

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 26.10.2018

Pronounced on : 14.03.2019

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Cr1.O.P.No.23282 of 2009

Krishnan @ Ramakrishnan

... Petitioner/Accused in All Cases

Vs.

- 1.State, represented by,
The Inspector of Police,
Tiruporur Police Station,
Kancheepuram district.
(Crime No.344 of 2004)
- 2.The Sub Inspector of Police,
Uthangarai Police Station,
Uthangarai.
(Crime No.947 of 2001).
- 3.The Sub-Inspector of Police,
Mettupalayam Police Station,
Mettupalayam.
(Crime No.368 of 2004).
- 4.The Inspector of Police,
Musiri Police Station,
Musiri;
(Crime No.1086 of 2003).
- 5.The Sub-Inspector of Police,
Thiruneelakudi Police Station,
Thiruneelakudi,
(Crime No.146 of 2005).
- 6.The Inspector of Police,
Papanasam Police Station,
Papasanam.
(Crime No.145 of 2002).
- 7.The Inspector of Police,
Kalaiyarkoil Police Station,
Kalaiyarkoil,
(Crime No.109 of 2003)

8.The Inspector of Police,
Acharapakkam Police Station,
Acharapakkam.
(Crime No.244 of 2004).

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to direct the Sentence imposed in C.C.No.137 of 2006, dated 17.12.2007 on the file of the Judicial Magistrate-I, Chengalput, to run concurrently with the sentences imposed in C.C.No.51 of 2006 Judicial Magistrate, Uthangarai, in C.C.No.56 of 2007, Judicial Magistrate, Mettupalayam, C.C.No.120 of 2008 on the file of the Judicial Magistrate, Musiri, C.C.No.220 of 2006 on the file of Judicial Magistrate-II, Kumbakonam, C.C.No.317 of 2008 on the file of Judicial Magistrate, Papanasam, C.C.No.119 of 2008 on the file of Judicial Magistrate-I, Sivangagai and in C.C.No.264 of 2008 on the file of the Judicial Magistrate, Maduranthagam to secure the ends of justice.

For Petitioner : Mr.R.Sankara Subbu

For Respondent : Mr.V.Saratha Devi
Government Advocate [Crl. Side]
* * * * *

O R D E R

This Criminal Original Petition has been filed by the petitioner, who is an accused in eight cases and seeking direction of Sentence imposed in C.C.No.137 of 2006, dated 17.12.2007 on the file of the Judicial Magistrate-I, Chengalput, to run concurrently with the sentences imposed in other cases in C.C.No.51 of 2006 on the file of the Judicial Magistrate Court, Uthangarai, in C.C.No.56 of 2007, on the file of the Judicial Magistrate Court, Mettupalayam, C.C.No.120 of 2008 on the file of the Judicial Magistrate, Musiri, in C.C.No.220 of 2006 on the file of the Judicial Magistrate-II, Kumbakonam, in C.C.No.317 of 2008 on the file of the Judicial Magistrate Court, Papanasam, in C.C.No.119 of 2008 on the file of the Judicial Magistrate Court No.I, Sivangagai and in C.C.No.264 of 2008 on the file of the Judicial Magistrate Court, Maduranthagam to secure the ends of justice. These sentences were imposed on the petitioner after the Judgment in C.C.No.137 of 2006 by the learned Judicial Magistrate No.I, Chengalpet on 17.12.2007.

2.The learned counsel for the petitioner submitted that the petitioner was confined at Central Prison, Cuddalore and seeking relief for the sentences to run concurrently and he was arrested

on 28.07.2004 and he is in jail over five years and sentences were passed during the period 2007 and 2008.

3.He further submitted that the lower Court, while imposing conviction and sentence should have taken into consideration whether, the petitioner is already convicted or undergoing sentence or not. But in this case of the petitioner no such consideration has been taken and sentence has been passed mechanically. Hence, to secure ends of justice and render complete justice, the petitioner seeks direction for all the sentences against him to run concurrently along with the sentence imposed in C.C.No.137 of 2006. The petitioner had relied upon the citations of this Court in the case of K.Arasan and others Versus the Stae of Tamil Nadu, rep. by the Inspector of Police, M-5, Vadavalli Police Station, Coimbatore reported in 2012 (3) MWN (Cr.) 184 (DB).

