



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:11.03.2022

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

WP (MD) . No.8718 of 2021

Biju @ Ernakulam Biju

... Petitioner

Vs

State Represented by
The Sub Inspector of Police,
Thukalay Police Station,
Kanyakumari.

... Respondent

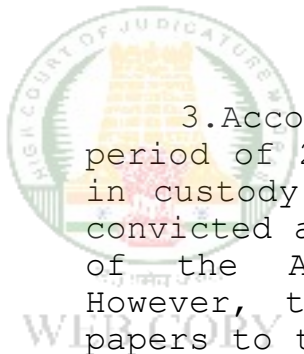
PRAYER :- Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the respondent to declare the 26 months sentence of imprisonment imposed on the petitioner by the learned Judicial Magistrate -I, Padmanabapuram, Kanyakumari District is concurrently undergone with the life sentence imposed in S.C.No.1396 of 2006 sentenced by the Additional Sessions Court (POCSO), Thiruvananthapuram and the petitioner will be freed without hurdles while remission of life conviction and thus render justice.

For Petitioner : Mr.K.K.Samy
For Respondents : Mr.B.Thanga Aravindh,
Government Advocate
(Criminal Side).

O R D E R

This Writ Petition is filed to issue a Writ of Mandamus directing the respondent to declare the 26 months sentence of imprisonment imposed on the petitioner by the learned Judicial Magistrate -I, Padmanabapuram, Kanyakumari District is concurrently undergone with the life sentence imposed in S.C.No.1396 of 2006 sentenced by the learned Additional Sessions Judge (POCSO), Thiruvananthapuram.

2.It is seen that the petitioner was convicted and sentenced in C.C.No. 114 of 2006, on the file of Judicial Magistrate No.I Court, Padmanabapuram, by the judgment dated 09.04.2018, for a period of 26 months. It shall run concurrently with previous sentence. Further, the period of sentence, already undergone by the petitioner during the period between 07.01.2007 to 08.07.2007, 16.11.2015 to 19.03.2016 and 23.10.2017 to 09.04.2018 shall be counted and deducted from that and thereafter, the remaining period is to be undergone by the petitioner.



3. Accordingly, the petitioner has to undergo only the remaining period of 216 days, after deducting those period. The petitioner is in custody from 09.04.2018, till today. The petitioner was already convicted and sentenced for life in S.C.No.1396 of 2006, on the file of the Additional Sessions Court, POCSO, Thiruvananthapuram. However, the respondent herein failed to hand over the relevant papers to take into account about his sentence imposed in C.C.No.114 of 2006, on the file of Judicial Magistrate No.I Court, Padmanabapuram, to run concurrently with the sentence imposed in S.C.No.1396 of 2006, on the file of Additional Sessions Court, POCSO, Thiruvananthapuram, to the prison authorities, where the petitioner is confined.

4. In view of the above, the sentence imposed in C.C.No. 114 of 2006, Judicial Magistrate No.I Court, Padmanabapuram, for a period of 26 months, shall run concurrently with the sentence imposed in S.C.No.1396 of 2006 on the file of Additional Sessions Court, POCSO, Thiruvananthapuram.

5. With the above directions, this Writ Petition is disposed of. No order as to costs.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

PNM

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 Judicial Magistrate No.I, Padmanabhapuram.

2. The Additional Sessions Judge (Posco), Tiruvanthapuram.

3. The Sub Inspector of Police,
Thukalay Police Station,
Kanyakumari.

4. The Additional Public prosecutor,
Madurai Bench of Madras High Court,
Madurai



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+3 CC to M/s.K.K.SAMY, Advocate (SR-11921[F] dated 14/03/2022)

WP(MD) No.8718 of 2021

Date : 11/03/2022

SJ(CO)

KB(31.03.2022) 3P 8C

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