



WEB COPY

Crl.O.P.No.22298 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.10.2023

CORAM :

THE HONOURABLE Dr. JUSTICE G.JAYACHANDRAN

Crl.O.P.No.22298 of 2023

N.Prakash

... Petitioner

-VS-

1.The State

Rep. by its Inspector of Police,
E1- Singanallur Police Station,
Coimbatore District- 641 005.

2.The Superintendent of Police,
Central Prison,
Coimbatore District -641 005.
...Respondents

PRAYER : Criminal Original Petition has been filed under section 482 of Criminal Procedure Code, to direct the petitioner to undergo sentences in concurrent manner relating to the punishment imposed as against the Petitioner made in C.C. No.498 of 2020 dated 07.02.2023 and C.C. No.499 of 2020 dated 07.02.2023 on the file of the Judicial Magistrate No.III, Coimbatore.

For Petitioner : Ms.B.Aparna

For Respondents : Mr.S.Udayakumar,
Government Advocate (Crl.Side)

ORDER

The petitioner is the first accused in C.C. No.498 of 2020 and C.C.

No.499 of 2020 on the file of the learned Judicial Magistrate No.III,
<https://www.mhc.tn.gov.in/judis>



Coimbatore. He along with three others were tried for offence under Sections 120(b), 379 r/w 34 of IPC. The 4th accused was tried for offence under Sections 120(b), 379, 411 and 414 r/w 34 of IPC. In both the cases, the accused pleaded guilty and the trial Court imposed Rigorous Imprisonment for Eight months for offence under Section 120(b) of IPC and Eight months Rigorous Imprisonment for offence under Section 379 r/w 34 of IPC. The period of sentence ordered to run concurrently for both the offences. Similar sentence was imposed in C.C. No.499 of 2020 and the judgment was pronounced on 07.02.2023.

2. The petitioner herein filed an application under Section 427(1) of Cr.P.C. before the Judicial Magistrate III, Tiruvannamalai seeking indulgence to order the sentence to run concurrently in both the cases but the petition was not entertained by the trial Court, since the judgement was already passed. Hence the present Original Petition.

3. Learned counsel appearing for the Petitioner relying upon the judgement of this Court in Crl.O.P. No.23379 of 2021 dated 08.03.2022 submitted that the present petition under Section 482 Cr.P.C is maintainable and in view of the dictum laid down by the Hon'ble Supreme Court and duly followed by the Division Bench of this Court in the case of ***K.Arasan and***



others Vs. State of Tamil Nadu reported in (2012 (6) CTC 510) submitted

that the inherent power of the High Court for granting relief under Section 427 (1) of Cr.P.C is permissible.

4. Learned Government Advocate appearing for the State submitted that the petitioner herein had an antecedent and theft cases have also been registered against him. Being a habitual offender, the benefit under Section 427 (1) of Cr.P.C. need not be extended to him.

5. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.Side) for the State.

6. This Court finds that the petitioner is convicted for theft of two wheeler and he has not contested the case but pleaded guilty. Though the maximum sentence prescribed for offence under Section 379 of Cr.P.C, the trial Court sentenced only Eight months Rigorous Imprisonment and the requests for exercising power under Section 427(1) of Cr.P.C also declined by the trial Court consciously.



WEB COPY

Crl.O.P.No.22298 of 2023



Dr.G.JAYACHANDRAN, J.

7. Considering the nature of the offence and the period of sentence imposed by the trial Court, this Court finds that it is not a fit case to exercise power under Section 482 of Cr.P.C and order concurrent running of sentence in two Calendar Cases which are identical in nature.

8. As a result, this petition is dismissed.

03.10.2023

Internet : Yes/No

Index : Yes/No

rkp

To

- 1.The Inspector of Police,
E1- Singanallur Police Station,
Coimbatore District- 641 005.
- 2.The Superintendent of Police,
Central Prison,
Coimbatore District -641 005.
- 3.The Judicial Magistrate No.III,
Coimbatore.
4. The Public Prosecutor,
Madras High Court, Chennai.

Crl.O.P.No.22298 of 2023