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Crl.O.P.No.9514 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.04.2025

CORAM:

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

Crl.O.P.No.9514 of 2025

Raja @ Sivarajan @ Manikandan

... Petitioner

Vs.

1.The State rep by its,
The Superintendent of Prison,
Coimbatore Central Prison,
Gandhipuram, Coimbatore.

2.The Inspector of Police,
Rasipuram Police Station,
Namakkal.

... Respondents

PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 to issue a direction to the respondents to run the sentence of imprisonment imposed in the judgment dated 05.10.2023 in Crl.A.No.40/2023 on the file of the first



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Additional District and Sessions Court at Namakkal to run concurrently with the sentence of imprisonment imposed in the judgment dated 05.10.2023 in Crl.A.No.41 of 2023 on the file of the First Additional District and Session Court at Namakkal.

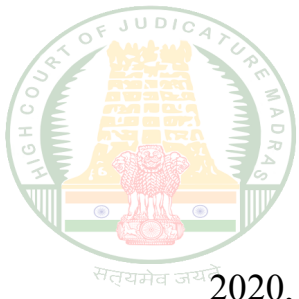
For Petitioner : Mr.M.Mohamed Saifulla

For Respondents : Mr.A.Gopinath,
Government Advocate (crl.side)

ORDER

This Petition has been filed seeking a direction to the respondents to permit the sentence of imprisonment imposed in the judgment dated 05.10.2023 in Crl.A.No.40/2023 on the file of the I Additional District and Sessions Court at Namakkal to run concurrently with the sentence of imprisonment imposed in the judgment dated 05.10.2023 in Crl.A.No.41 of 2023 on the file of the I Additional District and Session Court at Namakkal.

2.The petitioner is an accused in Crime Nos.1644 and 1671 of



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2020, registered for offences under Section 457 and 380 of IPC on the file of the second respondent. After completion of investigation, the second respondent filed the final report in both crime numbers, and cognizance was taken in C.C.No.26/2021 and C.C.No.27/2021. In both cases, the petitioner was convicted and sentenced to undergo three years of rigorous imprisonment by the judgment dated 31.05.2022 and 29.08.2022, respectively. Aggrieved by the same, the petitioner preferred an appeal in Crl.A.Nos.40 and 41 of 2023 before the I Additional District and Sessions Court, Namakkal. Both appeals were dismissed by an order dated 05.10.2023. The petitioner now seeks a direction to run the sentences imposed in both cases concurrently.

3. The learned counsel for the petitioner would submit that the petitioner has been convicted in two separate cases arising from two distinct crime numbers, but the offences relate to similar facts and circumstances. It is further submitted that the petitioner has undergone a considerable portion of the sentence already and in the interest of justice, the sentences imposed in both cases should run concurrently.



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4. The learned Government Advocate (Crl.side) submits that the order of conviction and sentence passed by the Trial Court and upheld by the Appellate Court is correct. Hence, he prays for the dismissal of the petition.

5. Heard both sides and perused the materials placed on record.

6. After carefully considering the submissions made by both parties, this Court finds that Section 427 Cr.P.C., confers the discretion to the Court to direct that sentences of imprisonment be served concurrently, even when the person is already undergoing a sentence for a prior offence. The provision is intended to prevent unjust hardship and ensure that the sentences reflect the circumstances of the case. It is relevant to extract the provisions of Section 427 of the Criminal Procedure Code, 1973 (Cr.P.C.) which reads as under:

“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



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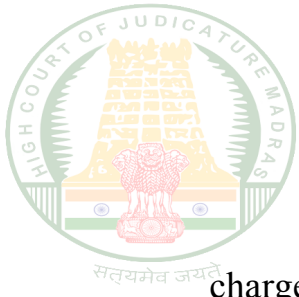
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imprisonment or imprisonment for life, such imprisonment or imprisonment for life shall commence at the expiration of the imprisonment to which he has been previously sentenced, unless the Court directs that the subsequent sentence shall run concurrently 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.”

It is thus clear that the relief sought by the petitioner does not amount to altering or modifying the findings of the Trial Court or Appellate Court but merely seeks to adjust the manner in which the sentences are served, which is within the scope of the Court's discretion.

6. Considering the facts and circumstances of the case, and the



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charges levelled against the petitioner, this Court is inclined to exercise its powers under Section 482 of Cr.P.C., for granting relief under Section 427 of Cr.P.C., in the interest of justice. Accordingly, the sentences of imprisonment imposed in the judgments dated 05.10.2023 in Crl.A.No.40 of 2023 and Crl.A.No.41 of 2023 on the file of the I Additional District and Sessions Court, Namakkal, shall run concurrently.

7. In view of the above, this Criminal Original Petition stands allowed.

15.04.2025

Neutral citation : Yes/No
Speaking/non-speaking order
shk



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1. I Additional District and Sessions Court at Namakkal
2. The Superintendent of Prison,
Coimbatore Central Prison,
Gandhipuram, Coimbatore.
3. The Inspector of Police,
Rasipuram Police Station,
Namakkal.
4. The Public Prosecutor,
High Court, Madras.

G.K.ILANTHIRAIYAN, J.



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