



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 18.09.2020

DELIVERED ON: 06.11.2020

CORAM:

THE HONOURABLE MR. JUSTICE **B. PUGALENDHI**

Crl.O.P.(MD) No.6735 of 2020

WEB COPY

M.Karpooora Sundaram

...Petitioner

Vs.

State represented by its
The Deputy Superintendent of Police
Office of the Deputy Superintendent of Police
Vigilance and Anti Corruption,
Ramanathapuram District.
(In Crime No.1 of 2002)

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to direct the sentence of one year rigorous imprisonment imposed against the petitioner for the offence under Section 7 and 13(1)(d) read with section 13(2) of Prevention of Corruption Act 1988 and one year rigorous imprisonment against the petitioner for the offence under Section 13(1)(d) read with Section 13(2) of Prevention of Corruption Act 1988 in Special C.C.No.2 of 2004 dated 21.03.2012 passed by the learned Assistant Sessions Judge-cum-Chief Judicial Magistrate, Ramanathapuram, to run concurrently.

For Petitioner : Mr.S.Malaikani

For Respondent : Mr.K.K.Ramakrishnan,
Additional Public Prosecutor

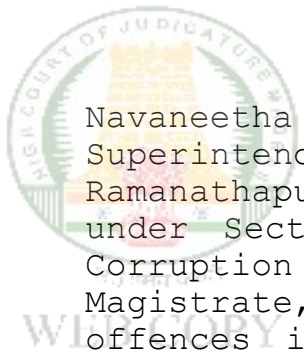
ORDER

This petition is filed under Section 482 Cr.P.C. by a convict who is undergoing imprisonment for the commission of offence punishable under Sections 7 and 13(1)(d) read with Section 13(2) of Prevention of Corruption Act 1988, seeking for a direction that both the offences are arising out of the same transaction and therefore, the sentences imposed against him may be ordered to run concurrently.

2.Heard Mr.S.Malaikani, learned counsel appearing for the petitioner and Mr.K.K.Ramakrishnan, learned Additional Public Prosecutor appearing for the respondent / State.

3.The learned Counsel for the petitioner would submit that the petitioner, who is a Sanitary Inspector, working at Paramakudi Municipality, was arrested on a trap case that he demanded and accepted a sum of Rs.500/- from the defacto complainant, namely,

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Navaneetha Krishnan in Crime No.1 of 2002 on the file of the Deputy Superintendent of Police, Vigilance and Anti Corruption, Ramanathapuram District. The petitioner was charged for the offence under Sections 7 and 13(1)(d) read with 13(2) of Prevention of Corruption Act, 1988. The Trial Court, namely, the Chief Judicial Magistrate, Ramanathapuram, tried the petitioner for the said offences in Special C.C.No.2 of 2004, found him guilty for the offences charged, convicted and sentenced to undergo one year Rigorous Imprisonment for each charge, by Judgment, dated 21.03.2012. According to the learned Counsel, the learned Trial Judge, though passed an order to set off the period of detention already undergone from the quantum of punishment as per Section 428 of Cr.P.C., failed to pass an order under Section 427 of Cr.P.C. to run both the sentences concurrently.

4.He further submits that the petitioner was found guilty for the offence under Sections 7 and 13(1) (d) read with Section 13 (2) of Prevention of Corruption Act, 1988 for the same transaction and therefore, the learned Counsel pleaded to pass an order to direct the sentence of one year Rigorous Imprisonment imposed against this petitioner under Sections 7 and 13(1)(d) read with Section 13(2) of Prevention of Corruption Act, 1988 to run concurrently. He has also relied upon the following decisions in support of his case.

- 1. 1988 AIR 2143 [Mohd. Akhtar Hussain Alias Vs. Assistant Collector of Customs];**
- 2. 1998 Supp. (1) SCR 535 [Abbai Maligai Partnership Firm and another Vs. K.Santhakumaran and others];**
- 3. 2007 (2) SCC 772 [M.R.Kuduva Vs. State of Andhra Pradesh];**
- 4. 2013 (7) SCC 211 [V.K.Bansal Vs. State of Haryana and others]; and**
- 5. 1974 Cri L.J 1397 [Mulaim Singh Vs. State]**

5.This Court paid it's anxious consideration to the rival submissions and also to the materials placed on record.

