

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.07.2017

CORAM:

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

H.C.P.No.633 of 2017

V.Vinothini

... Petitioner

vs.

1. The State, rep.by
The Inspector of police,
Senthurai Police Station,
Ariyalur Police Station,
Ariyalur District.

- 2.The Superintendent of Police,
Central Prison,
Central Jail,
Thituchirapalli

... Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of habeas corpus to set off the period of pre-trial/remand period from 29.01.2008 to 17.3.2010, i.e. 2 years and 49 days or declare such period as non-statutory period.

For Petitioner : Mr.P.Tamilavel

For Respondents : Mr.V.M.R.Rajentren, Addl.P.P.
for R1 and R2

WEB COPY

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 set off the period already undergone by the father of the petitioner during pre-trial period from 29.1.2008 to 17.3.2010.

2. It is averred in the petition that the father of the petitioner, by name, Vairavan, has been arrayed as an accused in Sessions Case No.36 of 2008, on the file of the Mahila Court, Perambalur, wherein, he faced charge under Section 302 of the Indian Penal Code. The trial Court, after considering the available evidence on record, has found him guilty under Section 302 of the Indian Penal Code and sentenced him to undergo imprisonment for life. Further it is averred in the petition that the trial Court has failed to pass necessary order with regard to set off for the period started from 29.01.2008 to 17.03.2010. Against the judgment passed by the trial Court, an appeal has been preferred in Crl.A.No.403 of 2010, on the file of this Court and this Court, after hearing arguments of both sides, has dismissed the appeal and thereby confirmed the conviction and sentence passed by the trial Court. 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 the accused has been in custody from 29.01.2008 to 17.3.2010, during pre-trial.

4. The present petition has been filed praying to give set off for the period started from 29.01.2008 to 17.03.2010.

5. It is an admitted fact that the trial Court, in its judgment, has not passed any order with regard to set off and this Court has also failed to note the same.

6. Considering the fact that the accused has already been in custody for the period started from 29.1.2008 to 17.3.2010, as per Section 428 of the Code of Criminal Procedure, 1973, this Court is of the view that the relief sought in the petition can be granted.

In fine, this habeas corpus petition is allowed and the second respondent is directed to give set off to the accused/prisoner for the period started from 29.1.2008 to 17.3.2010.

sd/-
Assistant Registrar

//true copy//

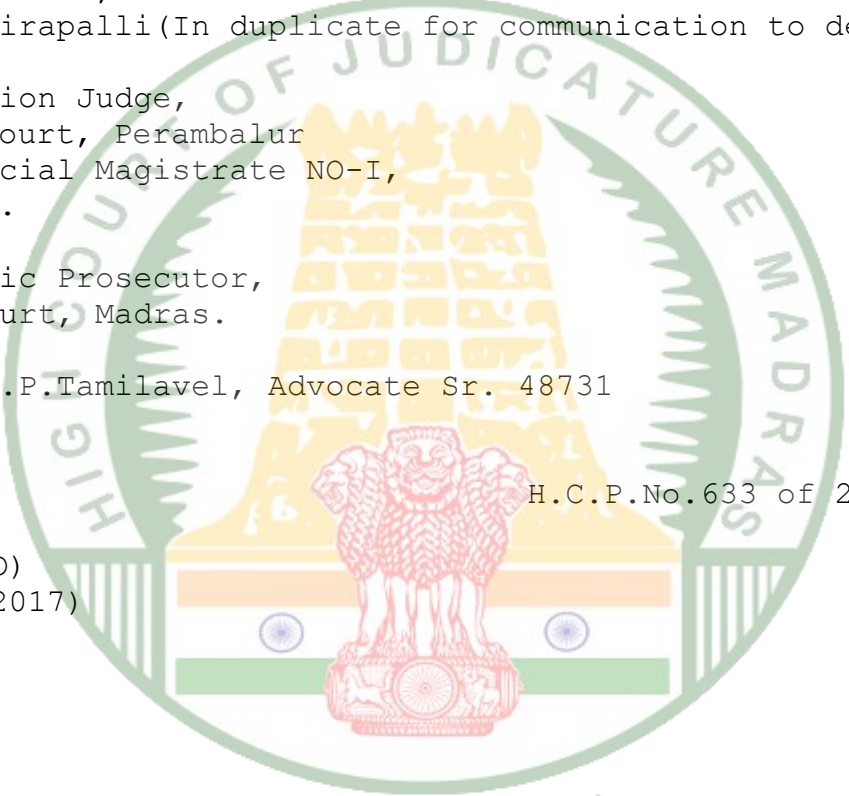
Sub Assistant Registrar

To

- 1.The Inspector of police,
Senthurai Police Station,
Ariyalur Police Station,
Ariyalur District.
 - 2.The Superintendent of Police,
Central Prison,
Central Jail,
Thituchirapalli(In duplicate for communication to detenue)
 - 3.The Session Judge,
Mahila Court, Perambalur
 - 4.The Judicial Magistrate NO-I,
Ariyalur.
 - 5.The Public Prosecutor,
High Court, Madras.
- +1cc to Mr.P.Tamilavel, Advocate Sr. 48731

GJII(CO)
VR(13/07/2017)

H.C.P.No.633 of 2017



सत्यमेव जयते

WEB COPY