

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.08.2018

CORAM

THE HON'BLE DR.JUSTICE S.VIMALA
AND
THE HON'BLE MRS.JUSTICE S.RAMATHILAGAM

H.C.P.NO.1390 OF 2018

S.Vijaya

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Petitioner

Vs

1. The State of Tamil Nadu
rep.by its Principal Secretary to Government
Home (Prison) Department, Tamil Nadu
Government Chief Secretariat, Fort St.George
Chennai - 600 009.
 2. The Additional Director General of Police /
Inspector General of Prisons, CMDA, Towers II
No.1, Gandhi Irwin Road, Egmore, Chennai 600 008.
 3. The Superintendent, Central Prison
Palayamkottai, Tirunelveli District.
 4. The Chief Superintendent of Jails
Central Prison, Puducherry, Puducherry Government.
- Respondents

For Petitioner : M/s.Ilayaraja Kandasamy

For Respondents : Mr.R.Prathap Kumar,
Addl.Public Prosecutor - R1 to 3
Mr.Bharatha Chakravarthy
Addl.Public Prosecutor
(Pondicherry) - for R3

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Habeas Corpus directing the first respondent to consider the representation dated 02.05.2018 and direct to set off the pre-trial period of imprisonment undergone from 21.09.2003 till 24.12.2003 in Thirupuvana Police Station, Pondicherry Crime No.169 of 2003 and set off the pre trial period of imprisonment undergone from 12.05.2008 till 10.06.2008 under Section 428 of Cr.P.C. as mentioned in the averments by the detenu Sivaraman, S/o Pandurangan, aged about 41 years, C.T.No.3142 now confined at Central Prison, Palayamkottai.

O R D E R

(Order made by Dr.S.VIMALA, J.)

This H.C.P. has been filed by the petitioner, wife of the detenu Sivaraman, S/o Pandurangan, aged about 41 years, seeking relief of set off the pre-trial period of imprisonment undergone from 21.09.2003 till 24.12.2003 in Thirupuvanai Police Station, Pondicherry in Crime No.169 of 2003 and the imprisonment undergone from 12.05.2008 till 10.06.2008 under Section 428 of Cr.P.C.

2. In the supporting affidavit, it is stated that the petitioner's husband is a life convict (LCT No.3142 of 2014) who is serving his sentence in Central Prison, Palayamkottai in connection with Crime No.132 of 2000, Reddy Chavadi Police Station consequent to the trial conducted in S.C.No.230 of 2000 and the Chief Judicial Magistrate, Cuddalore imposed sentence of life imprisonment by the judgment dated 20.12.2002. It is further stated that the detenu was remanded to judicial custody from 21.09.2003 to 24.12.2003 (for a period of 3 months and 3 days) in Thirupuvanai Police Station in connection with the murder of one Murali in Crime No.169 of 2003, and he was acquitted in the said case by the learned II Additional Sessions Judge, Pondicherry in S.C.No.16 of 2006.

3. The detenu was again arrested as the sole accused in Hosur Police Station Crime No.400 of 2008 and was remanded to judicial custody to Central Prison, Salem on 12.05.2008, where he was detained for a period of 29 days till 10.06.2008 and was subsequently transferred to Central Prison, Palayamkottai. Thereafter, he has been serving his sentence for life imprisonment in connection to the conviction and sentence imposed in S.C.No.230 of 2000. It is the grievance of the petitioner that this period has not been included in the detention period.

4. We have heard the learned Additional Public Prosecutor representing respondents 1 to 3 and the learned Additional Public Prosecutor (Pondicherry) on behalf of the fourth respondent. Both of them have submitted that the period of pre trial detention period as stated by the detenu is correct. Section 428 Cr.P.C. permits consideration of this period in the period of detention undergone by the prisoner.

5. Considering the facts and circumstances of the case on hand, we feel that the pre-trial period of detention as

discussed above, shall be included in the period of imprisonment already undergone by the detenu. With these directions, the H.C.P.is disposed of.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

1. The Principal Secretary to Government
Home (Prison) Department, Tamil Nadu ,
Government Chief Secretariat, Fort St.George,
Chennai - 600 009.
2. The Additional Director General of Police / Inspector General
of Prisons,
CMDA, Towers II, No.1,
Gandhi Irwin Road, Egmore, Chennai 600 008.
3. The Superintendent, Central Prison, Palayamkottai,
Tirunelveli District.
4. The Chief Superintendent of Jails, Central Prison, Puducherry,
Puducherry Government.

+1cc to M/s.Ilayaraja Kandasamy, Advocate sr.no.52934

H.C.P.No.1390 of 2018

rsi(co)
nr 19/09/2018

सत्यमेव जयते

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