

BAIL SLIP

The Appellant/Accused was directed to be released on bail and by the order of this court dated 06.01.2011 and made in MP.No.2 of 2010 in Crl.RC.No.1041 of 2010.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.06.2015

Coram

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Criminal Revision Case No.1041 of 2010

Kannan ...Petitioner/4th Accused
at present temporarily
detained in the Central Prison
at Vellore -Convict No.223

Versus

State rep.by
The Inspector of Police
Salem Railway Police Circle
in Dharmapuri Railway Police
Station ... Respondent/Complainant

Criminal Revision case filed under Sections 397 and 401 of Cr.P.C. against the Judgment dated 30.07.2010 passed by the learned Principal Sessions Judge at Dharmapuri in C.A.No.11 of 2010 confirming the order dated 02.12.2009 passed by the learned Assistant Sessions Judge at Dharmapuri in S.C.No.175 of 2006.

For Petitioners : Mr.T.R.Radhakrishnan

For Respondent : Mr.V.Arul
Government Advocate (Crl.side)

ORDER

The petitioner is arrayed as A4 in S.C.No.175 of 2006 on the file of the learned Assistant Sessions Judge, Dharmapuri and he has been convicted for the offence under Section 395 IPC (2 counts) along with four others and was sentenced to undergo rigorous imprisonment for a period of seven years and the sentences were ordered to run concurrently. As against the conviction and sentence imposed, the petitioner filed Crl. Appeal No.11 of 2010 and the first appellate Court by judgment dated 30.07.2010 confirmed the same. Aggrieved by

the same, the present Criminal Revision Case is filed.

2. The case of the prosecution is as follows:

On 02.05.2005 at about 22.40 hours, when the train bound from Mysore to Tuticorin was nearing between Hosur and Kelamangalam Railway Station, the accused persons with an object to commit theft, stopped the train and entered into S2 compartment and robbed the gold chain from the complainant one Geetha Parthasarathy; again they went to S9 compartment and robbed five gold chains and other valuables from Mahalakshmi and got down from the train and ran away from the place of occurrence. Immediately, both the victims complained the same to the Train Ticket Examiners attached to their respective compartments and consequently, they also informed about the robbery to the Chief Train Ticket Examiner, who gave the complaint.

3. The main ground of attack made by the learned counsel for the petitioner is that there is discrepancy and contradiction between Ex.P1 the complaint and the first information report Ex.P3. He would further contend that in the complaint it is stated that two chains weighing 52 gms were stolen; whereas in the seizure mahazar Ex.P2, it is shown as 16 sovereigns. Hence, based on the said discrepancy, the Court below should have given the benefit of doubt to the petitioner. He would also state that the complaint was not preferred immediately and that the victims also did not identify the accused in Open Court and PW4, the victim identified only A1 and hence, the same is fatal to the prosecution. Accordingly, he would pray for setting aside the conviction and sentence ordered by the courts below.

4. Learned Government Advocate (Criminal Side) would contend that both the victims were travelling in the said train on that fateful day and they have also identified the accused in the identification parade. Further, both the victims have also identified their stolen jewels, which were marked as MO5 and MO6. He would also submit that as submitted by the learned counsel for the petitioner there is no delay in preferring the complaint as the victims have to lodge the complaint only after the train stops in the nearest railway station and both the victims being ladies, they cannot immediately get down from the running train and prefer the complaint. Therefore, both the courts below after considering the entire materials available on records, convicted the accused, warranting no interference in this Criminal Revision case.

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

6. On a careful perusal of the evidence as well as the judgments passed by the courts below, it is seen that as far as the delay is concerned, the Court below has clearly stated that since the victim being ladies and travelling in the running train, could not stop the train in between and get down for giving the complaint.

Further they have proceeded in the train and on reaching the destination gave the complaint. Further the argument raised by the learned counsel for the petitioner that there is a discrepancy in the complaint given by the victims and the first information report filed cannot be entertained in view of the fact that the victims themselves have identified the accused as well as the jewels stolen from them, which were also marked as exhibits.

7. Having regard to the fact that both the courts below have arrived at the conclusion convicting the accused based on the oral and documentary evidence adduced, I do not find any reason to interfere with the reasoned order passed by the Courts below.

8. In the result, this Criminal Revision Case is dismissed.

-s/d-

Assistant Registrar(J)

dt:03/08/2015

True Copy

Sub-Assistant Registrar

vj2
To

1. The Principal Sessions Judge at Dharmapuri
2. The Assistant Sessions Judge at Dharmapuri
3. The Judicial Magistrate No.I Dharmapuri
4. The Chief Judicial Magistrate Dharmapuri @ Krishnagiri
[for information]
5. The Superintendent Central Prison, Vellore
6. The Inspector of Police, Salem Railway Police
Circle in Dharmapuri Railway police Station.
7. The Public Prosecutor, Madras

Cr1 RC No.1041 of 2010

aa04/08/2015