4.The learned Government Advocate submitted her arguments and produced the cases in which the petitioner has been involved and also produced the report from the Superintendent of Police, Central Prison, Cuddalore. While, perusing such report, it is seen that the petitioner was an under trial prisoner from 30.09.2005 to 17.12.2007 and thereafter, he was in custody in the prison from 28.02.2012 in Crime No.828 of 2002 of Hosur Police. This case, which was taken on file in S.C.No.26 of 2010 and the same has been ended in acquittal by Judgment dated 28.02.2012 by the learned Assistant Sessions Judge, Hosur. Thereafter, the petitioner was not in Central Prison, Cuddalore.

5.Considering the rival submissions and on perusal of the materials, this Court finds that as per Section 427 of Cr.P.C, it is for the concerned accused to bring a notice, the previous conviction and sentence to the subsequent convicting Court by invoking the provisions under Section 427 Cr.P.C. It is to be reminded that Section 427 of Cr.P.C, is a discretion given to the subsequent convicting Court to order the sentence to run concurrently with the previous sentence awarded to the same accused. In the event of the accused not raising the plea before the trial Court or in the Appellate Court to invoke Section 427 of Cr.P.C., due to inadvertence or under other circumstances for that reason alone, the accused need not be left at lurch without any remedy. On such circumstance, the jurisdiction under Section 482 of Cr.P.C. is to be invoked in order to grant relief under Section 427 of Cr.P.C. This would not amount to altering, varying or modifying the findings of the trial Court or appellate Court.

6.Therefore, this Court to secure the ends of Justice in exercising its judicial discretion invoking the power under Section 482 of Cr.P.C for granting relief under Section 427 of Cr.P.C on the basis of the facts and circumstances and gravity

of the charge levelled against the accused in each case, the petitioner is entitled to get the benefit under Section 427 of Cr.P.C.

7. In the result, this Court exercising its power under Section 482 of Cr.P.C. order the sentences imposed in C.C.No.51 of 2006 on the file of the Judicial Magistrate Court, Uthangarai, in C.C.No.56 of 2007, on the file of the Judicial Magistrate Court, Mettupalayam, C.C.No.120 of 2008 on the file of the Judicial Magistrate, Musiri, in C.C.No.220 of 2006 on the file of the Judicial Magistrate-II, Kumbakonam, in C.C.No.317 of 2008 on the file of the Judicial Magistrate Court, Papanasam, in C.C.No.119 of 2008 on the file of the Judicial Magistrate Court No.I, Sivangagai and in C.C.No.264 of 2008 on the file of the Judicial Magistrate Court, Maduranthagam to run concurrently along with the sentence imposed in C.C.No.137 of 2006, dated 17.12.2007 on the file of the Judicial Magistrate-I, Chengalpet.

8. On the aforesaid direction, this Criminal Original Petition is allowed.

Sd/-
Assistant Registrar (CS VIII)

//True Copy//

Sub Assistant Registrar

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To

1. The Judicial Magistrate-I,
Chengalpet.

2. The Judicial Magistrate,
Uthangarai.

3. The Judicial Magistrate,
Mettupalayam.

4. The Judicial Magistrate,
Musiri.

5. The Judicial Magistrate-II,
Kumbakonam.

6. The Judicial Magistrate,
Papanasam.

7. The Judicial Magistrate No.I,
Sivangagai.

- 8.The Judicial Magistrate,
Maduranthagam.
- 9.The Inspector of Police,
Tiruporur Police Station,
Kancheepuram district.
- 10.The Sub Inspector of Police,
Uthangarai Police Station,
Uthangarai.
- 11.The Sub-Inspector of Police,
Mettupalayam Police Station,
Mettupalayam.
- 12.The Inspector of Police,
Musiri Police Station,
Musiri.
- 13.The Sub-Inspector of Police,
Thiruneelakudi Police Station,
Thiruneelakudi,
- 14.The Inspector of Police,
Papanasam Police Station,
Papasanam.
- 15.The Inspector of Police,
Kalaiyarkoil Police Station,
Kalaiyarkoil,
- 16.The Inspector of Police,
Acharapakkam Police Station,
Acharapakkam.
- 17.The Public Prosecutor,
High Court, Madras.

Cr1.O.P.No.23282 of 2009

SR(CO)

RRS (24/04/2019)

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