



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.08.2015

CORAM:

THE HONOURABLE MS.JUSTICE R.MALA

Criminal Original Petition(MD) No.12716 of 2015

S.Mariappan : Petitioner

Vs.

1.State of Tamil Nadu rep by
The Secretary to Government,
Home, (Prison IV) Department,
Secretariat,
Fort. St. George,
Chennai-9.

2.The Additional Director General of Police,
Egmore,
Chennai-8.

3.The Inspector of Police,
Thiruchencode Police Station,
Namakkal District.
(Crime No.15/1992)

4.The Inspector of Police,
Cumbum Police Station,
Cumbum,
(Crime No.533/1987)

5.The Inspector of Police,
Kumuli Police Station,
Theni District.
(Crime No.3 of 1999)

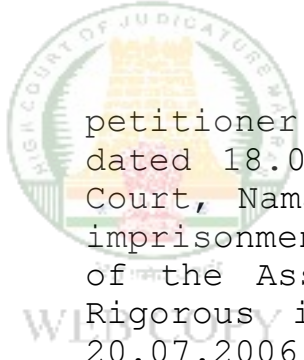
6.The Inspector of Police,
Kodaikanal Police Station,
Dindigul District.
(Crime No.253/1992)

7.The Superintendent of Police(Prison)
Madurai Central Prison,
Madurai.

: Respondents

<https://hcservices.ecourts.gov.in/hcservices/>

Prayer: Criminal Original Petition is filed under Section 482 of Cr.P.C., praying to direct the respondents to permit the



petitioner that the life sentence imposed in S.C.No.115 of 2005 dated 18.07.2006 on the file of the learned Additional Sessions Court, Namakkal along with for the punishment of 7 years Rigorous imprisonment and in S.C.No.54 of 1992 dated 23.12.2005 on the file of the Assistant Sessions Court, Uthamapalayam for the 7 years Rigorous imprisonment imposed and in S.C.No.132 of 2002 dated 20.07.2006 on the file of the Assistant Sessions Court, Uthamapalayam for the punishment of 7 years Rigorous imprisonment and in S.C.No.37 of 2008 dated 02.12.2008 on the file of the Assistant Sessions Court, Palani for the punishment of 7 years Rigorous imprisonment with Rs.5,000/- fine on default of it, 1 ½ years of rigorous imprisonment and for the punishment of 1 years rigorous imprisonment with fine of Rs.1000/- default of it, three months rigorous imprisonment and for the punishment of 7 years imprisonment and for the punishment of 7 years rigorous imprisonment with fine Rs.5000/- on default of it, 1 ½ year rigorous imprisonment to run concurrently and consequently set off the period of incarceration suffered with the petitioner from 27.08.1992 to 23.02.2005 as under trial remand prisoner.

For Petitioner : Mr.S.Lenin Prabu
 For Respondents : Mr.K.Anbarasan
 Government Advocate(Crl. Side)

ORDER

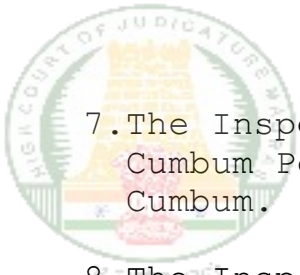
The petitioner has filed the present petition to direct the respondents to permit the petitioner that the life sentence imposed in S.C.No.115 of 2005 dated 18.07.2006 on the file of the learned Additional Sessions Court, Namakkal along with for the punishment of 7 years Rigorous imprisonment and in S.C.No.54 of 1992 dated 23.12.2005 on the file of the Assistant Sessions Court, Uthamapalayam for the 7 years Rigorous imprisonment imposed and in S.C.No.132 of 2002 dated 20.07.2006 on the file of the Assistant Sessions Court, Uthamapalayam for the punishment of 7 years Rigorous imprisonment and in S.C.No.37 of 2008 dated 02.12.2008 on the file of the Assistant Sessions Court, Palani for the punishment of 7 years Rigorous imprisonment with Rs.5,000/- fine in default of it, 1 ½ years of rigorous imprisonment and for the punishment of 1 years rigorous imprisonment with fine of Rs.1000/- default of it, three months rigorous imprisonment and for the punishment of 7 years imprisonment and for the punishment of 7 years rigorous imprisonment with fine Rs.5000/- on default of it, 1 ½ year rigorous imprisonment to run concurrently and consequently set off the period of incarceration suffered with the petitioner from 27.08.1992 to 23.02.2005 as under trial remand prisoner.

imprisonment in the following cases on the orders passed by the competent criminal Courts as follows:

Sl.N o	Sentences Awarded	Court Awarding Sentences
1.	Life sentence for the offence under Section 302 r/w. 34 I.P.C., with fine of Rs.10,000/-, in default, to undergo 2 months SI and 7 years RI for the offence under Section 394 r/w 397 I.P.C with fine of Rs.7,000/-, in default, to undergo 1 month SI in S.C.No.115/2015 dated 18.07.2006	II Addl. Sessions Court, Namakkal
2.	7 years RI for the offence under Section 394 r/w 397 of I.P.C., in S.C.No.54 of 1992 dated 23.12.2005	Assistant Sessions Court, Uthamapalayam
3.	7 years RI for offence under Section 394 r/w 397 of I.P.C., in S.C.No.132/2002 dated 20.07.2006	Assistant Sessions Court, Uthamapalayam
4.	7 years RI for offence under Section 458 I.P.C with fine of Rs.5000/- in default, to undergo 1 ½ years of RI and 1 year RI for offence under Section 342 I.P.C and 7 years SI for offence under Section 397 r/w 34 of I.P.C., and further sentence to undergo 7 years RI with fine of Rs.5000/- in default, to undergo 1 ½ months RI for offence under Section 25 (1)(b) of Indian Arms Act in S.C.No.37 of 2008 dated 02.12.2008	Assistant Sessions Court, Palani.

4.At this juncture, the learned Government Advocate (Criminal side) would submit that as per the decision in *MOHD AKHTAR HUSSIAN V ASSISTANT COLLECTOR OF CUSTOMS* reported in 1988 AIR 2143 , the petitioner is not entitled to get the relief as prayed for in this petition and he also filed a detailed counter.

5.Considering the submissions made on either side and also considering the fact that the petitioner is facing the above said cases and by following the judgment of this Court in *K.Arasan and others v. The State of Tamil Nadu* [2012(6) CTC (Cr.)510], this Court came to the conclusion that under Section 482 Cr.P.C to issue direction ordering sentence imposed in latter case on conviction to run concurrently with sentence imposed in former case as provided in Section 427 Cr.P.C., and the judgment relied upon by the learned Government Advocate (Crl.side) in *MOHD AKHTAR HUSSIAN V ASSISTANT COLLECTOR OF CUSTOMS* cited *supra*, is not applicable to the facts of the present case, because the offence



7.The Inspector of Police,
Cumbum Police Station,
Cumbum.

8.The Inspector of Police,
Kumuli Police Station,
Theni District.

9.The Inspector of Police,
Kodaikanal Police Station,
Dindigul District.

10.The Superintendent of Police (Prison)
Madurai Central Prison,
Madurai.

11.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+ 1 CC TO MR.S.LENIN PRABU, ADVOCATE IN SR NO. 47914

NS

TE/AN-MP/ 15/09/2015 5P/13C

Order made in
Crl.O.P. (MD) No.12716 of 2015
Dated:- 18.08.2015