

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.06.2022

CORAM:

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

CRL.O.P.NO.20386 OF 2021

Dharmalingam

... Petitioner

Versus

1. The Additional Director General of Prison
C.M.D.A.Towers
Egmore, Chennai 600 008.
2. The Superintendent of Prison
Central Prison
Vellore.
3. The Inspector of Police
All Women Police Station
Thirupattur
Crime No.05 of 2005.

...Respondents

PRAYER:

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to direct the second Respondent herein to include the Petitioner's period of incarceration at Central Prison Vellore, during the period as an under-trial Prisoner from 18.02.2014 to 07.05.2014 which counts to 78 days and from 16.02.2005 to 19.05.2005 (93 days) both added and it comes 171 days along with the period undergone by him as an a convict Prisoner in Central Prison, Vellore, in connection with S.C.No.280 of 2010 on the file of the Sessions Judge Magalir Neethi Mandram, Vellore while calculation the period of sentence undergone by the Petitioner.

For Petitioner : Mr.K.P.P.Raja Raja Chozhan

For Respondents: Mr.L.Baskaran
Government Advocate (Crl.Side)

ORDER

This petition has been filed to direct the second Respondent herein to include the Petitioner's period of incarceration at Central Prison Vellore, during the period as an under-trial Prisoner from 18.02.2014 to 07.05.2014 which counts to 78 days and from 16.02.2005 to 19.05.2005 (93 days) both added and it comes 171 days along with the period undergone by him as a convict Prisoner in Central Prison, Vellore, in connection with S.C.No.280 of 2010 on the file of the Learned Sessions Judge Magalir Neethi Mandram, Vellore, for calculating the period of sentence undergone by the Petitioner.

2. The Learned Counsel for the Petitioner submitted his arguments. It is the contention of the Learned Counsel for the Petitioner that the Petitioner was convicted and sentenced to undergo Rigorous Imprisonment for three years and to pay a fine of Rs.5,000/-, in default to undergo one moth Simple Imprisonment for the offence under Section 366 of IPC and Rigorous Imprisonment for seven years and to pay a fine of Rs.5,000/-, in default Simple Imprisonment for one month for the offence under Section 376 of IPC, as per the Judgment dated 15.11.2017 by the Learned Sessions Judge Magalir Neethi Mandram, (Fast Track Maglir Court), Vellore, in S.C.No.280 of 2010.

3. It is the further contention of the Learned Counsel for the Petitioner while calculating the period of sentence, the period of remand already undergone by the Petitioner ought to have been included in the period of sentence. Inadvertently, the Learned Sessions Judge failed to include the period of pre-trial remand from 16.02.2005 to 19.05.2005 (93 days) and during pendency of the trial, on execution of Non-Bailable Warrant, the Petitioner was detained from 18.02.2014 to 07.05.2014 (78 days) this had not been taken into consideration.

4. The second Respondent had filed a detailed counter affidavit. From the counter, it is found that what had been submitted by the Learned Counsel for the Petitioner is conceded. Therefore, this petition is allowed. The Respondents are directed to include the period of remand undergone by the Petitioner, prior to trial and during trial, so as to extend the benefit to the Petitioner in calculating the period of sentence undergone by the Petitioner.

5. With the above directions, this Petition is allowed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

dna

To

1. The Sessions Judge Magalir Neethi Mandram,
(Fast Track Maglir Court), Vellore.
2. The Additional Director General of Prison
C.M.D.A.Towers
Egmore, Chennai 600 008.
3. The Superintendent of Prison
Central Prison
Vellore.
4. The Inspector of Police
All Women Police Station
Thirupattur
Crime No.05 of 2005.
5. The Public Prosecutor
High Court, Madras.

+1cc to Mr.K.P.P.Raja Raja Chozhan, Advocate, S.R.No.36103

Cr1.O.P.No.20386 of 2021

PMK(CO)
PM/13/07/2022