

Bail Slip

The petitioner herein / Accused 1 & 2 Viz., 1) Natarajan, aged 58 years, son of Palani Gounder and 2) Aruchamy, aged 43 years, S/o. Muthusamy, were directed to be released on bail by the order of this court dated 22.12.2010 and made in M.P.No. 1 of 2010 in CrI.R.C.No. 1256 of 2010.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.08.2015

Coram

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Criminal Revision Case No.1256 of 2010

1. Natarajan
2. Aruchamy

...Petitioners

Versus

State represented by
Inspector of Police
Perianaickenpalayam Police Station
Coimbatore.
(Crime No. 114/92)

...Respondent

Criminal Revision case filed under Sections 397 and 401 of Cr.P.C. against the Judgment dated 26.10.2010 passed by the learned Additional District and Sessions Judge, Fast Track Court No.1, Coimbatore in C.A.No.382 of 2003 confirming the conviction and sentence imposed by the learned Judicial Magistrate No.VI, Coimbatore in C.C.No.39 of 2000 dated 04.11.2003.

For Petitioners : Mr.T.Munirathnam Naidu

For Respondent : Mr.Md.Riyaz
Government Advocate (CrI.side)

ORDER

The petitioners were arrayed as A1 and A2 in C.C.No.39 of 2000 on the file of the learned Judicial Magistrate No.VI, Coimbatore and after trial the petitioners were convicted for the offence under Section 408 r/w 34 IPC and sentenced to undergo rigorous imprisonment for a period of three months. As against the conviction and sentence imposed, the petitioners preferred CrI.Appeal No.382 of 2003, wherein

the First Appellate Court dismissed the appeal on 26.10.2010 confirming the conviction and sentence passed by the trial Court. Aggrieved by the same, the present Criminal Revision Case has been filed.

2. The brief facts of the case is as follows:

The petitioners, who were arrayed as A1 and A2, were working as Stores-in-charge and Stores Assistant respectively, in the defacto complainant's company during the relevant period from January 1991 to January 1992. They both joined together and had stolen the bearings from the factory premises, which were under their custody. On enquiry, both of them have confessed and based on their conviction, they have been convicted for the offence under Section 408 r/w 34 IPC and sentence to undergo three months' rigorous imprisonment. On appeal, the first appellate Court confirmed the conviction and sentence ordered by the trial Court. Aggrieved by the same, the present revision has been filed.

3. Learned counsel for the petitioners would mainly contend that the petitioners are not responsible for shortage of stocks in the store room. Further, he would contend that the alleged bearings said to have been stolen were not recovered. 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 petitioners/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 petitioners/accused as the first petitioner is a senior citizen, aged 63 years and the second petitioner is 48 years old. Further, the learned counsel would also submit that the petitioners are prepared to pay fine amount.

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 petitioners/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 petitioners/accused on finding the fact that the petitioners have stolen the bearings from the company premises, where the petitioners were working as Stores-in-charge and Stores Assistant at the relevant point of time. 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 petitioners are aged 63 and 48 years respectively, that the sentence imposed is only for a period of three months, the petitioners are also willing to pay fine amount of Rs.5,000/- each, I am inclined to modify the same into one that of the period already undergone by the petitioners.

9. Accordingly, the conviction ordered by both the Courts below is confirmed. However, the sentence awarded to the petitioners to undergo rigorous imprisonment for a period of three months is modified into one that of the period of sentence already undergone by the petitioners on the following conditions:

(i) The petitioners/accused are directed to pay a fine amount of Rs.5,000/- each within a period of four weeks' from the date of receipt of a copy of this order to the credit of C.C.No.39 of 2000 on the file of the learned Judicial Magistrate No.VI, Coimbatore.

(ii) However, on failure to comply with the condition imposed, within the time stipulated by this Court, this order will not enure to the benefit of the petitioners and they have to undergo the sentence ordered by the trial Court and confirmed by the first appellate Court.

10. With the above modification, the Criminal Revision Case is partly allowed.

Sd/-
Assistant Registrar(LA)

//True Copy//

Sub Assistant Registrar

To

1. The Additional District and Sessions Judge
Fast Track Court No.1,
Coimbatore

2. The Judicial Magistrate No.VI,
Coimbatore

3. The Chief Judicial Magistrate,
Coimbatore (for Information)

4. The Public Prosecutor,
Madras.

5. The Inspector of Police,
Peria Naickanpalayam Police Station,
Coimbatore.

Crl RC No.1256 of 2010

ALA (CO)
PSI (23.09.2015)



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