



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.09.2017

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH
and
THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

H.C.P.(MD) No.1394 of 2017

Senthilkumar

... Petitioner

-vs-

1. The State of Tamilnadu,
Rep. by the Secretary to Government of Tamilnadu,
Department of Home, Fort St. George,
Chennai-600 009.

2. The Superintendent of Prisons,
Central Prison, Tiruchirappalli.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Habeas Corpus, to direct the respondents to set off the period of detention during pre trial from 29.06.1996 to 13.08.1996 of detainee 1] Rajendran A2, age 52, S/o.Saminathan Convict No.12523; 2] Ravichandran @ Ravikumar, A3, age 47, S/o.Mahalingam, Convict No.12524 and 3] Vaiyapuri, A4, age 48, S/o.Uthirapathi, Convict No.12525, concerned in same case in Cr.No.359/1996 on the file of Orathanadu Police Station and convicted in S.C.No.188/1998 on the file of the learned FTC No.I, Thanjavur and now detained at Central Prison, Trichy and consequently direct the respondents to calculate and include those days with their conviction sentence period by considering the petitioner's representation dated 23.07.2017.

For Petitioner : Mr.R.Narayanan
For R1 & R2 : Mr.T.Mohan,
Additional Public Prosecutor

O R D E R

[Order of the Court was made by M.M.SUNDRESH, J.]

The petitioner is the relative of the three life convicts, who are undergoing the conviction and sentence, in pursuant to the judgment rendered by the learned Additional District and Sessions Judge, Thanjavur in S.C.No.188/1998, dated 13.02.2004 in the Central Prison, Trichy, from 13.02.2004 onwards.



2. Now, this petition has been filed seeking to include the period of incarceration undergone by the convicts during the investigation from 29.06.1996 to 13.08.1996. The only objection raised in the counter affidavit is that there is no indication to that effect in the judgment rendered in S.C.No.188 of 1998. The learned Additional Public Prosecutor would also submit that even in the convict warrant, the same has not been mentioned.

3. As rightly submitted by the learned counsel for the petitioner, Section 428 of Cr.P.C., provides for such an exercise to be undertaken. The fact that the convicts were incarcerated during investigation between 29.06.1996 to 13.08.1996 is not in dispute. Even in the counter affidavit, the said factum is not in dispute. This information has been furnished under the Right To Information Act, 2005. Therefore, considering the provision contained under Section 428 of Cr.P.C., we direct the respondents to take into consideration of the period undergone by the life convicts from 29.06.1996 to 13.08.1996 for the purpose of setting off against the sentence imposed on them in S.C.No.188 of 1998.

4.This Habeas Corpus Petition stands ordered accordingly.

5.However, it is made clear that the fact that the learned Additional District and Sessions Judge, Thanjavur has not made a mention in his judgment and it has not been included in the warrant cannot be a factor to deny the right of the convicts to include the above said period.

Sd/-

Assistant Registrar (Writs)

/True Copy/

Sub Assistant Registrar

To

1. The Secretary to Government,
State of Tamilnadu,
Department of Home,
Fort St. George, Chennai-600 009.
 2. The Superintendent of Prisons,
Central Prison, Tiruchirappalli.
 3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.
- + 1 CC TO Mr.R.NARAYANAN, ADVOCATE IN SR No. 80413

CP/PJL

<https://hcservices.pcourtsgov.in/hcservices/> 20/10/2017 : 2P/5C

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