

Crl.O.P.(MD) No.15771 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.09.2025

CORAM

THE HON'BLE MR.JUSTICE SUNDER MOHAN

Crl.O.P.(MD) No.15771 of 2024

Selvi @ Saroja

... Petitioner

Vs.

- 1.State rep. by
The Inspector of Police,
Malli Police Station,
Virudhunagar District.
(Crime No.146 of 2009)
- 2.State rep. by
The Inspector of Police,
Rajapalayam North Police Station,
Virudhunagar District.
(Crime No.662 of 2009)
- 3.State rep. by
The Inspector of Police,
Srivilliputtur Police Station,
Virudhunagar District.
(Crime No.1041 of 2008)
- 4.State rep. by
The Inspector of Police,
Thiruthangal Police Station,
Virudhunagar District.
(Crime No.302 of 2012)



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5.State rep. by
The Inspector of Police,
Sivakasi Town Police Station,
Virudhunagar District.
(Crime No.383 of 2012)

6.State rep. by
The Inspector of Police,
Thiruthangal Police Station,
Virudhunagar District.
(Crime No.304 of 2012)

7.State rep. by
The Inspector of Police,
Virudhunagar East Police Station,
Virudhunagar District.
(Crime No.262 of 2011)

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, 1973/Section 528 of Bharathiya Nagarik Suraksha Sanhita, 2023 to direct the sentences passed by the learned Judicial Magistrate No.I, Sivakasi, Virudhunagar District in C.C.No.226 of 2013 dated 26.09.2022, C.C.No.267 of 2013 dated 26.09.2022, C.C.No. 270 of 2013 dated 26.09.2022, C.C.No.271 of 2013 dated 26.09.2022, C.C.No.208 of 2013 dated 19.09.2022 and C.C.No.209 of 2013 dated 19.09.2022 to run concurrently along with the sentence passed in C.C.No. 205 of 2013 dated 19.09.2022.

For Petitioner : Mr.Anantha Padmanabhan,
Senior Counsel
for Mr.D.Raja Boopathy



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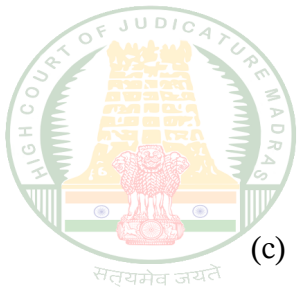
For Respondents : Mr.R.Meenakshi Sundaram
Additional Public Prosecutor

ORDER

The petitioner, who has been convicted in seven cases for the offences punishable under Section 381 of the Indian Penal Code, 1860, seeks a direction that the sentences imposed by the learned Judicial Magistrate No.I, Sivakasi, Virudhunagar District, in all the seven cases, i.e., C.C.No.226 of 2013, C.C.No.267 of 2013, C.C.No.270 of 2013, C.C.No.271 of 2013, C.C.No.208 of 2013, C.C.No.209 of 2013 and C.C.No.205 of 2013, as confirmed by the Appellate Court and the Revisional Court, be ordered to run concurrently with the sentence imposed in C.C.No.205 of 2013.

2. The admitted facts are as follows:

- (a) Seven cases were registered against the petitioner for the offence punishable under Section 381 of the Indian Penal Code, 1860, containing similar allegations that she had stolen jewels and cash from the house where she was employed as a housemaid.
- (b) In all the cases, the respondents filed the final report, and the cases were tried by the learned Judicial Magistrate No.I, Sivakasi, Virudhunagar District.



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- (c) In all the cases, the petitioner was convicted for the offence punishable under Section 381 of the Indian Penal Code. In all the cases, the imprisonment is for 3 years' rigorous imprisonment, besides a fine.
- (d) The judgments in three cases were delivered on 19.09.2022, and the judgments in the remaining four cases were delivered on 26.09.2022.
- (e) The sentences imposed in the cases where judgements were delivered on 19.09.2022 were ordered to run concurrently by the learned Judicial Magistrate. The very same learned Judicial Magistrate directed the sentences imposed in four other cases where the judgments were delivered on 26.09.2022 to run consecutively.
- (f) The appeals filed by the petitioner and the subsequent revision petitions challenging the dismissal of the appeals, were also dismissed by this Court. Hence, the judgments of the learned Judicial Magistrate No.I, Sivakasi, have attained finality.
- (g) At this stage, the petitioner has filed the present petition seeking to invoke the inherent powers of this Court under Section 482 of the Code of Criminal Procedure, 1973 / Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, for a direction that the sentences imposed in all cases be ordered to run concurrently.

