sentences should run concurrently	Fine amount Rs.one lakh in default to pay the fine amount to undergo one month R.I. For each of the offences; default 5 months
2	C.A.No.197/2013 against C.C.No.327/2003 on the file of 1 st Additional Special Court for NDPS Acts, Chennai	8 (c) r/w.21 (C),28 and 29 of NDPS Act	10 years R.I for each of the offences and all the sentences should run concurrently	Fine amount Rs.one lakh in default to pay the fine amount to undergo 15 days R.I for each of the offences; Default 45 days

S.No.	Case No.	Conviction under	Imprisonment	Default sentences
3	C.A.No.516 of 2011 against C.C.No.265/2003 on the file of 1 st Additional Special Court for NDPS Acts, Chennai	8 (c) r/w.28 and 29 of NDPS Act	10 Years R.I.for each of the offences and all the sentences should run concurrently	Fine amount Rs.one lakh in default to pay the fine amount to undergo 15 days R.I. For each of the offences Default 30 days
4	C.A.(MD) NO.279 of 2013 against C.C.No.658/2003 on the file of Additional special Court for NDPS Act, Pudukottai	8 (c) r/w.27 (A), 28 and 29 of NDPS Act	10 years R.I. For each of the offences and all the sentences should run concurrently	Fine amount Rs.one lakh in default to pay the fine amount to undergo one month R.I. For each of the offences 6 months to 01 month (each) R.I.,For each of the offences Default 3 months

2. In support of his contention, learned counsel for the petitioner has also produced a decision rendered by a Division Bench of this Court in HCP No.2778 of 2013 dated 09.01.2014, wherein, this Court held that the prisoner therein was entitled to the benefits of Section 427(2) Cr.P.C., and further ordered that the sentences suffered by him shall have to run concurrently.

3. Having gone through the decision, the learned Additional Public Prosecutor, appearing on behalf of the respondents has not raised any objection in following the said decision to the case on hand and allowing this petition.

4. The petitioner was convicted for the offences, which are similar in nature i.e., under Section 8(c) of the N.D.P.S.Act. The petitioner has undergone the imprisonment for more than 12 years. Having considered the facts and circumstances of the case and in the light of the decision referred above, we find it just and reasonable to order all the sentences to run concurrently. It is not in dispute

that the default sentences ordered by the trial Court under Section 8 (c) of NDPS Act was subsequently reduced by this Court in Criminal Appeal No.197 of 2013 dated 21.03.2013; in Criminal Appeal No.391 of 2011 dated 04.01.2013; Criminal Appeal No.516 of 2011 dated 02.04.2013; in Criminal Appeal (MD).No.279 of 2013 dated 06.01.2014. Accordingly, the total sentences ordered in respect of Default sentences being 10 months and 15 days and the substantial sentences ordered by the trial court would have been ended in the month of April, 2014 itself.

5. The prayer of the petitioner in this H.C.P., is to order the sentences to run concurrently in all the four cases and to release him forthwith.

6. On a perusal of the materials available on record, we are of the considered view that the petitioner has already undergone the default sentences as well as the substantial sentences for all the four cases. Further, following the decision laid down by a Division Bench of this Court in H.C.P.No.2778 of 2013, the petitioner herein, is entitled to the benefits of Section 427(2) Cr.P.C., and the sentences suffered by him will have to run concurrently in terms of Section 427(2) Cr.P.C.

7. In view of the above referred to decision and the fact that the petitioner has already undergone the default sentences as well as the substantial sentences for all the four cases, we hereby direct the respondents to set him at liberty forthwith.

8. In the result, the Habeas Corpus Petition is allowed.

Sd/-
Assistant Registrar

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

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To

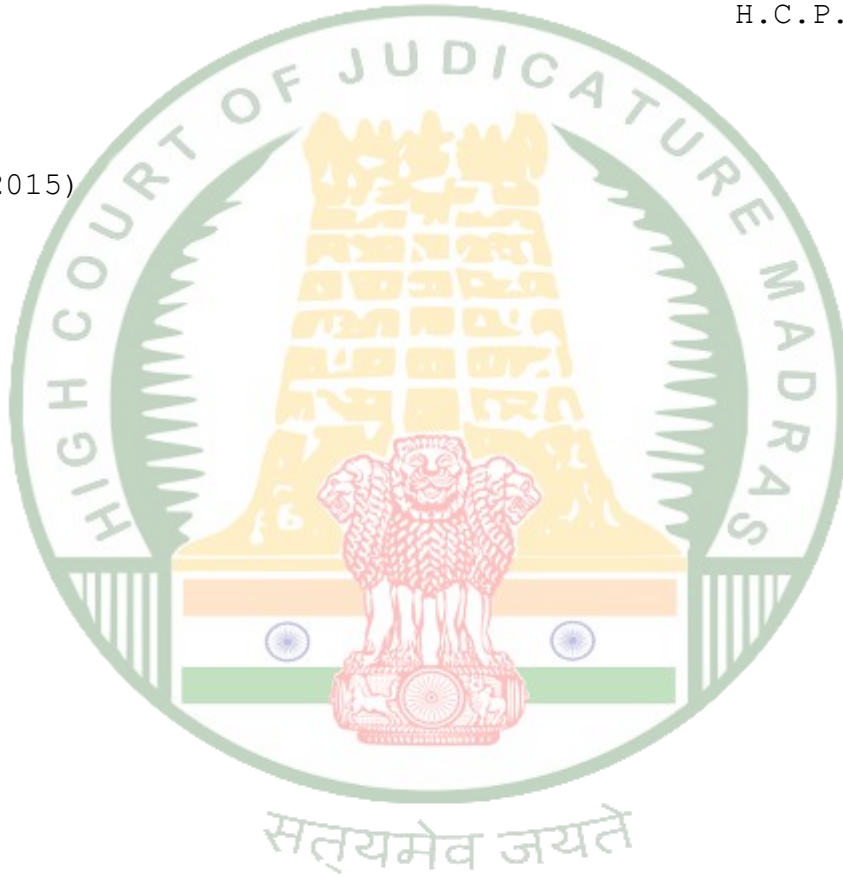
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+lcc to Mr.T.Muruganantham, Advocate, S.R.No.22232

H.C.P. No.3391 of 2014

KSJ(CO)
CA(24/04/2015)



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