



W.P.(MD).No.4616 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 29.02.2024

CORAM

**THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN
AND
THE HON'BLE MR.JUSTICE C.KUMARAPPAN**

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Rani

.. Petitioner

Vs.

1.The Deputy Inspector General of Prison,
O/o. The Deputy Inspector General of Prison
and Correctional Services,
Madurai Range,
Madurai Central Prison Campus,
New Jail Road,
Madurai.

2.The Superintendent,
Central Prison,
New Jail Road,
Arasaradi,
Madurai.

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of Mandamus, to direct the respondents to set off the petitioner's son the remand period from 28.05.2007 to 27.02.2008 under Section 428 Cr.P.C. in his conviction warrant.



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For Petitioner : Mr.SMA.Jinnah
For Respondents : Mr.S.Ravi
Additional Public Prosecutor

ORDER

DR.G.JAYACHANDRAN,J.
and
C.KUMARAPPAN,J.

The present Writ Petition is filed for Mandamus seeking for direction to the respondents to set off the remand period of the petitioner's son from 28.05.2007 to 27.02.2008 under Section 428 Cr.P.C. in his conviction warrant.

2. The petitioner is the mother of one Ruban, who is a life convict undergoing sentence in Central Prison, Madurai. The petitioner's son was acquitted by the learned Principal District and Sessions Judge, Madurai in S.C.No.3 of 2009 vide order dated 09.12.2009. However, the acquittal was reversed by the High Court in CrI.A.(MD).No.274 of 2011 by judgment dated 21.03.2019 and the petitioner's son along with the other accused was sentenced to undergo the following punishment:



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- “1 Under Section 449 IPC : 5 years rigorous imprisonment and fine of Rs.5,000/-, in default to undergo five months simple imprisonment each
- 2 Under Section 436 r/w Section 149 IPC : 5 years rigorous imprisonment and fine of Rs.5,000/-, in default to undergo five months simple imprisonment each
- 3 Under Section 4 of the Explosive Substances Act read with Section 34 IPC : 5 years rigorous imprisonment and fine of Rs.5,000/-, in default to undergo five months simple imprisonment each
- 4 Under Section 5 of the Explosive Substances Act read with Section 34 IPC : 5 years rigorous imprisonment and fine of Rs.5,000/-, in default to undergo five months simple imprisonment each
- 5 Under Section 4 of the TNPPDL Act read with under Section 34 IPC : 5 years rigorous imprisonment and fine of Rs.5,000/-, in default to undergo five months simple imprisonment each
- 6 Under Section 302 read with Section 149 IPC (3 counts) : Imprisonment for life for each count and fine of Rs.10,000/- for each count, in default to undergo one year simple imprisonment for each count (totally 3 life sentences)”

3. Alleging that the period of imprisonment of the petitioner's son during the remand (pre-trial) was not given set off under Section 428 Cr.P.C, the present Writ Petition is filed.



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4. The learned Additional Public Prosecutor appearing for the respondents has furnished a copy of warrant of commitment on the sentence of imprisonment issued by the learned Principal Sessions Judge, Madurai, subsequent to the judgment passed by the High Court convicting the accused, Ruban.

5. It is further submitted by the learned Additional Public Prosecutor that the life convict is yet to pay the fine amount or else he has to undergo additional sentence besides the substantive sentence imposed by the High Court.

6. A perusal of the warrant of commitment discloses that the period of remand between 28.05.2007 to 27.02.2008, totalling 276 days, had been taken note of and recorded. Therefore, there need not be any apprehension that the prison authorities had omitted to take note of the remand period for set off under Section 428 Cr.P.C.



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7. In the light of the above fact, this Court is convinced that the prison authorities have taken note of the 276 days remand period, since it is reflected in the warrant of commitment itself. If there is any difficulty at the time when the life convict falls under the zone of consideration, it is always open to the convict to approach this Court for appropriate remedy in the manner known to law.

8. With the above observations, this Writ Petition is disposed of.
There shall be no order as to costs.

(G.J.,J.) (C.K.,J.)
29.02.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
Lm

To

1. The Deputy Inspector General of Prison,
O/o. The Deputy Inspector General of Prison
and Correctional Services,
Madurai Range,
Madurai Central Prison Campus,
New Jail Road,
Madurai.



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2.The Superintendent,
Central Prison,
New Jail Road,
Arasaradi,
Madurai.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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