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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.09.2018

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH
Crl.O.P.[MD] No.8993 of 2017

C.Thangaraj

: Petitioner/Accused No.1

vs.

1.The Superintendent of Police,
Central Prison,
Trichy.

2.State represented by
The Inspector of Police,
Puthanatham Police Station,
Trichy.

Crime No.64 of 2006

: Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to direct the first respondent to grant the petitioner the benefit of set off of his pretrial detention period from 06.05.2006 till 06.09.2006 for 124 days against the substantive sentence imposed upon him by the learned I Additional District and Sessions Judge (PCR) Tiruchirapalli in S.C No. 191/2006 on 05.07.2007.

For Petitioner : Mr.V.Santha Kumaresan

For Respondents : Mr.K.Suyambulinga Bharathi
Government Advocate (Crl.Side)

ORDER

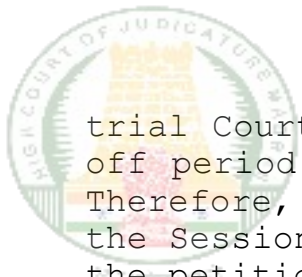
This criminal original petition has been filed for a direction to grant the petitioner benefit of set off for the pre-trial detention period from 06.05.2006 till 06.09.2006.

2.It is seen from records that the petitioner was convicted for the offence under Section 302 IPC r/w Section 34 IPC by the learned I Additional District and Sessions Judge (PCR) Tiruchirapalli, by the judgment dated 05.07.2007. An appeal filed by the petitioner in Crl.A.(MD) No.547 of 2007, was also dismissed by this Court by order dated 30.04.2008.

3.It is a case of the petitioner that he was in prison even during the course of investigation for a period of nearly 124 days between 06.05.2006 and 06.09.2006.

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4.The learned counsel for the petitioner would submit that the



trial Court while passing the judgment, failed to order for the set off period regarding pre-trial detention, under Section 428 Cr.P.C. Therefore, in the committal warrant sent to the first respondent by the Sessions Court, the pre-trial detention of 124 days underwent by the petitioner was not mentioned.

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5. Aggrieved by the same, the present criminal original petition has been filed seeking for the benefit of the set off for the pretrial detention undergone by the petitioner for a period of 124 days.

6. Considering the facts and circumstances of the case, this Court is of the considered view that the petitioner is entitled for the set off under Section 428 Cr.P.C., for the period of pre-trial detention undergone by him between 06.05.2006 and 06.09.2006.

7. The learned I Additional District and Sessions Judge (PCR) Tiruchirapalli, shall send amended warrant incorporating the above mentioned period of pre-trial detention so as to enable the first respondent to give set off to the petitioner. The first respondent is directed to give set off under Section 428 Cr.P.C., for the above mentioned period as against the sentence of imprisonment imposed on the petitioner.

8. This criminal original petition is disposed of with the above direction.

Sd/
Assistant Registrar (CS-I)

/True copy/

Sub Assistant Registrar (CS-IV)

To

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

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MM

KK/RP/SAR-4/08.11.2018/2P-4C

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