



Cont P(MD) No.1607of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date: 15.10.2024

CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

and

THE HON'BLE MS.JUSTICE R.POORNIMA

Cont.P(MD) No.1607of 2024

in

W.P(MD) No.10946 of 2023

K. Bala

... Petitioner

Vs

Abdul Rahman
The Superintendent of Prison,
Central Prison,
Vellore, Vellore District

... Respondent

PRAYER: Contempt Petition filed under Section 11 of Contempt of Courts Act, against the contemnor herein for his wilful disobedience to comply the order passed by this Court in W.P(MD) No.10946 of 2023 dated 12.07.2023 and punish him accordingly.



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For Petitioner : Mr.S.M.A.Jinnah

For Respondent : Mr.A.Thiruvadikumar
Additional Public Prosecutor.

ORDER

The Contempt Petition has been filed complaining that there had been disobedience of the orders passed by a Co-ordinate Division Bench on 12.07.2023 in W.P(MD) No.10946 of 2023.

2. The said writ petition has been filed seeking examination of the representation given by the petitioner herein on 05.03.2023 to include the period of incarceration of 4083 days in the remand report. In effect set off of the period of such incarceration was sought consequent to conviction and sentence being imposed. It is the grievance that the trial Court had not included that particular period of incarceration in the remand report. The Division Bench of this Court had passed the following order:



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“ 2. It is needless to point out that whenever a representation of this nature is made to a Statutory Authority, there is a duty cast upon the respondents to consider the same on its own merits and pass appropriate orders in one way or other, instead of keeping the same pending indefinitely. As such, non-consideration of the representation by the Statutory Authority would amount to dereliction of duty and hence, this Court will be justified in invoking its extraordinary powers under Article 226 of Constitution of India and direct them to consider the same within a stipulated time.

3. In the light of the above observations, there shall be a direction to the first respondent herein to consider the petitioner's representation, dated 05.03.2023, on its own merits and pass appropriate orders in accordance with law, within a period of four (4) weeks from the date of receipt of a copy of this order. It is made clear that this Court has not expressed any of its views with regard to the merits of the claim of the petitioner and that it is open to the concerned respondent to consider the same on its own merits.



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4. With the above direction, the Writ Petition stands disposed of. There shall be no order as to costs”.

3. Complaining that though four weeks time had been granted and no order had been passed on the representation, the present contempt petition has been filed.

4. The learned Additional Public Prosecutor had forwarded a copy of the proceedings dated 14.08.2024 in No.தரு.1/3867/2023 passed by the Superintendent of Prison, Central Prison, Vellore wherein the representation of the petitioner had been rejected.

5. The learned counsel appearing for the petitioner stated that a positive direction had been issued by the Division Bench to consider the representation and that representation was not considered in letter and spirit as enunciated in the order and also within the time stipulated in the order.



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6. The learned Additional Public Prosecutor, however stated that the issue of set off of the period of incarceration could only be by means of a judicial order to be passed only by the Court which had convicted the accused and imposed sentence. At the time while imposing sentence the Court can also provide for setting off the period of sentence already undergone with the sentence imposed at the time of conviction.

7. It is the grievance of the learned counsel for the petitioner that in the remand order of the trial court, this particular period of incarceration suffered for 4083 days had not been reflected. It had been stated that under those circumstances a representation was also given to the trial Court and it had been contended that the trial Court had directed that a representation should be given to the prison authorities. That particular order of the trial Court, should be challenged by way of judicial proceedings. If the petitioner seeks to abide by the order of the trial Court he should give a representation before the prison authorities. The prison authorities have now rejected the representation. This has left the petitioner high and dry. If at all the trial Court had actually passed



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such an order, which order is not produced before this Court, we can only observe that necessary judicial proceedings have to be initiated by the petitioner after explaining the delay in filing such proceedings in the manner known to law.

8. But so far as the Contempt Petition is concerned, we are able to understand the predicament faced by the Superintendent of Prison, Vellore since he is not an authority to pass orders either in favour or against the representation.

9. In the result, the Contempt Petition stands closed.

(C.V.K., J.) (R.P, J.)
15.10.2024

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