

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.06.2018

CORAM:

THE HON'BLE MR. JUSTICE P.N. PRAKASH

Crl.O.P. No.4907 of 2018

Krishnan S.P.

Petitioner

vs.

1 State represented by
the Director General of Police
Prison Department
Gandhi-Irwin Road
Egmore
Chennai 600 008

2 The Superintendent of Police
Chennai Central Prison
Puzhal, Chennai

3 R. Subramani

4 Sathish

5 B. Sasikala

6 M. Akila
(R3 to R6 are impleaded as per
order dated 07.03.18 made in
Crl.Mp.NO.3664/2018)

Respondents

Criminal Original Petition filed under Section 482 Cr.P.C.
seeking to direct the official respondents to make the sentence
imposed by the Judicial Magistrate (Fast Track Court), Alandur
(Magisterial Level) in C.C. No.135 to 138 of 2014 dated
17.11.2014, run concurrently to the petitioner.

For petitioner

Mr. Sudharshan
for Mr. M. Krishnamoorthy

For RR 1 & 2

Mrs. Kritika Kamal P.
Government Advocate (Crl. Side)

ORDER

This Criminal Original Petition has been filed seeking a direction to the official respondents to make the sentences imposed by the Judicial Magistrate Fast Track Court, Alandur (Magisterial Level) in C.C. No.135 to 138 of 2014 vide order dated 17.11.2014, run concurrently to the petitioner.

2 The petitioner faced prosecution in C.C. No.135 to 138 of 2014 for the offences under Section 138 of the Negotiable Instruments Act, 1881 (for short "the NI Act") that were filed by different complainants before the Judicial Magistrate (Fast Track Court) Alandur (Magisterial level). Separate evidences were recorded in each of the calendar cases and eventually, the petitioner was convicted and sentenced to undergo two months imprisonment in each of the cases separately. The petitioner filed Crl. Appeal Nos.34 to 37 of 2014 before the Sessions Court, Kanchipuram and the Sessions Judge, by four separate judgments dated 17.12.2015, dismissed the said criminal appeals and confirmed the conviction and sentence imposed by the Trial Court. Aggrieved by the conviction and sentence slapped on him, the petitioner preferred four Criminal Revision Petitions, viz., Crl.R.C. Nos.640 to 643 of 2016 which were heard by a learned Single Judge of this Court and dismissed on 10.01.2017. Under such circumstances, the petitioner has filed this application for a direction to the prison authorities to treat the sentences of two months imprisonment in each case to run concurrently and not consecutively.

3 Mr. Sudharshan, learned counsel representing Mr.M.Krishnamoorthy, learned counsel on record, placed strong reliance upon the judgment of the Supreme Court in State of Punjab vs. Madan Lal [(2009) 5 SCC 238], wherein, the Supreme Court has upheld the order passed by the Punjab and Haryana High Court in a petition filed under Section 482 Cr.P.C. directing sentences to run concurrently in that case.

4 On a close reading of the judgment of the Supreme Court in Madan Lal (supra), it is limpid that the accused therein was convicted and sentenced by the Sub-Divisional Judicial Magistrate, Khanna, for an offence under Section 138 of the NI Act and the said sentence was confirmed by the Additional Sessions Judge, Ludhiana. Thereafter, the accused therein approached the High Court under Section 482 Cr.P.C. for a direction to have the sentences run concurrently, which was allowed by the Punjab and Haryana High Court. Aggrieved by the said order of the Punjab and Haryana High Court, the State of Punjab appealed before the Supreme Court and the Supreme Court confirmed the order passed by the Punjab and Haryana High Court.

Ergo, on a conspectus of the facts obtaining in Madan Lal (supra), it is apparent that, in that case, the accused had not chosen to prefer a Criminal Revision Petition against the conviction and sentenced passed by the Additional Sessions Judge, Ludhiana. But, in the case at hand, as stated above, the accused has concededly filed four Criminal Revision Cases which were heard by a learned Single Judge of this Court, who had not chosen to give the benefit of the sentences to run concurrently, to the petitioner. In such perspective of the matter, this Court, under Section 482 Cr.P.C., cannot alter the sentence portion of a coordinate Bench, inasmuch as Section 362 ibid, is a bar. Thus, the remedy, if any, available to the petitioner is to approach the Supreme Court to have the sentences run concurrently.

In the result, this Criminal Original Petition stands dismissed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

cad

To

1.The Judicial Magistrate(Fast Track court)
Alandur(Magisterial Level)

2 The Director General of Police
Prison Department
Gandhi-Irwin Road
Egmore
Chennai 600 008

3 The Superintendent of Police
Chennai Central Prison
Puzhal, Chennai

4 The Public Prosecutor
High Court of Madras
Chennai 600 104

+1cc to Mr. Sudharshan, Advocate sr.no.39252

Cr1.O.P. No.4907 of 2018

nr 29/06/2018