

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.03.2016

CORAM

THE HONOURABLE MS.JUSTICE R. MALA

CRL.O.P.No.24192 of 2015

Babulu @ Satheesh

.. Petitioner

... Vs ...

The State represented by,
The Superintendent of Prison,
The Central Prison,
Puzhal, Chennai - 66.

.. Respondent

Prayer:- Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, praying to direct the respondent to concurrent the sentences imposed by the learned Additional District and Sessions Judge/Fast Track Court-V, Chennai-1, in S.C.No.111 of 2009 by the judgment dated 22.05.2009 and sentences imposed by the learned Additional Sessions Judge (Fast Track Court II), Poonamallee, in S.C.Nos.157, 158 and 160 of 2009 by the judgment dated 12.04.2010 respectively.

For Petitioner : Mr.S.Manoharan
For Respondent : Mr.C.Emalias,
Additional Public Prosecutor

ORDER

The petitioner has come forward with this petition seeking for a direction, directing the respondent police to concurrent the sentences imposed by the learned Additional District and Sessions Judge/Fast Track Court-V, Chennai-1, in S.C.No.111 of 2009 by the judgment dated 22.05.2009 and sentences imposed by the learned Additional Sessions Judge (Fast Track Court II), Poonamallee, in S.C.Nos.157, 158 and 160 of 2009 by the judgment dated 12.04.2010 respectively.

2. The learned counsel for the petitioner submitted that in S.C.No.111 of 2009, the petitioner was convicted for the offence under Section 392 r/w. 397 of IPC and sentenced to undergo seven years rigorous imprisonment and to pay a fine of Rs.1000/- in default to undergo six months rigorous imprisonment and the petitioner was also convicted for the offence under Section 506

(ii) of IPC and sentenced to undergo two years rigorous imprisonment and to pay a fine of Rs.500/- in default to undergo two months rigorous imprisonment and both the sentences were ordered to run concurrently. The learned counsel for the petitioner further submitted that in S.C.Nos.157, 158 and 160 of 2009, the petitioner was convicted for the offence under Section 394 r/w. 397 of IPC and sentenced to undergo seven years rigorous imprisonment and to pay a fine of Rs.2000/- in default to undergo three months rigorous imprisonment in each case.

3. The learned counsel for the petitioner also submitted that in the case in S.C.No.111 of 2009, the petitioner was detained and he served his sentences at Puzhal Central Prison-I for nearly five years from 2009 onwards and now he is serving his remaining period of two years and set off also has been ordered. The occurrence in all the four cases is said to be taken place in the year 2008. In S.C.No.111 of 2009, the petitioner was arrested on 19.09.2008 at 17.15 hours and in respect of other cases are concerned, the alleged occurrence is said to be taken place on 17.09.2008 and the petitioner was arrested on 19.09.2008. The petitioner was arrested in Crime No.230 of 2008 in connection with S.C.No.111 of 2009 for the alleged occurrence said to be taken place on 19.09.2008 and he was produced on PT warrant in respect of alleged occurrence said to be taken place on 17.09.2008 which is relating to S.C.Nos.157, 158 and 160 of 2009. The offences in all the four cases are one and the same. The learned counsel for the petitioner also submitted that as against the said conviction and sentence, the petitioner has not preferred any appeal and prayed for an order.

4. The learned counsel for the petitioner has relied upon a decision of the Division Bench of this Court reported in 2012 (3) MWN (Cr.) 184 (DB), wherein, at paragraph Nos.15 and 16, the Division Bench of this Court has held as follows:-

"15. As far as the issue involved in this matter, we are of the considered view that the learned Single Judge in A. Paulraj v. Maria Chellammal and others, 2011 (4) MLJ (CrL.) 798, has rightly placed reliance on the decision of the Larger Bench consisting of Three Judges of the Hon'ble Apex Court in State of Punjab v. Madhan Lal, 2009 (5) SCC 238, which is binding on this Court and taken a correct view.

16. It is to be stated that invoking the jurisdiction under Section 482 Cr.P.C. in order to grant the relief under Section 427 Cr.P.C., would not amount to altering, varying or modifying the findings of the Trial Court or Appellate Court. On

the other hand, it is always open to this Court to exercise power under Section 482 Cr.P.C. to secure the ends of justice. It is needless to say that this Court has to exercise its judicial discretion for invoking the power under Section 482, Cr.P.C. for granting the relief under Section 427, Cr.P.C., on the basis of the facts and circumstances and gravity of the charge levelled against the accused in each case."

5. The learned Additional Public Prosecutor raised objection stating that considering the gravity of the offence, the petitioner is not entitled for any relief and hence, he prayed for dismissal of the petition.

6. This Court has considered the rival submissions made on both sides and perused the records.

7. On a perusal of the typed set of papers, it is seen that in all the four cases, the alleged occurrence is said to be taken place between 17.09.2008 and 19.09.2008 and in S.C.No.111 of 2009, the petitioner was arrested on 19.09.2008 and immediately, he was produced on P.T. warrant in other cases of similar nature. In such circumstances, it is a fit case for granting the relief under Section 427 of Cr.P.C. and ordering the sentences to run concurrently.

8. Accordingly, the respondent viz., The Superintendent of Prison, Central Prison, Puzhal, Chennai, is directed to concurrent the sentences imposed by the learned Additional District and Sessions Judge/Fast Track Court-V, Chennai-1, in S.C.No.111 of 2009, dated 22.05.2009 and the sentences imposed by the learned Additional Sessions Judge (Fast Track Court II), Poonamallee, in S.C.Nos.157, 158 and 160 of 2009, dated 12.04.2010 respectively.

9. The Criminal Original Petition is ordered accordingly.
Jrl

-s/d-

Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

To

1. The Additional District and Sessions Judge,
Fast Track Court-V, Chennai-1.

2. The Additional Sessions Judge
(Fast Track Court II),
Poonamallee.

3. The Superintendent of Prison,
The Central Prison,
Puzhal, Chennai - 66.

4. The Public Prosecutor,
High Court, Madras.

+ 1 cc to Mr.S.Manoharan, Advocate SR 20285

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