



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.02.2021

CORAM :

THE HONOURABLE Mrs. JUSTICE R. HEMALATHA

Crl.O.P.(MD)No.2340 of 2021

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1.Stephen Raj
2.Jesuraja
3.Rexon
4.Raveendran
5.Uthayakumar

... Petitioners

Vs.

1.The Superintendant of Prison,
Central Prison-I (Convict),
Puzhal,
Chennai - 66.

2.State rep. through
The Inspector of Police,
Dhanuskodi Police Station,
Dhanuskodi,
Ramanathapuram District.
(Crime No.29 of 2000)

... Respondents

Prayer : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, seeking for a direction to the respondents to treat the sentence awarded by the District Munsif cum Judicial Magistrate, Rameshwaram in C.C.No.49 of 2020 on 30.11.2020 to run concurrently.

For Petitioners : Mr.N.Pragalathan
For Respondents : Mr.A.Robinson,
Government Advocate (Criminal side)

ORDER

The petitioners have filed the present petition under Section 482 of the Code of Criminal Procedure, seeking for a direction to the respondents to order the sentence passed on 30.11.2020, by the District Munsif cum Judicial Magistrate, Rameshwaram, in C.C.No.49 of 2020, to run concurrently.

2.The main grievance of the petitioners is that the District Munsif cum Judicial Magistrate, Rameshwaram, pronounced judgment on 30.11.2020 in C.C.No.49 of 2020, sentencing the petitioners as stated below :



(i) to undergo ten months Simple Imprisonment and also to pay a fine of Rs.500/- and in default to pay the fine amount, to undergo Simple Imprisonment for one month for the offence punishable under Section 14(c) of the Foreigners Act, 1946;

(ii) to undergo two months Simple Imprisonment and also to pay a fine of Rs.500/- and in default to pay the fine amount, to undergo Simple Imprisonment for one month for the offence punishable under Section 3(a) read with Rule 6(a) of Passport (Entry into India) Rules, 1950.

3.It is the further contention of the petitioners that the District Munsif cum Judicial Magistrate, Rameshwaram, did not pass any specific orders as to whether the sentences imposed on them would run concurrently or consecutively.

4.Mr.N.Pragalathan, learned counsel for the petitioners drew the attention of this Court to the decision of the Single Bench of this Court in Crl.OP(MD) No.14056 of 2019 dated 12.05.2020 and would submit that since the order of the District Munsif cum Judicial Magistrate, Rameshwaram, is silent on the aspect that whether the sentences imposed on them would run concurrently or consecutively, an order can be passed by this Court to make both the sentences run concurrently.

5.Mr.A.Robinson, learned Government Advocate (Criminal side) who accepts notice on behalf of the respondents, did not raise any serious objections.

6. A Single Bench of this Court in Crl.OP(MD) No.14056 of 2019 has held that,

16.Thus, as a result of the silence on the part of the appellate court or the revisional court in the case on hand, the petitioner cannot be made to undergo the two sentences consecutively. I make it clear that I am not for a moment giving a direction that the sentences will run concurrently. Even without a specific direction that would be the result. Thus, by giving relief to the petitioner I am in no way transgressing the mandate set out in Section 362 of Cr.PC."

7. In the instant case, a perusal of the sentence of imprisonment passed by the learned District Munsif cum Judicial Magistrate, Rameshwaram, in C.C.No.49 of 2020 on 30.11.2020, would show that the learned District Munsif cum Judicial Magistrate, did not pass any specific order, as to whether the sentences have to run concurrently or consecutively. In the absence of the same and in view of the decision cited supra, the sentences have to run



8. In the circumstances, the Criminal Original Petition is allowed.

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Sd/-

Assistant Registrar (CO)

/ /2021

Sub Assistant Registrar(CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Superintendent of Prison,
Central Prison-I (Convict),
Puzhal,
Chennai - 66.

2.The Inspector of Police,
Dhanuskodi Police Station,
Dhanuskodi,
Ramanathapuram District.

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

+1 CC to M/s.N.PRAGALATHAN, Advocate (SR-5219[F] dated 15/02/2021)

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