



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.02.2024

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THE HONOURABLE MR.JUSTICE N. ANAND VENKATESH

Crl.O.P.No.3196 of 2024

Leema Rose

... Petitioner

Vs.

1.The Inspector of Police,
Auriville Police Station.
(Crime No.310 of 2003)

2.The Superintendent of Police,
Central Prison,
Cuddalore.

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to set aside the order passed in Crl.M.P.No.207 of 2021 in S.C.No.7 of 2012 on the file of the I Additional District and Sessions Judge, Tindivanam dated 13.12.2021 and direct the 2nd respondent to make the entry of 324 days in between conviction and date of released on suspension of sentence.

For Petitioner : Mr.S.Doraisamy for
Mr.V.Elangovan

For Respondents : Mr.A.Damodaran
Additional Public Prosecutor



ORDER

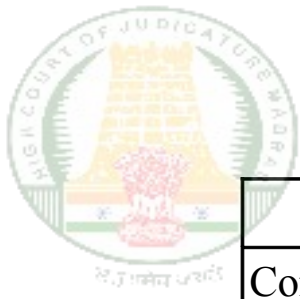
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This criminal original petition has been filed challenging the order passed by the Court below in CrI.M.P.No.207 of 2021 in S.C.No.7 of 2012, dismissing the application preferred by the petitioner to direct the Jail Superintendent of Central Prison, Cuddalore to include the period of detention undergone by the husband of the petitioner under Section 428 of Cr.P.C.

2.Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing on behalf of the respondents.

3.The case of the petitioner is that her husband had suffered incarceration for nearly 324 days and whereas, the same was not taken into consideration under Section 428 of Cr.P.C., while calculating the incarceration already suffered. For proper appreciation, the calculation given by the petitioner is extracted hereunder:

Original Remand Date (Crime No.310/2023)	:	20.10.2003
Released of bail	:	07.02.2004
Total days	:	110 days
2 nd time remand	:	22.08.2011



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Conviction date	:	16.03.2012
Total days	:	206 days
High Court bail	:	05.02.2013
Custody till bail	:	324 days
High Court order (Appeal Dismissed)	:	05.03.2019
Date of re-surrender	:	19.03.2020

4.In the light of the above calculation, the petitioner claims that her husband had suffered 324 days of incarceration and the same has to be taken into consideration to include the same under Section 428 of Cr.P.C.,

5.When the matter was taken up for hearing, the learned Additional Public Prosecutor submitted the written instructions received from the Superintendent of Central Prison, Cuddalore. On going through the same, the Superintendent of Central Prison, Cuddalore has calculated the number of days as 318 days in the following manner:

- 1) 20.10.2003 முதல் 07.02.2004 வரை
- 2) 22.08.2011 முதல் 15.03.2012 வரை

=	111 நாட்கள்
=	207 நாட்கள்
	318 நாட்கள்



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6. The learned counsel for the petitioner submitted that the calculation that has been arrived at by the Superintendent of Central Prison, Cuddalore can be taken into account and the same may be directed to be included under Section 428 of Cr.P.C.,

7. In the light of the above details that have been furnished before this Court and the fact that 318 days have now been ascertained to be included under Section 428 of Cr.P.C., there shall be a direction to the Superintendent of Central Prison, Cuddalore to include the period of 318 days under Section 428 of Cr.P.C., towards the detention period that has already been undergone by the petitioner's husband.

8. This criminal original petition is disposed of with the above directions.

29.02.2024

Index: Yes/No
Internet: Yes/No
ssr

To

1. The I Additional District and Sessions Judge, Tindivanam.

2. The Inspector of Police,
Auriville Police Station.



3. The Superintendent of Police,
Central Prison,
Cuddalore.

4. The Public Prosecutor,
High Court of Madras,
Chennai.



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N.ANAND VENKATESH,J.

SSR

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