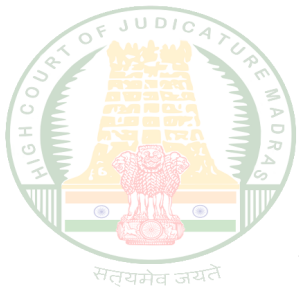


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3. The learned Senior Counsel for the petitioner would submit that the petitioner is a lady aged about 49 years; that she has an aged mother of about 95 years; that she has two children to support; that the alleged occurrence took place in the year 2013 and, pursuant to the judgment dated 19.09.2022, the petitioner has already undergone almost three years of the sentence; and that if the sentences are directed to run concurrently, she would be released from jail and would be in a position to take care of her children and her aged mother.

4. The learned Additional Public Prosecutor for the respondents, per contra, would submit that there is a specific direction by the learned Judicial Magistrate No.I, Sivakasi, in the second set of four cases, that the sentences have to run consecutively; that the Appellate Court and the Revisional Court had not interfered with the said finding; and that this Court therefore may not exercise its powers under Section 482 of the Code of Criminal Procedure, 1973 / Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to issue the direction as prayed for.



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5. As stated earlier, the petitioner had faced trial in seven cases in which similar allegations were made. All the cases were tried by the very same Magistrate and were disposed of in the same month. In the first three cases, namely, C.C.No.205 of 2013, C.C.No.208 of 2013, and C.C.No.209 of 2013, disposed of on 19.09.2022, it was observed that the sentences imposed in all the cases shall run concurrently. However, in the judgments passed later on 26.09.2022 in the other four cases, the learned Judicial Magistrate observed that since the four crimes were committed at different times and at different places, the sentences imposed therein were to run consecutively.

6. Section 427 of the Code of Criminal Procedure, 1973 stipulates that if there is more than one conviction, the sentence imposed in the second and subsequent convictions has to run consecutively, unless the Court directs the concurrent running of the sentences. In the present case, the learned Judicial Magistrate had directed the sentences to run concurrently in the first set of three cases. However, in the second set of four cases, as stated earlier, the learned Judicial Magistrate had directed the sentences to run consecutively for the reasons stated supra. As is clear from the above provision, a specific direction is required only for the

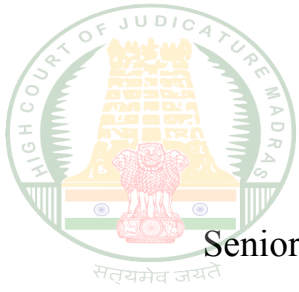


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sentences to run concurrently. There is no necessity for a direction to run the sentences consecutively. Be that as it may, the facts in the first set of three cases are similar to the facts in the second set of four cases. Having directed the sentences to run concurrently in the first set of three cases, there is no reason why a different standard should have been adopted in respect of the second set of four cases.

7. Therefore, this Court is of the view that the direction issued by the learned Judicial Magistrate in the first set of three cases can also be applied to the second set of four cases, as there is no difference in the nature of allegations in all the cases, except for the fact that the judgments were delivered on two different dates. Further, it is seen that the petitioner is a lady and has suffered incarceration for nearly three years; and that she has an aged mother and two children to support.

8. The next question is whether such a direction can be issued in a petition filed under Section 482 of the Code of Criminal Procedure, 1973, when neither the appellate court nor the revisional court has interfered in the said finding or directed the sentences to run concurrently. The learned



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Senior Counsel for the petitioner referred to two judgments: one passed by the Andhra Pradesh High Court in ***V.Venkateswarlu vs. State of Andhra Pradesh***, reported in ***1987 Cri.L.J. 1621***, and another passed by the Madhya Pradesh High Court in ***Shersingh vs. State of Madhya Pradesh***, reported in ***1989 Cri.L.J. 632***.

