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CRL.M.P. Nos.12163 & 11940 of 2024
in
CrI.R.C. Nos.1442 & 1411 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.09.2024

CORAM

THE HON'BLE MR.JUSTICE M. NIRMALKUMAR

CRL.M.P. Nos. 12163 & 11940 of 2024

in

CrI.R.C. Nos.1442 & 1411 of 2024

Gowrishankar

..Petitioner in
CrI.M.P. No.12163/ 2024

Rameejkhan

..Petitioner in
CrI.M.P. No. 11940/2024

Vs.

The State rep. by
Inspector of Police,
Veerapandi Police Station,
Tiruppur City, Tiruppur District
(Cr.No. 655 of 2021)

..Respondent in both petitions

Prayer: Criminal Miscellaneous Petitions to suspend the sentence
imposed on the petitioners by judgment dated 24.07.2024 in C.A. Nos. 61 &

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60 of 2022 respectively by the learned I Additional District and Sessions Judge, Tiruppur confirming the judgment dated 19.04.2022 passed in C.C. No. 261 of 2021 by the learned Judicial Magistrate NO.IV, Tiruppur pending disposal of the revisions.

For Petitioners :: Mr.K. Sudhakar

For Respondent :: Mr.A. Damodaran,
Addl Public Prosecutor

O R D E R

The petitioners in the above criminal miscellaneous petitions are A1 and A2, who were convicted by the Trial Court for the offence under Section 379 IPC and sentenced to undergo 2 years rigorous imprisonment together with a fine of Rs.1000/- carrying a default sentence of 9 months simple imprisonment. The Lower Appellate Court also confirmed the said conviction and sentence as against which the present revisions have been filed.

2. The contention of the learned counsel for the petitioners is that in this case, P.W.1 had lodged a complaint as though his car had gone



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missing after he came from the hospital. No documents have been produced to prove that he is the owner of the car. He admits that he had only shown the picture of his car available in his mobile and nothing else. In such circumstances, it becomes highly doubtful that P.W.1 is the owner of the car. Likewise, arrest and recovery of vehicle becomes doubtful for the reason on 28.05.2021, at about 8a.m, both petitioners, while travelling in their two-wheeler, during routine check, they were stopped, enquired and thereafter, they were arrested, on the confession of A1, the car was seized and recovery made in the presence of P.W.s 5 and 6. The recovery witnesses admit that they are known to PW.1 and related to him. Since A1 had some antecedents, according to the learned counsel for the petitioners, a false case fabricated and he is behind bars. The arrest and recovery are highly doubtful and both Courts failed to consider these aspects. To convict A2, the Trial Court had given reason that A1's confession is sufficient, which is not acceptable. As per Section 30 of Indian Evidence Act, mere confessions of co-accused may not be sufficient and there should be other corroborative materials justifying conviction. In this case, there are no other materials



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available except confession of A1 and based on the same, A2 cannot be convicted. Further, learned counsel for the petitioners would submit that A2 has no bad antecedents.

3. Learned Additional Public Prosecutor has filed counter in both cases and the relevant paragraphs are extracted hereunder:

Relevant paragraphs of counter filed by the respondent:

'2. It is submitted that the case of the prosecution is that on 29.05.2021 at about 02.30 hours, when the defacto complainant Silambarasan parked his vehicle bearing Registratin No. TN-39-CR-0258 worth of Rs.6,00,000/- in front of his house, in order to obtain the illegal gain, Gowrishankar [A-1] along with co-accued Rameejkhan [A-2], stole that vehicle.

3. It is submitted that based on the above complaint, a case was registered in Veerapandi Police Station Crime No. 655 of 2021, u/s. 379 of IPC on 14.06.2021 at about 08.00 hours by Tr. Senthil kumar, then HC-569 and the same was submitted before Tr. Rajendraprasath, then Sub Inspector of Police and took up the case for investigation.



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4. *It is submitted that the then Inspector of Police went to the scene of occurrence, drew rough sketch, prepared observation mahazar and also examined the witnesses and recorded their statements, later, on 14.0.2021 at about 13.00 hours, arrested the accused persons A-1 & A-2 and recorded confession statement of A-1.*

5. *It is submitted that after completion of elaborate and detailed investigation, based on the witnesses statements, material evidence, on 18.06.2021, then Inspector of Police filed charge sheet against the accused persons before the learned Judicial Magistrate IV, Tiruppur and the same was taken cognizance vide C.C. No. 261/2021.*

6. *It is submitted that in order to prove the case of the prosecution, the prosecution has examined P.W.1 to P.W.9 and marked exhibits 17 and two material objects have been marked. On the defence side, no witness was examined and no exhibits were marked.*

Rank of Witnesses	Witnesses	Gist of the deposition
P.W.1	Tr. Silambarasan/defacto complainant	Deposed that narrative the above facts and lodged a complaint before the respondent Police Ex.P1
P.W.2	Tmt. Geetha/wife of P.W.1	Deposed that corroborated the



