

BAIL SLIP

The Petitioner Mohammed Hashmathulla was directed to be released on bail as per the order of this Court dt.14.8.08 made in MP.No.1/08 in Crl.RC.No.1079/08.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.06.2015

Coram

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Criminal Revision Case No.1079 of 2008

Mohammed Hashmathulla ... Petitioner

vs

State rep.by
The Sub Inspector of Police
Central Crime Branch
Egmore, Chennai 600 008. ... Respondent

Criminal Revision case filed under Sections 397 and 401 of Cr.P.C. against the Judgment dated 08.07.2008 passed by the learned II Additional District and Sessions Judge, Chennai in C.A.No.70 of 2007 confirming the order dated 23.02.2007 passed by the learned IX Metropolitan Magistrate, Saidapet, Chennai in C.C.No.8480 of 2004.

For Petitioners : Mr.S.Vinoth Kumar
for Mr.K.Govi Ganesan
For Respondent : Mr.V.Arul
Government Advocate (Crl.side)

ORDER

The petitioner is the accused in C.C.No.8480 of 2004 on the file of the learned IX Metropolitan Magistrate, Saidapet, Chennai and he has been convicted for the offence under Section 420 IPC (1 count) and was sentenced to undergo rigorous imprisonment for a period of three years and to pay a fine amount of Rs.5000/-, in default, to undergo rigorous imprisonment for six months. As against the conviction and sentence imposed, the petitioner filed Crl. Appeal No.70 of 2007 and the first appellate Court by judgment dated 08.07.2008 confirmed the same. Aggrieved by the same, the present Criminal Revision Case is filed.

2. The case of the prosecution is that, the petitioner/accused under the guise of getting an employment in Chennai University, Central Office, Guindy, Chennai, obtained money from 32 persons through the defacto complainant in a sum of Rs.5,80,000/-. However he cheated the victims. Hence, the complaint.

<https://hcservices.ecourts.gov.in/hcservices/>

3. Learned Counsel appearing for the petitioner would submit that the Courts below failed to take into consideration the fact that

the prosecution has not proved the guilt of the petitioner beyond reasonable doubt. He would further submit that the first appellate court has wrongly come to the conclusion that the petitioner has committed the offence in view of the suspension order issued to him by his employer. However, both the Courts below without considering all the above facts, convicted the petitioner. Accordingly, he would pray for setting aside the conviction and sentence ordered by the Courts below.

4. However, in the alternative, the learned counsel for the petitioner/accused would submit that if this Court comes to a conclusion that the orders passed by the Courts below warrants no interference, then, he pray for leniency in the sentence imposed on the petitioner/accused as the petitioner is a senior citizen and aged about 61 years and suffering from ailment. Learned counsel for the petitioner would also submit that the petitioner is also prepared to pay another sum of Rs.5,000/- as fine.

5. Learned Government Advocate (Criminal side) would submit that both the Courts below only after analysing the entire oral and documentary evidence adduced, convicted the petitioner/accused, warranting no interference in this revision.

6. Heard both sides and perused the records.

7. On a careful consideration of the judgments passed by both the Courts below, it is seen that the Courts below have convicted the petitioner/accused on finding the fact that the petitioner has cheated around 32 persons by promising them to get employment in Chennai University, Central Office, Guindy, Chennai, by receiving about Rs.5,80,000/- from them in cash. In such circumstances, I do not find any reason to interfere with the conviction ordered by the Courts below.

8. At this juncture, since the learned counsel for the petitioners/accused prayed this Court to show mercy in the matter of awarding sentence; taking into account the fact that the petitioner is a senior citizen, aged 61 years and suffering from ailment; that he is also prepared to pay another sum of Rs.5,000/- as fine, I am inclined to modify the sentence of rigorous imprisonment imposed for a period of three years into one that of the period of sentence already undergone by the petitioner.

9. Accordingly, while confirming the conviction ordered by both the Courts below, the sentence awarded to the petitioner to undergo rigorous imprisonment for a period of three years is modified into one that of the period of sentence already undergone by him on condition that the petitioner should pay a fine amount of Rs.5,000/- before the Court below within a period of three weeks from the date of receipt of a copy of this order. However, failing to comply with the said condition, within the time stipulated by this Court, this order will not enure to the benefit of the petitioner and that he has to undergo three months rigorous imprisonment.

10. With the above modification, the Criminal Revision Case is partly allowed. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

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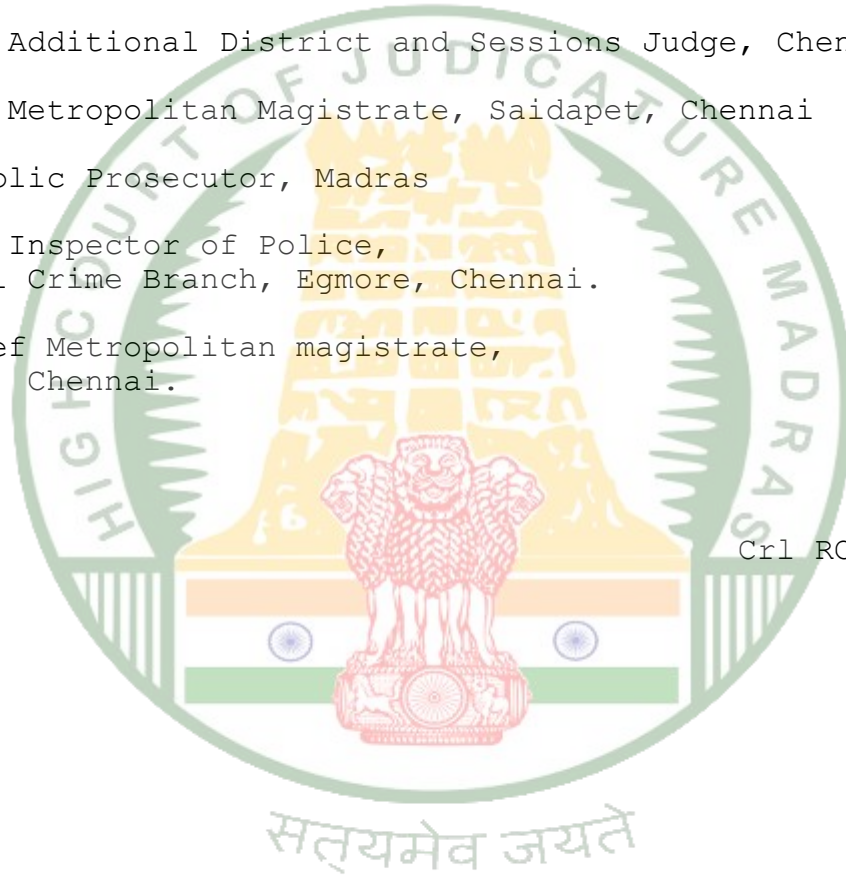
Sub Assistant Registrar

To

1. The II Additional District and Sessions Judge, Chennai
2. The IX Metropolitan Magistrate, Saidapet, Chennai
3. The Public Prosecutor, Madras
4. The Sub Inspector of Police,
Central Crime Branch, Egmore, Chennai.
5. The chief Metropolitan magistrate,
Egmore, Chennai.

Mp(co)
krd 16/7

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