



Crl.O.P.No.2685 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.02.2025

CORAM:

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

Crl.O.P.No.2685 of 2024

1. Vijaya Kumar Mali
2. Ganesh Mali

... Petitioners

Vs

The State represented by its;

1. The Superintendent of Prison,
Central Prison Puzhal-I,
Puzhal,
Chennai - 600 066.

2. The Inspector of Police,
Vishnu Kanchi Police Station,
(Cr.No.737 of 2022 and Cr.No.730 of 2022)

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C/ 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to direct the first respondent to treat the sentences in CC.No.216/2022, on the file of the Learned Judicial Magistrate Court-1, Kancheepuram dated 15.03.2023 and in CC.No.227/2022 and on the file of the learned Judicial Magistrate Court-I, Kancheepuram dated 15.03.2023 to run concurrently.

For Petitioners : M/s K.Akshaya

For Respondents : Mr.R.Vinothraja

Government Advocate (Crl.side)

ORDER



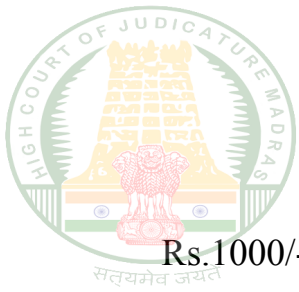
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This Criminal Original Petition has been filed for direction directing

the first respondent to treat the sentences in CC.No.216/2022, on the file of the Judicial Magistrate Court-1, Kancheepuram dated 15.03.2023 and in CC.No.227/2022 and on the file of the learned Judicial Magistrate Court-I, Kancheepuram dated 15.03.2023 to run concurrently.

2. Heard the learned counsel appearing on either side and perused the materials placed on record.

3. The petitioners were arrested and remanded to judicial custody on 29.09.2022 in pursuant to the registration of FIR in Crime Nos.737 and 730 of 2022 for the offences punishable under Sections 457 and 380 of IPC. After completion of investigation, the second respondent filed a final report and the same has been taken cognizance by the Judicial Magistrate Court-I, Kancheepuram in C.C.Nos.216 and 227 of 2022. After fulfilled trial, the petitioners were convicted for the offences under Section 457 of IPC and sentenced to undergo two years rigorous imprisonment and to pay a sum of Rs.1000/- each, in default to undergo one month simple imprisonment. For the offence punishable under Section 380 of IPC, the petitioners were convicted and sentenced to undergo one year rigorous imprisonment and to pay a sum of



Rs.1000/- each, in default to undergo one month simple imprisonment. Both the judgments were delivered on the same day by the same Court. However, both the sentences were not ordered to run concurrently.

4. It is relevant to extract the provisions under Section 427 of Cr.P.C as follows:-

“ 427. Sentence on offender already sentenced for another offence.

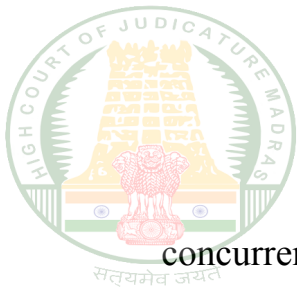
(1) When a person already undergoing a sentence of imprisonment is sentenced on a subsequent conviction to imprisonment or imprisonment for life, such imprisonment or imprisonment for life shall commence at the expiration of the imprisonment to which he has been previously sentenced, unless the Court 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.”

Therefore, the sentence imposed in both the cases shall run concurrently.

5. In view of the above, the first respondent is directed to treat the sentences imposed in C.C.Nos.216 and 227 of 2022, on the file of the Judicial Magistrate Court-I, Kancheepuram, by an order dated 12.03.2023 to run



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concurrently, unless the petitioners are not required to be imprisoned for other cases.

6. With the above directions, this Criminal Original Petition stands allowed.

04.02.2025

Internet: Yes
Index: Yes/No
Speaking/Non speaking order
mn



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To

1. The Superintendent of Prison,
Central Prison Puzhal-I,
Puzhal,
Chennai - 600 066.
2. The Inspector of Police,
Vishnu Kanchi Police Station,
3. The Public Prosecutor,
High Court, Madras.

G.K.ILANTHIRAIYAN. J.



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