



Crl.O.P.(MD)No.1940 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **02.02.2023**

CORAM

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

Crl.O.P.(MD)No.1940 of 2023

Murugan

... Petitioner

Vs.

1.The State represented by
The Superintendent of Police,
Central Prison,
Coimbatore.

2.The Inspector of Police,
C-5 Karimedu (L&O) Police Station,
Madurai.
(Crime No.209 of 2012)

3.The Inspector of Police,
D2 Sellur (L&O) Police Station,
Madurai.
(Crime No.1127 of 2013)

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to direct the first respondent to treat, the sentences of imprisonment awarded in S.C.No.6 of 2015 on the file of the learned Principal Special Court for exclusive Trial of cases under POCSO Act, Madurai vide judgment dated 26.08.2021 to undergo three years of imprisonment each to run concurrently for the offences under



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Section 363 IPC and Section 12 of POCSO Act, 2012 along with the sentences awarded in S.C.No.82 of 2015 on the file of the learned Sessions Judge, Mahalir Needhimandram, Madurai, vide judgment dated 31.07.2019 to undergo five years rigorous imprisonment each to run concurrently for the offences under Section 363 IPC and 376(2)(1) r/w 511 IPC to be run concurrently.

For Petitioner : Mr.S.Manoharan

For Respondents : Mr.R.Sivakumar
Government Advocate (Crl. Side)

ORDER

This Criminal Original Petition has been filed, invoking Section 482 Cr.P.C., seeking direction to the first respondent to treat, the sentences of imprisonment awarded in Spl.S.C.No.6 of 2015 on the file of the Principal Special Court for exclusive Trial of cases under POCSO Act, Madurai, vide judgment dated 26.08.2021 along with the sentences awarded in S.C.No.82 of 2015 on the file of the Sessions Court, Mahalir Needhimandram, Madurai, vide judgment dated 31.07.2019 to run concurrently.

2. It is evident from the records that the learned Sessions Judge, Mahalir Needhimandram, Madurai in S.C.No.82 of 2015, vide judgment



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dated 31.07.2019 found the petitioner guilty for the offences under Sections 363 IPC and 376(2)(1) r/w 511 IPC and for the offence under Section 363 IPC, sentenced him to undergo five years rigorous imprisonment with a fine of Rs.2,000/- in default to undergo one year simple imprisonment and for the offences under Sections 376(2)(1) r/w 511 IPC, sentenced him to undergo five years rigorous imprisonment and fine of Rs.3,000/- in default to undergo one year of simple imprisonment and further ordered that both the sentences of imprisonment to run concurrently.

3. It is further evident that the learned Sessions Judge, Principal Special Court for Exclusive Trial of Cases under POCSO Act, Madurai in Spl.S.C.No.6 of 2015, vide judgment, dated 26.08.2021 convicted the petitioner for the offence under Section 363 IPC and under Section 12 of the Protection of Children from Sexual Offences Act, 2012 and sentenced him to undergo three years rigorous imprisonment and to pay a fine of Rs.1,000/- in default to undergo six months simple imprisonment for the offence under Section 363 IPC and to undergo three years rigorous imprisonment and to pay a fine of Rs.1,000/- in default to undergo six months simple imprisonment for the offence under Section



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12 of the Protection of Children from Sexual Offences Act, 2012 and further ordered that both the sentences to run concurrently.

4. The main contention of the petitioner is that the petitioner is serving his sentence in Coimbatore Prison for nearly seven years, that the previous conviction in S.C.No.82 of 2015 was not brought to the knowledge of the learned Sessions Judge, Principal Special Court for Exclusive Trial of Cases under POCSO Act, Madurai, while ordering the sentence in Spl.S.C.No.6 of 2015, that the petitioner's conduct during the incarceration period is good and there are no adverse remarks against him and that therefore, the above petition came to be filed seeking direction to the first respondent to treat the sentences awarded in both the cases to run concurrently.

5. The learned Government Advocate (Criminal Side) appearing for the respondents would submit that the petitioner is having one more case under the POCSO Act in Crime No.679 of 2016 for the offences under Sections 365 IPC and 5(l), 5(m) and 6 of POCSO Act on the file of Tiruppur South Police Station and is having two other cases under the IPC offence, that the petitioner has already been convicted in two cases



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under the POCSO Act and another case is pending against him and that therefore he is not entitled to get the direction sought for.

6. The learned counsel appearing for the petitioner has relied on the judgment of the Hon'ble Supreme Court in *Iqram vs. The State of Uttar Pradesh and others* in *Crl.A.No.2319 of 2022 dated 16.12.2022* and wherein, the Hon'ble Apex Court has observed that the Court has the power and discretion to issue a direction that all the subsequent sentences run concurrently with the previous sentence, however discretion has to be exercised judiciously depending upon the nature of the offence or the offences committed and the facts in situation.

7. The petitioner has every right to prefer an appeal challenging the judgment of conviction. But, considering the nature of the offence and taking note of the other previous cases, this Court is not inclined to issue the direction sought for by the petitioner. Accordingly, this Criminal Original Petition stands dismissed.

02.02.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
csm



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K.MURALI SHANKAR,J.

csn

To

- 1.The Superintendent of Police,
Central Prison,
Coimbatore.
- 2.The Inspector of Police,
C-5 Karimedu (L&O) Police Station,
Madurai.
- 3.The Inspector of Police,
D2 Sellur (L&O) Police Station,
Madurai.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Order made in
CrI.O.P.(MD)No.1940 of 2023

Dated: 02.02.2023