



CRL MP(MD) No.10691 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Friday, the Fourth day of August Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice M.S.RAMESH

and

The Hon`ble Mr.Justice N.ANAND VENKATESH

CRL MP(MD) No.10691 of 2023

IN

CRL A(MD) No.232 of 2022

1 PRABHU

2 GIRIDHAR

... PETITIONERS/ APPELLANTS

/ ACCUSED NOS. 13,14

Vs

1 THE STATE REP BY,

THE ADDITIONAL SUPERINTENDENT OF POLICE,
CBCID, NAMAKKAL DISTRICT.

2 THE INSPECTOR OF POLICE

CBCID, NAMAKKAL DISTRICT.

(In Cr.No. 2/2015)

...RESPONDENTS/RESPONDENTS

/COMPLAINANTS

3 V.CHITRA

...RESPONDENT/RESPONDENT

/DEFACTO COMPLAINANT



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4 THE SUPERINTENDENT OF PRISON
CENTRAL PRISON MADURAI,
MADURAI.

... RESPONDENT

Criminal Miscellaneous Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to invoke Section 428 Cr.P.C and Set Off the period of detention undergone by the Petitioners/ Appellants/ Accused No.13,14 as Remand Prisoners against the sentence of imprisonment imposed on them in Spl.SC No.31/2019 dated 08.03.2022 on the file of the learned IIIrd Additional District Judge (PCR) Madurai which is modified in this Criminal Appeal (MD)No. 232/2022 dated 02.06.2023 on the file of this Hon'ble Court.

PRAYER IN CRL A(MD)No. 232 OF 2022:

Criminal Appeal filed under section 374(2) Cr.P.C. r/w 14A(1) SC/ST Act to call for the records relating to the judgment passed in Spl.S.C.No. 31 of 2019 dated 08.03.2022, on the file of the III Additional District and Sessions Judge, (Special Court for SC/ST Ac cases (PCR) Madurai and set aside the same and acquit the Appellant/ Accused No.1 from all the charges levelled against him.

Order : This Criminal Miscellaneous Petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.NAVANEETHAKRISHNAN R, Advocate for the petitioner and of MR.A.THIRUVADIKUMAR, Additional Public Prosecutor on behalf of the Respondents 1, 2 and 4, the court made the following order:-

[Order of the Court was made by N.ANAND VENKATESH.,J]

This criminal miscellaneous petition has been filed requesting this Court to invoke Section 428 Cr.PC., and to set off the period of detention already undergone by the petitioners (A13 and A14), who are now confined as convict Prisoners at Central Prison, Madurai.



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2. Heard Mr.R.Navaneethakrishnan, learned counsel for the petitioner and Mr.A.Thiruvadikumar, learned Additional Public Prosecutor for respondents.

3. When this Court disposed off the criminal appeals in Crl.A(MD).Nos.228 etc, of 2022, this Court was pleased to partly allow the appeal filed by the petitioners in Crl.A.No.232 of 2022 and this Court confirmed the conviction for offences u/s. 212 and 216 IPC wherein they were sentenced to undergo 5 years rigorous imprisonment and to pay a fine of Rs.5000/- and in default, to undergo 1 year rigorous imprisonment for each of the offences. We also directed the sentence to run concurrently. It is brought to our notice that the fine amount was paid by A13 and A14 immediately after the judgment was delivered by the trial Court.

4. This criminal miscellaneous petition has been filed seeking to set off the period already undergone by the petitioners. The custody certificate issued by the Superintendent of Prisons, Central Prison, Madurai has been placed before us. It is seen from these certificates that A13 has undergone imprisonment for a period of 5 years 1 month and 6 days as on 30.06.2023. A14 has undergone 5 years 1 month and 6 days imprisonment as on 30.06.2023.

5. It is apparent from the above that A13 and A14 have already served the sentence imposed in Crl.A.No.232 of 2022. While calculating the period of sentence, the Superintendent of Prisons, Central Prison, Madurai has also taken into



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consideration the period that was already undergone by A13 and A14 during the period of investigation. In view of the same, the petitioners will be entitled for set off u/s 428 Cr.PC., and the period already undergone by them as Remand Prisoners will be taken into consideration while calculating the total period of sentence that was served by them.

6.In the light of the above discussion, this criminal miscellaneous petition is allowed as prayed for.

sd/-
04/08/2023

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/08/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

KP
TO

- 1 THE III ADDITIONAL DISTRICT JUDGE (PCR),
MADURAI.
- 2 THE ADDITIONAL SUPERINTENDENT OF POLICE,
CBCID, NAMAKKAL DISTRICT.
- 3 THE INSPECTOR OF POLICE
CBCID, NAMAKKAL DISTRICT.



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- 4 THE SUPERINTENDENT OF PRISON
CENTRAL PRISON MADURAI,
MADURAI.
- 5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL MP(MD) No.10691 of 2023
IN
CRL A(MD) No.232 of 2022
Date :04/08/2023

PKP/BUC/SAR- /11.08.2023/ 5P/6C

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