

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Cr1.O.P.No.6662 of 2018

K.Manikandan

....Petitioner

vs.

1.The Superintendent of Police,
Central Prison,
Vellore - 632 002.

2.State By:
The Inspector of Police,
Polur Police Station,
Tiruvannamalai District.

.. Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C. to direct the 1st Respondent to grant the benefit of Set off of 1258 days U/s. 428 of Cr.P.C. to the petitioner for the periods from 11.11.2005 to 14.02.2006 and 04.02.2010 to 10.04.2013, when the petitioner was in confinement as remand prisoner during the trial of S.C.No.202 of 2007, on the file of the Sessions Court, Tiruvannamalai & District.

For Petitioner : Mr.S.Sathia Chandran

For Respondents : Mr.M.Mohamed Riyaz

Additional Public Prosecutor

ORDER

This petition has been filed for a direction to the 1st respondent to grant the benefit of set off of 1258 days under Section 428 of Cr.P.C.

2.The respondent police registered an F.I.R. in Crime No.1347 of 2005 for an offence under Section 302 of IPC against the petitioner. After trial, the petitioner was convicted for the offence under Section 302 (two counts) IPC and was sentenced to undergo life imprisonment. The petitioner filed an appeal before this Court in Criminal Appeal No.412 of 2013 and this Court by judgment dated 22.04.2016 was pleased to partly allow the appeal and convicted the petitioner under Section 304(1) of IPC and sentenced him to undergo rigorous imprisonment for 10

years and to pay a fine of Rs.5,000/- and in default, to undergo rigorous imprisonment for six months/ The life imprisonment imposed on the petitioner with regard to the second count, was confirmed.

3.The learned counsel for the petitioner submitted that the petitioner had suffered pre-trial detention of 1258 days and the petitioner is entitled for the set off of this period under Section 428 of Cr.P.C. The learned counsel further submitted that the concerned authority while considering the remission of the petitioner under Section 433 of Cr.P.C., will have to necessarily take into account this period of 1258 days which was suffered by the petitioner during the pre-trial period. The learned counsel also brought to the notice of this Court the reply received from the 1st respondent, pursuant to an application made under the Right to Information Act wherein the pre-trial detention suffered by the petitioner for a period of 1258 days, is also confirmed.

4.Heard the learned Additional Public Prosecutor appearing on behalf of the respondent police.

5.Considering the facts and circumstances of the case and also of the fact that the petitioner has in fact suffered pre-trial detention of 1258 days, the petitioner will be entitled for set off of this period on the sentence imposed against the petitioner by this Court in Criminal Appeal No.412 of 2013. Therefore, there shall be a direction to the 1st respondent to grant the benefit the set off to the petitioner under Section 428 of Cr.P.C.

6.This Criminal Original Petition is disposed of with the above direction.

-s/d-

Assistant Registrar (CS-I)

True Copy

Sub-Assistant Registrar

vs
To

1.The Superintendent of Police,
Central Prison,
Vellore - 632 002.

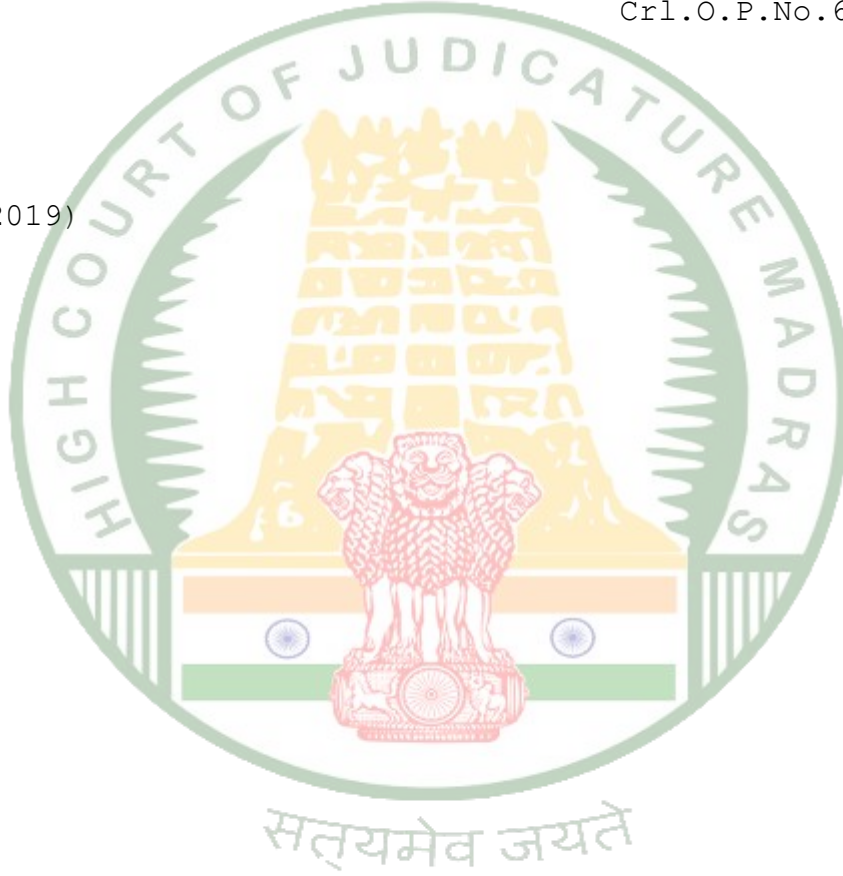
2.The Inspector of Police,
Polur Police Station,
Tiruvannamalai District.

3.The Public Prosecutor,
High Court, Madras.

+1 CC to Mr.S.Sathia Chandran, Advocate sr 66371.

CrI.O.P.No.6662 of 2018

BR(CO)
SP(04/09/2019)



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