



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.07.2019

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Crl.OP No.7572 of 2017

Shahul Hammed

.. Petitioner

.Vs.

The Superintendent,
Central Prison,
Kovai.

..Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to direct the respondent to set off the imprisonment period according to the Sec.428 of Cr.P.C from 11.03.1997 to 19.06.2000 already undergone by the petitioner in SC No.239/2000 dated 20.03.1997.

For Petitioner : Mr.S.Manoharan

For Respondent : Mr.M.Mohamed Riyaz, APP

ORDER

This Criminal Original Petition has been filed for a direction to the respondent to set off the imprisonment period undergone by the petitioner from 11.03.1997 to 19.06.2000 in S.C.No.239 of 2000.

2. The petitioner is an accused in Cr.No.1026 of 1991 for an offence under Section 302 of IPC. The petitioner was arrested and remanded to judicial custody on 11.03.1997. Thereafter, the petitioner faced trial before the Fast Track Court, Coimbatore, in S.C No.239 of 2000 and he was convicted and sentenced to undergo life imprisonment by judgment dated 29.07.2003. The appeal filed by the petitioner in C.A.No.1459 of 2003, before this Court was also dismissed by judgment dated 08.11.2006.

3. The petitioner also faced trial in TADA case No.1 of 1997 before the designated Court for TADA cases, Thirunelveli and he was convicted and sentenced to undergo life imprisonment in that case also.

4. According to the petitioner he has been languishing in



the jail for the last 20 years and the petitioner wants the period from 11.03.1997 to 19.06.2000 to be set off under Section 428 of Cr.P.C.

5. Admittedly, the petitioner is facing two life sentences. Normally, the benefit of set off to the period of detention already undergone can be given in respect of only the same case and period of detention in other cases cannot be adjusted. However by march of law, High Court in its inherent powers under Section 482 of Cr.P.C., can order the sentence imposed in a latter case on conviction to run concurrently with the sentence imposed in a former case as provided under Section 427 of Cr.P.C. The law on this issue was considered in detail in *Selvakumar @ Jeyakumar .Vs. The Inspector of Police & Others* reported in 2018 2 LW Cr1. 773.

6. In the present case there is no scope for set off since the petitioner is facing two life sentences in two cases. Under such circumstances, this Court cannot even order for the sentences to run concurrently since both are life sentences.

In view of the above, the relief as sought for by the petitioner cannot be granted by this Court and consequently, this Criminal Original Petition is dismissed.

Sd/-

Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

KP

To

1.The Superintendent,
Central Prison,
Kovai.

2. Public Prosecutor,
High Court, Madras.

+lcc to Mr.S.Manoharan, Advocate, S.R.No. 56308

Cr1.OP No.7572 of 2017

PM(CO)
GN(14/08/2019)