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Crl.R.C.No.25 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.03.2026

CORAM:

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

Crl.A.No.25 of 2019

The Assistant Director,
Enforcement Directorate,
Government of India,
Shastri Bhavan,
Chennai – 600 006

... Appellant

Vs.

C. Sampath Kumar

... Respondent

PRAYER: Criminal Appeal filed under Section 378 of Cr.P.C to set aside the order of acquittal dated 29.06.2018 passed by the Learned Principal Sessions Court at Chennai in Crl.A.No.167 of 2014 and consequently restore the order of conviction and sentencing dated 04.06.2014 passed by the learned Additional Metropolitan Magistrate E.O.I, Chennai in E.O.C.C.No. 254/97 and pass orders.

For Appellant : Mr.Rajnish Pathiyil,
Spl Public Prosecutor

For Respondents : Mr.B. Satish sundar

ORDER

This Criminal Appeal has been preferred as against the order of acquittal passed by the Appellate Court in Crl.A.No.167 of 2014 dated



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29.06.2018 on the file of the Principal Sessions Court at Chennai against the order passed in E.O.C.C.No.254 of 97 on the file of the learned Additional Chief Metropolitan Magistrate (E.O-1), Egmore, Chennai-8 dated 04.06.2014.

2.The case of the prosecution is that on 19.01.1996 a search was made in the residence of one A.N.Dyaneswaran. During the Course of search, the respondent entered into the house with briefcase in his hand and the officials instructed to disclose the contents in the briefcase, as a result of which 5,014 U.S dollors and certain documents was found and the same were seized. Thereafter, statement was recorded from the respondent on 19.01.1996, wherein he has stated that his brother-in-law by name Sri.Vijayaraghavan was employed as a Electrical Engineer in Dubai and his son joined University in U.S.A for which he need U.S. dollors. Therefore, his brother-in-law directed the respondent to make arrangement for 10,000 U.S dollors and deposit in Mr.Vijayaraghavan's NRE account. But the accused was able to make up 5,000 U.S. Dolors from one Seethalakshmi Nagraj who is residing at Dr.Rangachari Road, Chennai-18 and the balance was collected from his brother-in-law's nephew and niece. Hence, the case.



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3.In order to prove the charges, the prosecution has examined four witnesses P.Ws.1 to 4 and Exs.P.1 to Exs.P.12 were marked. On the side of the respondent no witnesses were examined and Documents Ex.D.1 and Ex.D2 were marked.

4. On a perusal of the Oral and Documentary evidence the learned Judge Additional Chief Metropolitan Magistrate (E.O-1), Egmore, Chennai-8 found the respondent guilty of the offence under sections 8(1) of Foreign Exchange Regulation Act, 1973 punishable u/s 56(1)(i) of Foreign Exchange Regulation Act, 1973 and sentenced him to undergo rigorous imprisonment for 6 months with a fine of Rs.5,000/- and in default of payment of fine, two months simple imprisonment was imposed against the accused. Challenging the same, the respondent filed an appeal in Crl.A.No.167 of 2014 on the file of the Principal Sessions Court at Chennai and the same was dismissed on 29.06.2018. Aggrieved by the same the appellant has filed the Present Appeal.

5. The learned counsel for the appellant submits that admittedly 5014 U.S dollors was seized by them and they have proved the initial burden as contemplated under section 71(3) of the FERA Act. However,



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they failed to rebut the same before the Appellate Court, hence the Appellate Court acquitted the respondent herein. Though the respondent had taken a specific defence that the said Seethalakshmi has deposited 5,000 U.S. dollar through her brother-in-law and the same is not proved and the respondent failed to bring the said Seethalakshmi to examine her. Therefore, the Trial Court rightly convicted the respondent. Without considering the same, the Appellate Court has acquitted the respondent herein. Hence, prays to allow this appeal.

6. The learned counsel for the respondent submits that the respondent have proved the possession of 5014 US Dollors and the same is not disputed by the respondent. However, the respondent was only in temporary possession of the US Dollors and he was not the owner the same which was not taken into consideration by the Trial Court and wrongly arrived at a conclusion that mere possession of foreign exchange held from 10.01.1996 to 19.01.1996 establishes possession/proprietary interest and convicted the respondent. However, the Appellate Court dealt with each and every aspect and acquitted the respondent. Hence, there is no necessity to interfere with the same and prays to dismiss this appeal.

7. Heard the learned counsel for the appellant and the learned counsel for the respondent.

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8. On a perusal of the documents and also the submissions made by the respondent it is seen that the appellant has implemented the law mechanically and concluded that a mere possession of foreign exchange from 10.01.1996 to 19.01.1996 shows that the respondent had acquired the amount but the same was not supported by any documents. However, mere possession of the foreign currency does not attract the offence under section 85(1) of FERA.

9. The statement of Geethalakshmi is marked as Ex.P.7, which reveals that she had given foreign currency to the respondent and the same was admitted by the accused. She has further stated that she had given the said amount for depositing it into the respondent's cousin's NRE Account against payment made by his cousin through a cheque which reveals that the respondent was merely in temporary possession of the Foreign currency and he had no proprietor control or power of disposal of the said currency, and this fact has not been controverted or dislodged by the complainant. That apart the respondent also filed an appeal before the Deputy Commissioner of Income Tax against the order of Assessing officer and the same was allowed. While allowing the Appeal, the Appellate Tribunal concluded that there is no dispute that the

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Revenue Authorities found 5014 dollars, when the respondent entered into the premises of one A.N.Dyaneswaran. The Assessing Officer has conducted a detailed enquiry with regard to the issue whether the respondent entered into the premises of one A.N.Dyaneswaran and the respondent claim that the said money belongs to one Seethalakshmi and concluded that the said money belongs to one Seethalakshmi. Hence, Appellate Court had rightly acquitted the respondent and the same does not require interference.

10. In view of the above the order passed by the Learned Principal Sessions Court at Chennai in Crl.A.No.167 of 2014 is confirmed and this Criminal Appeal stands dismissed.

23.03.2026

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

To

- 1.The Learned Principal Sessions Court at Chennai.
2. The learned Additional Metropolitan Magistrate E.O.I, Chennai
3. The Public Prosecutor,
Madras High Court,
Chennai.



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G.K.ILANTHIRAIYAN, J.
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