



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 21.02.2022**  
**CORAM**

**THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN**

**Crl.O.P. (MD) .No.2391 of 2020**

Pushbaraj

... Petitioner

**Vs.**

1.The State of Tamil Nadu,  
Represented by its Principal Secretary to Government,  
Home Prohibition and Excise Department,  
Fort St.George,  
Chennai.

2.The Superintendent of Prison,  
Central Prison,  
Trichy.

3.M/s.Sri Selvan Exporrtrters

4.M/s.Royal Dyeing Private Limited

5.M/s.Roja Finanace,  
Represented by its Manager partner,  
Karthikeyan.

6.Kulanthai Samy

7.Annadurai

8.Rainbow Dyers  
Rep.by its Power Agent Alaguselvan

9.Arumugam

10.S.Ganesan

... Respondents

*(R-3 to R-10 impleaded as per order of this Court dated 01.03.2021 in Crl.M.P. (MD).No.1899 of 2020 in Crl.O.P. (MD).No.2391 of 2020)*

**Prayer:** Criminal Original Petition is filed under Section 482 Cr.P.C., to undergo the sentence in concurrent manner relating to judgement in STC.No.775 of 2011 dated 05.04.2018, 549 of 2011 dated 25.03.2014, 556 of 2011 dated 02.03.2012, 505 of 2011 dated 07.10.2015, 777 of 2011 dated 05.04.2018, 619 of 2011 dated 03.08.2016, 812 of 2011 dated 05.04.2018, 776 of 2011 dated



05.04.2018, 931 of 2011 dated 29.10.2014, 7 of 2012 dated 09.02.2015 and 55 of 2012 dated 29.10.2014 passed by the learned Fasttrack Court Magistrate Level Karur in accordance with law.

For Petitioner : Mr.S.Balaji

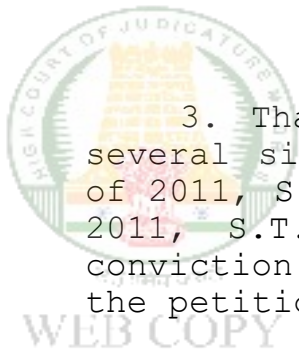
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For R-1 and R-2 : Mr.R.M.Anbunithi  
Additional Public Prosecutor  
(Criminal Side)

**ORDER**

This Criminal Original Petition has been filed to undergo the sentence in concurrent manner relating to judgement in STC.No.775 of 2011 dated 05.04.2018, 549 of 2011 dated 25.03.2014, 556 of 2011 dated 02.03.2012, 505 of 2011 dated 07.10.2015, 777 of 2011 dated 05.04.2018, 619 of 2011 dated 03.08.2016, 812 of 2011 dated 05.04.2018, 776 of 2011 dated 05.04.2018, 931 of 2011 dated 29.10.2014, 7 of 2012 dated 09.02.2015 and 55 of 2012 dated 29.10.2014 passed by the learned Fast track Court Magistrate Level Karur in accordance with law.

2. The petitioner committed offences punishable under Section 138 of Negotiable Instruments Act and resulted in S.T.C.No.775 of 2011 and he was convicted and sentenced to undergo six (6) months simple imprisonment and to pay fine of Rs.5000/- in default, to undergo 30 days simple imprisonment. Aggrieved by the same, the petitioner filed an appeal and the same was confirmed in Crl.A.No.101 of 2018 by the judgment dated 18.12.2018. Again, the petitioner committed very same offence and he was convicted in S.T.C.No.549 of 2011 and sentenced to undergo three months simple imprisonment and to pay fine of Rs.1500/-, in default, to undergo one month simple imprisonment. It was also modified in the Criminal Appeal in Crl.A.No.35 of 2014 by judgment dated 13.08.2015, as to pay fine of Rs.1,46,524/-, in default, to undergo six months simple imprisonment. Thereafter, the petitioner also committed another offence punishable under Section 138 of Negotiable Instruments Act in S.T.C.No.556 of 2011, in which, he was convicted and sentenced to undergo three months simple imprisonment and to pay fine of Rs.3000/-, in default, to undergo one month simple imprisonment and the same was also modified as one month simple imprisonment in Crl.A.No.28 of 2012. Further, he was also convicted in S.T.C.No.505 of 2011 for the offences punishable under Section 138 of Negotiable Instruments Act and sentenced to undergo four months simple imprisonment and to pay fine of Rs.1500/-, in default, to undergo 15 days simple imprisonment. It was also confirmed in Crl.A.No.47 of 2016 on the file of the learned Additional Sessions cum Mahila Judge, Karur.



3. That apart, the petitioner was convicted and sentenced in several similar matters such as S.T.C.No.777 of 2011, S.T.C.No.619 of 2011, S.T.C.No.812 of 2011, S.T.C.No.776 of 2011, S.T.C.No.931 of 2011, S.T.C.No.7 of 2012 and S.T.C.No.55 of 2012 and all the conviction thereby was confirmed in the Appellate Court. Therefore, the petitioner sought for relief under Section 427(1) of Cr.P.C.

4. It is relevant to accept the variation under Section 427 of Cr.P.C.

*"427. Sentence on offender already sentenced for another offence.*

*(1)When a person already undergoing a sentence of imprisonment is sentenced on a subsequent conviction to imprisonment or imprisonment for life, such imprisonment or imprisonment for life shall commence at the expiration of the imprisonment to which he has been previously sentenced, unless the Court directs that the subsequent sentence shall run concurrently with such previous sentence: Provided that where a person who has been sentenced to imprisonment by an order under section 122 in default of furnishing security is, whilst undergoing such sentence, sentenced to imprisonment for an offence committed prior to the making of such order, the latter sentence shall commence immediately.*

*(2)When a person already undergoing a sentence of imprisonment for life is sentenced on a subsequent conviction to imprisonment for a term or imprisonment for life, the subsequent sentence shall run concurrently with such previous sentence."*

5. Thus, it is clear that when a person already undergoing a sentence of imprisonment is sentenced on a subsequent conviction to imprisonment or imprisonment for life, such imprisonment or imprisonment for life shall commence at the expiration of the imprisonment to which, he has been previously sentenced. Further, it is clear that the person already undergoing a sentence for imprisonment for life is sentence on a subsequent conviction to imprisonment for a term or imprisonment for life, this sentence shall run concurrently.

6. In the case on hand, the petitioner was convicted on various dates from the year 2011 onwards. However, the petitioner never was undergoing a sentence of imprisonment, when the subsequent conviction and sentence was imposed on him. Therefore, the petitioner is not entitled for any benefit under Section 427(1) of



Cr.P.C. This Criminal Original Petition is devoid of merits.

7. Accordingly, this Criminal Original Petition is dismissed.

Sd/-

Assistant Registrar (T&P)

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Sub Assistant Registrar(CS)

Lm

**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 Principal Secretary to Government,  
State of Tamil Nadu,  
Home Prohibition and Excise Department,  
Fort St.George,  
Chennai.

2.The Superintendent of Prison,  
Central Prison,  
Trichy.

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

+1 CC to M/s.S.BALAJI, Advocate ( SR-7883[F] dated 22/02/2022 )

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RK(17/03/2022) 4P 5C