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<i>Rank of Witnesses</i>	<i>Witnesses</i>	<i>Gist of the deposition</i>
		same version of P.W.1
P.W.3	Tr. Santhaseelan/father of P.W.1	Deposed that corroborated the same version of P.W.1
P.W.4	Tr.Palanisamy/observation mahazar	Deposed that attested in the observation mahazar Ex.P11 and rough sketch Ex.P12
P.W.5	Tr.Prathap/confession witness	Deposed that attested in confession statement and seizure mahazar Ex.P13, 14
P.W.6	Tr. Praveen/confession witness	Deposed that attested in confession statement and seizure mahazar
P.W.7	Tr. Senthilkumar/HC	Deposed that received a complaint from P.W.1., based on that, a case was registered in Cr.No. 655/2021, u/s. 379 IPC Ex.P10 and the same was submitted before P.W.8
P.W.8	Tr. Rajendraprasath/Sub Inspector of Police	Deposed that took up the case for investigation and sent to the scene of occurrence, drew rough sketch, prepared observation mahazar and recorded statements and arrested the accused.
P.W.9	Tr.Ganapathy/Inspector of Police	Deposed that took up the case for further investigation, after completion of investigation, filed charge sheet against the accused persons before the competent court in



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<i>Rank of Witnesses</i>	<i>Witnesses</i>	<i>Gist of the deposition</i>
		accordance with law.

...

'8. It is submitted that aggrieved over the same, the petitioner has preferred an appeal before the I Additional District and Sessions Judge, Tiruppur in C.A. No.60 of 2022 dated 24.07.2024 confirming the judgment dated 10.04.2022 order passed in C.C. No. 261 of 2021 on the file of the Judicial Magistrate No.IV, Tiruppur.

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10. It is submitted that the prosecution proved the case beyond all reasonable doubts. Both the Hon'ble Courts have accepted the prosecution case and imposed punishment on the petitioner/appellant/accused. There is no valid point available for the petitioner to argue the matter. There is no perversity, illegality and impropriety of the concurrent findings of the courts below. Hence, the Criminal Revision is liable to be dismissed.

Relevant paragraph of counter filed by respondent (in Crl.R.C. No. 1442 of 2024):



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10. *It is submitted that apart from this case, the petitioner/accused is also involed in the following previous cases:*

<i>S.NO.</i>	<i>Police Station, Crime Number, Offences under Sections</i>	<i>Stage of the case</i>
1.	Tiruppur Central P.S., Cr.No. 470/2022, u/s. 294(b), 323, 353, 506(i) IPC @ 294(b), 323, 341, 353, 506(i) IPC	Pending Trial
2.	Tiruppur Mangalam P.S., Cr.No. 300/2023, u/s. 279, 294(b), 506(i) IPC & Sec. 3(1) TNPPDL Act	Under investigation
3.	Tiruppur Palladam P.S. , Cr.NO. 1289/2021, u/s. 379 IPC	Pending Trial

4. Considered the submissions and perused the materials on record.

5. It is seen that P.W.1's car had been stolen and a complaint lodged by him. Thereafter, the respondent Police, during routine road check, found A1 and A2 travelling in a two-wheeler. When intercepted and enquired them, they gave contradictory statements. Thereafter, both arrested. On the confession of A1, in the presence of P.Ws 5 and 6, the car recovered and seized. As regards A2, there is no recovery and no confession and A2



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arrested primarily on the confession of co-accused A1. Without any materials to substantiate his involvement in the crime, his conviction needs reconsideration.

6. For the above reasons, this Court is inclined to suspend the sentence imposed on A2/petitioner in Crl.M.P. No. 11940 of 2024 and enlarge him on bail. As far as A1/petitioner in Crl.M.P. No. 12163 of 2024 is concerned, his petition seeking suspension of sentence and bail stands dismissed.

7. Accordingly, the relief of suspension of sentence and bail are granted to the petitioner in Crl.M.P. No. 11940 of 2024 on the following conditions till the disposal of the above Criminal Revision Petition No. 1411 of 2024:

(a) The petitioner/accused is ordered to be enlarged on bail, on condition that he shall execute a bond for a sum of Rs.10,000/- (Rupees Ten thousand only) with two sureties, each for a like sum to the satisfaction of the learned Judicial



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Magistrate No.IV, Tiruppur;

(b) The petitioner/accused and the sureties shall affix their photographs and Left Thumb Impressions in the surety bonds and the learned Magistrate may obtain a copy of their Aadhaar Cards or Bank Pass Books to ensure their identities.

(c) The petitioner shall appear before the Trial Court once in a month on the first working day of every English Calendar month at 10.30 a.m., until the disposal of the revision and if he is not able to appear before the Trial Court on that day, he shall make arrangements to file an application under Section 317 Cr.P.C. and shall appear before the Trial Court on any other day in lieu of the date of his absence as directed by the Trial Court.

8. Accordingly, Crl.M.P. No. 11940 of 2024 is ordered and Crl.M.P. No. 12163 of 2024 stands dismissed.

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TO

1. The Judicial Magistrate No.IV,
Tiruppur.
2. The Superintendent, Central Prison,
Coimbatore.
3. The Public Prosecutor,
High Court, Madras.



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M. NIRMALKUMAR,J.

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