



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.01.2021

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

Crl.OP(MD)No.15728 of 2020

A.S.Muthukrishnan

... Petitioner

vs.

The State, Rep. by,

1. The Superintendent of Prison,
Central Prison, Madurai.
2. The Inspector of Police,
Rajapalayam North Police Station,
Rajapalayam, Virudhunagar District.
(Crime No.513 of 1999)
(Crime No.427 if 2000)

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Code of Criminal Procedure to order the sentence of imprisonment imposed in the Judgment in CA.No.22 of 2009 dated 21.07.2009 by the Principal Sessions Judge, Srivilliputhur, Viruthunagar District and the sentence of imprisonment imposed in the Judgment in Crl.A(MD)No.60 of 2007 dated 14.11.2007 by this Court to run concurrently.

For Petitioner : Mr.V.Selvakumar

For R1 & R2 : Mr.S.Chandrasekar
Additional Public Prosecutor

O R D E R

The present petition is filed to order the sentence of imprisonment imposed in CA.No.22 of 2009 passed by the learned Principal Sessions Judge, Srivilliputhur, Viruthunagar District on 21.07.2009 and the sentence of imprisonment imposed in Crl.A(MD) No.60 of 2007 by this Court in its Judgment dated 14.11.2007 to run concurrently.

2. Mr.S.Chandrasekar, learned Additional Public Prosecutor
<https://hcservices.courts.gov.in/hcservices/> on behalf of the respondents.



3. Mr.V.Selvakumar, learned counsel appearing for the petitioner relied on the Judgment in K.Arasan and others vs. The State of Tamil Nadu represented by Inspector of Police and others reported in 2012 (6) CTC 501 and contended that the inherent powers of the High Court under Section 482 of Code of Criminal Procedure can be extended to issue a direction ordering the sentence imposed in a latter case of conviction to run concurrently with the sentence imposed in a former case as provided under Section 427 of Code of Criminal Procedure. In the said decision it has been observed as follows:

"16.It is to be reiterated that invoking the jurisdiction under Section 482 Cr.P.C., in order to grant the relief under Section 427 Cr.P.C. would not amount to altering, varying or modifying the findings of the trial Court or appellate Court. On the other hand, it is always open to this Court to exercise power under Section 482 Cr.P.C. to secure the ends of justice. It is needless to say that this Court has to exercise its judicial discretion for invoking the power under Section 482 Cr.P.C. for granting the relief under Section 427 Cr.P.C., on the basis of the facts and circumstances and gravity of the charge levelled against the accused in each case.

17.In the result, we are answering the reference to the effect that the inherent power of the High Court under Section 482 Cr.P.C., can very well be extended to issue a direction ordering 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 Cr.P.C."

In the Criminal Appeal (MD)No.60 of 2017, the petitioner was convicted for the offence under Section 302 of Indian Penal Code and was sentenced to undergo life imprisonment. In CA.No.22 of 2009, the offence was under Section 394 of Indian Penal Code and the accused was sentenced to undergo Rigorous Imprisonment for a period of 40 months. Since in the former case life imprisonment was inflicted, there cannot be any impediment in allowing this petition.

4.In the facts and circumstances, it is ordered that the sentence of life imprisonment in CA.No.22 of 2009 passed by the learned Principal Sessions Judge, Srivilliputhur, Viruthunagar District on 21.07.2009 shall run concurrently with the sentence of imprisonment for a period of 40 months passed in Crl.A(MD)No.60 of



2007 by this Court on 14.11.2007. Accordingly, this petition is allowed.

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Sd/-

Assistant Registrar (CS-III)

/ /2021

Sub Assistant Registrar(CS)

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 Superintendant of Prison,
Central Prison, Madurai.
2. The Inspector of Police,
Rajapalayam North Police Station,
Rajapalayam, Virudhunagar District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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