

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: **30-09-2016**

PRONOUNCED ON: **20-10-2016**

CORAM:

THE HON'BLE MR.JUSTICE **A.SELVAM**
AND
THE HON'BLE MR.JUSTICE **P.KALAIYARASAN**

H.C.P.No.2417 of 2015

Ramaraj @ Rajmohan

... Petitioner

vs.

1. The Inspector of Police
B-1, Ooty Town Central Police Station
Ooty, Nilgiris District
2. The Inspector of Police
G-1, Ooty Town West Police Station
Ooty, Nilgiris District
3. The Inspector of Police
R-2 Kodambakkam Police Station
Kodambakkam
Chennai – 24
4. The Superintendent of Prison
Central Prison
Palayamkottai
Thiruvanelveli District

... Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of habeas corpus directing the respondent No.4, to order the sentences in three cases, viz., C.C.No.208 of 2000(on the file of the Judicial Magistrate Court, Ooty), S.C.No.7 of 2001 (on the file of the Assistant Sessions Court,Ooty and S.C.No.381 of 2001 (on the file of the Assistant Sessions Court (FTC NO.4) to run concurrently to the petitioner Ramaraj @ Rajmohan, S/o.Thangamalai, convict prisoner now confined in Central Prison,

Palamkottai, Thirunelveli District.

For Petitioner : Mr. P. Pugalenthir

For Respondents : Mr.V.M.R.Rajentren, APP

ORDER

(Order of the Court was made by **A.SELVAM,J.**)

This Habeas Corpus Petition has been filed under Article 226 of the Constitution of India, praying to give necessary direction to the fourth respondent to order the sentences imposed in three cases viz., Calendar Case No.208 of 2000, S.C.No.7 of 2001 and S.C.No.381 of 2001 shall run concurrently to the petitioner Ramaraj alias Rajmohan.

2. It is averred in the petition that on 02-11-2000, the petitioner has been arrested by the first respondent in connection with Crime No.1293 of 2000 under Section 380 of Indian Penal Code. On 12-01-2001, the petitioner has been convicted and sentenced to undergo two years Rigorous Imprisonment under Section 380 IPC in C.C.No.208 of 2000. Further, it is averred in the petition that in Sessions Case No.7 of 2001, the petitioner has been found guilty under Sections 392 read with 397 IPC and sentenced to undergo ten years RI. Likewise, in Sessions Case No.381 of 2001, he has been sentenced to undergo imprisonment for life under Section 302 IPC. The petitioner is in custody for more than 15 years. But there is no

specific order to the effect that all sentences imposed against the petitioner shall run concurrently. Under the said circumstances, the present petition has been filed for getting the relief sought therein.

3. In the counter filed on the side of the respondents, it is averred that as per Section 427 of the Code of Criminal Procedure, 1973 there is no judicial order to the effect that all sentences imposed against the petitioner shall run concurrently. Under the said circumstances, the present petition is liable to be dismissed.

4. The learned counsel appearing for the petitioner has contended to the effect that initially in C.C.No.208 of 2000, the petitioner has been found guilty under Section 380, IPC and sentenced to undergo two years' R.I., and subsequently, in Sessions Case No.7 of 2001, he has been found guilty under Sections 392 read with 397 IPC and sentenced to undergo ten years' RI and finally, in Sessions Case No.381 of 2001, he has been found guilty under Section 302 IPC and sentenced to undergo imprisonment for life. But, in the judgment passed in Sessions Case No.381 of 2001, no specific order has been passed to the effect that all sentences imposed against him shall run concurrently. Under the said circumstances, the present petition has been filed for getting the relief sought therein.

5. Per contra, the learned Additional Public Prosecutor has

contended that the relief sought in the present petition cannot be granted and further, the present petition is not legally maintainable and therefore, the same is liable to be dismissed.

6. The specific relief sought in the petition is to give necessary direction to the effect that all the sentences imposed against the petitioner shall run concurrently. It is an admitted fact that initially in C.C.No.208 of 2000, the petitioner has been found guilty under Section 380, IPC and sentenced to undergo two years' R.I., and secondly, in Sessions Case No.7 of 2001, the petitioner has been found guilty under Sections 392 read with 397, IPC and sentenced to undergo 10 years' R.I., and finally, in Sessions Case No.381 of 2001, he has been found guilty under Sections 302,IPC and sentenced to undergo life imprisonment.

7. It is settled principle of law that as per Section 427 of the Code of Criminal Procedure, 1973, if relevant judgments are filed, the Court can very well pass an order to the effect that all sentences imposed against particular convict to run concurrently.

8. In the instant case, as pointed out earlier in Sessions Case No.381 of 2001, the petitioner has been found guilty under Sections 302, IPC and sentenced to undergo imprisonment for life. Further, it is seen from the records that in Sessions Case No.381 of

2001, he has also been found guilty under Sections 380 and 201, IPC and sentenced to undergo three years' R.I. Before passing judgment in Sessions Case No.381 of 2001, the petitioner has not submitted the judgments passed in Calendar Case No.208 of 2000 and Sessions Case No.7 of 2001. If really, the petitioner has submitted those judgments before passing judgment in Sessions Case No.381 of 2001, definitely the Sessions Court would have invoked Section 427 of the Code of Criminal Procedure, 1973. But the petitioner has not done it.

9. Further, for invoking Section 427 of the Code of Criminal Procedure, 1973, the present Habeas Corpus Petition is not legally maintainable. Therefore, viewing from any angle, the relief sought in the petition cannot be granted. Under the said circumstances, the present petition deserves to be dismissed.

In fine, this Habeas Corpus Petition is **dismissed**.

(A.S.J.) (P.K.J.)

20-10-2016

Index:Yes/no
glp

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AND
P.KALAIYARASAN,J

glp

Pre-delivery order in
H.C.P.No.2417 of 2015

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