



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on:04.01.2018

Pronounced on:08.01.2018

WEB COPY

CORAM

THE HON'BLE MR.JUSTICE P.RAJAMANICKAM

CrI.O.P. (MD) No.10249 of 2017

A.Ramasamy

... Petitioner

-Vs-

1. The Inspector of Police,
Avaniapuram Police Station,
Madurai.

2. The Inspector of Police,
Theppakulam Police Station,
Madurai.

3.The Superintendent of Police,
Central Prison,
Madurai.

... Respondents

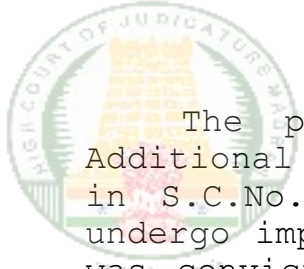
Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to direct the sentence imposed in S.C.No.580 of 2003 dated 17.11.2006 on the file of the 1st Additional Sessions Judge, Madurai and S.C.No.82 of 2006 dated 12.12.2006 on the file of the Additional District & Sessions Judge, Fast Track Court No.3, Madurai to run concurrently.

For Petitioner : Mr.P.Balamurugan
For Respondents : Mr.K.Anbarasan,
R1 to R3 Government Advocate(CrI.side).

O R D E R

This Criminal Original petition has been filed by the accused under Section 482 Cr.P.C in S.C.No.580 of 2003 on the file of the First Additional Sessions Judge, Madurai and in S.C.No.82 of 2006 on the file of the Additional District and Sessions Judge, Fast Track Court No.3, Madurai, seeking direction to treat the sentences imposed on him in the aforesaid cases to run concurrently.

2.The brief facts of the case are as follows:



The petitioner herein was convicted by the learned First Additional Sessions Judge, Madurai by the judgment dated 17.11.2006 in S.C.No.580 of 2003 under Section 302 I.P.C and sentenced to undergo imprisonment for life. Subsequently, the petitioner herein was convicted by the Additional District and Sessions Court, Fast Track Court No.3, Madurai in S.C.No.82 of 2006 by the judgment dated 12.12.2006 under Section 307 I.P.C and sentenced to undergo rigorous imprisonment for 5 years and to pay a fine of Rs.1,000/-, in default to undergo 3 months rigorous imprisonment. Further, it was ordered that the period of sentence already undergone by the petitioner herein was given set off under Section 428 Cr.P.C. Now, the petitioner has filed the present petition seeking direction to treat the sentence imposed on him in the aforesaid cases to run concurrently.

3. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Criminal side) appearing for the respondents.

4. In this context, it would be relevant to refer to Section 427 Cr.P.C, which reads as under:

"427: Sentence on offender already sentenced for another offence:- (1) When a person already undergoing a sentence of imprisonment is sentenced on the subsequent conviction to imprisonment or imprisonment for life, such imprisonment or imprisonment for life shall commence at the expiration of the imprisonment to which he has been previously sentenced, unless the court directs that the subsequent sentence shall run concurrently with such previous sentence:

Provided that where a person who has been sentenced to imprisonment by an order under Section 122 in default of furnishing security is, whilst undergoing such sentence, sentenced to imprisonment for an offence committed prior to the making of such order, the later sentence shall commence immediately.

(2) When a person already undergoing a sentence of imprisonment for life is sentenced on a subsequent conviction to imprisonment for a term or imprisonment for life, the subsequent sentence shall run concurrently with such previous sentence."

5. On a plain reading of sub-section 2 of Section 427 Cr.P.C, it is manifest that if a person already undergoing a sentence of imprisonment for life is sentenced on a subsequent conviction to imprisonment for a term or imprisonment for life, the subsequent sentence shall run concurrently with such previous sentence. In this case, the petitioner was convicted under Section 302 I.P.C and sentenced to undergo imprisonment for life in S.C.No.580 of 2003 on 17.11.2006. Subsequently, the petitioner was convicted under Section 307 I.P.C and sentenced to undergo rigorous imprisonment for 5 years in S.C.No.82 of 2006, on 12.12.2006. In

view of the sub-section 2 of Section 427 Cr.P.C, the subsequent sentence which was imposed in S.C.No.82 of 2006 shall run concurrently with the previous sentence of imprisonment for life. Therefore, this Criminal Original Petition has to be allowed.

6. In view of the above, this Criminal Original petition is allowed. The substantial sentences imposed on the petitioner are ordered to run concurrently.

Sd/-
Assistant Registrar (T & P)

/True Copy/

Sub Assistant Registrar

To

1. The Inspector of Police,
Avaniapuram Police Station,
Madurai.
2. The Inspector of Police,
Theppakulam Police Station,
Madurai.
3. The Superintendent of Police,
Central Prison,
Madurai.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to M/S.P.BALAMURUGAN, Advocate SR.No.40904.

order made in
Crl.O.P. (MD) No.10249 of 2017
08.01.2018

VS
SDS/SKN:RSK/SAR 3/10.01.2018/3P/6C