



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.09.2021

CORAM

THE HON'BLE Mr. JUSTICE C.V.KARTHIKEYAN

Cr1.O.P.No.5519 of 2017

Sarfudeen

...Petitioner

Vs.

The Superintendent,
Central Prison,
Vellore-02.

...Respondent

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C., to direct the respondent to set off the imprisonment period from 27.04.1998 to 12.10.2000 already undergone by the petitioner in S.C.No.240/2003, dated 06.04.2005 by Principal Sessions Judge, Nagapattinam.

For Petitioner .. Dr.S.Manoharan

For Respondent .. Mr.E.Raj Thilak
Government Advocate(Criminal Side)

ORDER

The petitioner herein faced two convictions. One, in S.C.No.240 of 2003 dated 07.04.2005 by Sessions Judge, Nagapattinam and second, in S.C.No.2 of 2000 by judgment dated 24.10.2007 by Sessions Judge (Bomb Blast Cases), Coimbatore.

2. Insofar as the first case is concerned, the sentence had been confirmed by the High Court and in the second case also, the sentence has been confirmed by the High Court. In the first case, there was a set off of 1861 days and in the second case, there was a set off of 3467 days. Both of them have been independently granted by the petitioner in the respective warrants. The learned Counsel for the petitioner necessitated that total should be given 5328 days should be granted as set off for the petitioner herein. That is not possible. With respect to each offence, and each separate Sessions Case, there will be separate dates of arrest, remand and release and if, after conviction, rearrest and if there is suspension of sentence re-release and later arrest once again on conviction being confirmed.



3. Therefore, the number of days, which he can claim set off would vary in each sessions case. That set off can relate only to the conviction and sentence with respect to that particular Sessions Case and cannot be merged together. But, however, if there is a consideration to release him, then he is entitled to 1861 days set off in S.C.No.240 of 2003/Sessions Court, Nagapattinam and to 3467 days in S.C.No.2 of 2000/Bomb Blast Court, Coimbatore. The respondent/Superintendent, Central Prison, Vellore cannot merge both the dates. That will be beyond the scope of power of the Superintendent, who acts as per the warrant issued by the Sessions Court, and not independently.

4. The learned Counsel for the petitioner may examine the warrants now available with the Superintendent of Central Prison, Vellore and examine whether appropriate set off had been given by the respective Sessions Judges both at Nagapattinam and Coimbatore and if the warrant do not contain set off, representation may be given to the Superintendent of Central Prison, Vellore to forward the warrants to the particular Courts for necessary endorsement with respect to set off period.

5. I am confident that the Superintendent of Central Prison, Vellore will do the necessary on any representation, if given by the petitioner herein.

6. With the above observations, the Criminal Original Petition is disposed of.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

grs/kbs

To

1. The Principal Sessions Judge,
Nagapattinam.
2. The Sessions Judge,
(Bomb Blast Cases),
Coimbatore.



3. The Superintendent,
Central Prison,
Vellore-02.

4. The Public Prosecutor,
High Court,
Madras - 104.

+lcc to Dr.S.Manoharan, Advocate, S.R.No.46099

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BS[co]
NSK 29/09/2021