9. Andhra Pradesh High Court in ***V.Venkateswarlu vs. State of Andhra Pradesh***, reported in ***1987 Cri.L.J. 1621***, had held as under:

“It can be seen that the Allahabad High Court was only laying down certain guidelines and we respectfully agree with these observations. But we are unable to accede to the contention that an application under S.482, Cr.P.C., seeking directions under S.427, Cr.P.C., cannot lie at all. The High Court, while exercising its revisional jurisdiction suo motu or in exercise of its inherent power under S. 482, can direct the sentence to run concurrently as provided under S.427, Cr.P.C., even though the convictions and sentences that have been passed by the Additional Sessions Judges of different Sessions Divisions have become final.”

10. The relevant observations of the Madhya Pradesh High Court in ***Shersingh vs. State of Madhya Pradesh***, reported in ***1989 Cri.L.J. 632***, are as under:



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“.....Therefore, in view of the overwhelming decisions that power under Section 482 can be invoked to make the subsequent sentence run concurrently with the earlier sentence, the decision of the Delhi High Court in Gopal Dass v. State (supra) does not appear to have laid down the correct law.

7. The reference is, therefore, answered by saying (i) that the decision of this Court in A.S. Naidu v. State of M.P. 1975 Cri LJ 498 (supra) is no longer good law to the extent it says that power under Section 427(1) of the Code can be exercised by the trial or appellate court at any stage at any time even after decision on merits in the case but not Under Section 482 and the court does not become functus officio. (ii) The High Court has power in appropriate cases to entertain an application under Section 482 of the Code by invoking its inherent powers at any time subsequent to the decision in a given case even if the trial court or the appellate or revisional court has failed to exercise its discretion under Section 427(1) of the Code. The case be now placed before the single Bench for decision on merits.”

11. This Court agrees with the above view expressed by the Andhra Pradesh High Court and the Madhya Pradesh High Court regarding the scope and power of this Court under Section 482 of the Code of Criminal Procedure, 1973 / Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to issue directions that the sentences run concurrently, notwithstanding the fact that the judgments of conviction and the findings



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with regard to the consecutive sentences cannot be interfered with by the Appellate Court and the Revisional Court.

12. It is well settled that Section 482 of the Code of Criminal Procedure, 1973 / Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, recognises the already existing inherent powers of this Court to secure the ends of justice and for other purposes mentioned in the provision. Though the conviction and sentence have been imposed by the trial court and confirmed by the appellate court and revisional court, this Court, in exercise of its powers under Section 482 of the Code of Criminal Procedure, 1973 / Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, without altering the findings of guilt or the sentence, can issue directions in terms of Section 427(1) of the Code of Criminal Procedure, 1973 in appropriate cases to secure the ends of justice. For the reasons stated above, this Court is of the view that this is one such appropriate case where the inherent power is to be invoked to secure the ends of justice.



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13. Therefore, for all the foregoing reasons, the prayer sought by the petitioner is allowed, and the sentences imposed by the learned Judicial Magistrate No.I, Sivakasi, Virudhunagar District, in all the seven cases, i.e., C.C.No.226 of 2013, C.C.No.267 of 2013, C.C.No.270 of 2013, C.C.No.271 of 2013, C.C.No.208 of 2013, C.C.No.209 of 2013, and C.C.No.205 of 2013, are ordered to run concurrently.

14. With the above observations, this Criminal Original Petition is allowed.

18.09.2025

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Index: Yes/ No

Neutral Citation: Yes / No

Speaking Order / Non-Speaking Order

Copy To:

1.The Judicial Magistrate No.I,
Sivakasi, Virudhunagar District.

2.The Inspector of Police,
Malli Police Station,
Virudhunagar District.

3.The Inspector of Police,
Rajapalayam North Police Station,
Virudhunagar District.



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- 4.The Inspector of Police,
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- 7.The Inspector of Police,
Thiruthangal Police Station,
Virudhunagar District.
- 8.The Inspector of Police,
Virudhunagar East Police Station,
Virudhunagar District.
- 9.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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SUNDER MOHAN, J.

JEN

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