6.Perusal of record shows that the petitioner was tried before the Chief Judicial Magistrate, Ramanathapuram, for the offence under Sections 7 and 13(1)(d) read with Section 13(2) of Prevention of Corruption Act, 1988. The trial Court, after examining the witnesses and materials placed before the Court, found him guilty for the offences, convicted and sentenced to undergo one year Rigorous Imprisonment and pay a fine of Rs.1,000/- with a default clause for the offence under Section 13(1)(d) read with Section 13(2) of Prevention of Corruption Act, 1988 and also convicted and sentenced to undergo one year Rigorous Imprisonment with a fine of Rs.1,000/- for the offence under Section 7 of Prevention of Corruption Act, 1988. Considering the gravity and nature of the offences, the Trial Court has not passed any orders



for the sentences to run concurrently.

7. In O.M.Churian @ Thankachan Vs. State of Kerala and others, the Hon'ble Supreme Court has held as follows :

"23. The Trial Court directed the sentences imposed on the appellant accused under Sections 498A and 306 IPC to run concurrently, which was affirmed by the High Court. When the Trial Court declines to exercise its discretion under Section 3 Cr.P.C. in issuing direction for concurrent running of sentences, normally the appellate Court will not interfere, unless the refusal to exercise such discretion is shown to be arbitrary or unreasonable. When the Trial Court as well as the appellate Court declined to exercise their discretion, normally we would have refrained from interfering with such direction of the Courts for consecutive running of sentences."

8. The petitioner in this case is charged under the provisions of the Prevention of Corruption Act. In **State of Madhya Pradesh and Others v. Ram Singh [2000 AIR SC 454]**, the Hon'ble Supreme Court has observed as follows:

"8. Corruption in a civilised society is a disease like cancer, which if not detected in time, is sure to malignise (sic) the polity of the country leading to disastrous consequences. It is termed as a plague which is not only contagious but if not controlled spreads like a fire in a jungle. Its virus is compared with HIV leading to AIDS, being incurable. It has also been termed as royal thievery. The socio-political system exposed to such a dreaded communicable disease is likely to crumble under its own weight. Corruption is opposed to democracy and social order, being not only anti-people, but aimed and targeted against them. It affects the economy and destroys the cultural heritage. Unless nipped in the bud at the earliest, it is likely to cause turbulence – shaking of the socio-economic-political system in an otherwise healthy, wealthy, effective and vibrating society."

9. In the report submitted by Dr. Justice V.S. Malimath, while chairing the committee on reforms of Criminal Justice System, the following recommendation has been made :

"144. Sentences in economic offences should not run concurrently, but consecutively. Fines in these cases should be partly based on seriousness of offence, partly on the ability of the



individual/corporation to pay, but ensuring that its deterrence is not lost."

Therefore, this Court is of the view that the Trial Court has rightly passed the sentence to run consecutively.

10. In fact as against the order of the Trial Court in Spl.C.C.No.2 of 2004 dated 21.03.2012, the petitioner has preferred a Criminal Appeal before this Court in Crl.A(MD) No.62 of 2012 and the same was dismissed on 12.12.2018, confirming the conviction and sentence imposed by the Trial Court. The petitioner has also preferred a Special Leave to Appeal before the Hon'ble Apex Court and his petition for Special Leave to Appeal in Crl.No.8653 of 2019 was dismissed by the Hon'ble Apex Court as follows :

"After hearing the learned Senior counsel appearing for the petitioner, we see no ground to interfere with the impugned order passed by the High Court.

The Special Leave Petition will stand dismissed.

Consequent upon the dismissal of the Special Leave Petition, pending application filed in the matter also stands disposed of."

11. Thus the sentence imposed by the Trial Court has been confirmed by this Court as well as by the Hon'ble Apex Court. Once the Hon'ble Apex Court has passed an order on the appeal filed by the petitioner that there is no ground to interfere with the orders passed by the Courts below, it would not be proper for this Court, hearing this petition under Section 482 Cr.P.C., to pass an order issuing a direction directing the sentence to run concurrently.

12. In view of the forgoing reasoning and discussions, this Court is not inclined to entertain this Criminal Original Petition and the same is accordingly dismissed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

RM

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To

1.The Assistant Sessions Judge-Chief Judicial Magistrate,
Ramanathapuram.

2.The Deputy Superintendent of Police
Office of the Deputy Superintendent of Police
Vigilance and Anti Corruption,
Ramanathapuram District.

3.The Additional Public Prosecutor
Madurai Bench of Madras High Court.

Order in
Crl.O.P. (MD) No.6735 of 2020
06.11.2020

VR (CO)

AP(24/11/2020) 5P 4C