

Bail slip

The petitioner/Accused namely Mr.Munireddy S/o. MadhavaReddy ,was directed to be released on bail as per the made of this court dated 06/07/2009 made in crl.O.P.No.1/2009 in CRL.Rc.1143/09 on the file of this Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.09.2015

CORAM:

THE HON'BLE MR.JUSTICE B. RAJENDRAN
CRL. R.C. No. 1143 of 2009

M.Munireddy

... Petitioner/Accused

Versus

The State
represented by
Sub-Inspector of Police
C.C.I.W.C.I.D.
Krishnagiri

... Respondent/Defacto Complainant

Criminal Revision Case filed under Sections 397 and 401 of the Criminal Procedure Code, against the judgment of conviction and sentence dated 20.04.2009 passed in CrI.A. No. 46 of 2002 on the file of the Additional District & Sessions Judge, Krishnagiri, confirming the judgment of conviction and sentence dated 08.07.2002 passed in C.C. No. 106 of 2007 on the file of the learned District Munsif-cum-Judicial Magistrate, Denkanikottai.

For Petitioner : Mr.Mukund R.Pandiyan

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

O R D E R

The petitioner/accused stood charged for the offences punishable under Sections 408 and 204 IPC alleging that during the period between 26.09.1991 and 18.08.1992 at Arasakuppam Fair Price Shop under the control of Arasakuppam Agricultural Co-operative Bank, the accused, while working as salesman of fertilizers and essential commodities, misappropriated the fertilizers and essential commodities totalling to Rs.1,26,165/- and after trial, he was convicted by the learned District Munsif-cum-Judicial Magistrate, Denkanikottai, for the aforesaid offences and sentenced him to undergo simple imprisonment for three years and to pay a fine of Rs.5,000/-, in default, to undergo simple imprisonment for a period

of three months for the offence under Section 408 IPC and sentenced to undergo simple imprisonment for a period of one year and to pay a fine of Rs.2,500/-, in default to undergo simple imprisonment for a period of two months. The sentences were ordered to run concurrently. The judgment of conviction and sentence imposed on the petitioner was confirmed by the learned Additional District and Sessions Judge, Krishnagiri, on 20.04.2009 in CrI.A. No. 46 of 2002. As against the same, the petitioner has come forward with the present Criminal Revision Case.

2. The learned counsel for the petitioner submits that the petitioner has already been suspended from service. He would further submit that he is not arguing the case on merits but confined his argument only on sentence. He would further add that this Court, while granting suspension of sentence on 26.11.2009, directed the petitioner to deposit 50% of the misappropriated amount before the Trial Court within a time frame and the said condition was complied with by depositing Rs.63,083/- before the Trial Court. He would further submit that the petitioner has deposited a sum of Rs.30,000/-, Rs.5,000/-, Rs.20,000/- and Rs.13,633/-, totalling to Rs.68,633/- before the Arasakuppam Agricultural Co-operative Bank on 10.12.2012, 28.10.2013, 14.09.2011 and 23.01.2012 respectively and thus, the petitioner has totally paid a sum of Rs.1,31,716/- (Rs.63,083/- + Rs.68,633/-), which is admittedly over and above the misappropriated amount. He would further contend that he has already been in jail for more than nearly 20 days. He is the sole breadwinner of the family and he has aged parents to take care of and he has to take care of his children and that because of his conviction, he will be losing his job, therefore, leniency may be shown, as he now repents for the offence.

3. Mr.V.Arul, learned Government Advocate appearing for the respondent leaves the matter to the discretion of this Court.

4. Heard both sides. By consent, the main Criminal Revision Case itself is taken up for final disposal.

5. Taking into consideration of the fact that the learned counsel appearing for the petitioner/accused is not arguing the matter on merits but he is confining his argument only on the question of sentence imposed on the accused by the Appellate Court, apart from that the petitioner has deposited before the Trial Court a sum of Rs.63,083/-, pursuant to the direction of this Court while granting suspension and he has deposited a sum of sum of Rs.30,000/-, Rs.5,000/-, Rs.20,000/- and Rs.13,633/-, totalling to Rs.68,633/- before the Arasakuppam Primary Agricultural Co-operative Bank on

10.12.2012, 28.10.2013, 14.09.2011 and 23.01.2012 respectively and thus, the petitioner has totally paid a sum of Rs.1,31,716/- (Rs.63,083/- + Rs.68,633/-), which is admittedly over and above the misappropriated amount and in proof of which, the petitioner has produced necessary receipts before the Court and also the fact that the petitioner is aged 55 years old and the occurrence was of the year 1997 and till date, he has undergone this ordeal, and further the fact that the learned counsel appearing for the petitioner is not arguing the matter on merits but he is confining his argument only on the question of sentence imposed on the petitioner by the Appellate Court and prayed for showing leniency in reduction of sentence as the petitioner was in jail for nearly 20 days, I am of the view that some leniency can be shown to the petitioner/accused in reducing the sentence as the period of sentence already undergone by him coupled with the fact that the entire misappropriated amount along with the excess amount paid and the fine already awarded by the Appellate Court shall be treated as fine. Accordingly, while confirming the conviction imposed by the Appellate Court, the sentence alone is reduced to the period already undergone by the petitioner/accused. The entire misappropriated amount already deposited along with the excess amount paid shall be treated as fine. The fine amount imposed by the Appellate Court stands confirmed. At this juncture, it is represented by the learned counsel appearing for the petitioner that the fine amount ordered by the Appellate Court has already been paid. The said statement is recorded.

6. With the above modification in sentence, this Criminal Revision Case is partly allowed.

-Sd/-

Assistant Registrar

//True copy//

Sub Assistant Registrar

paa

To

1. The Sub-Inspector of Police
C.C.I.W.C.I.D.
Krishnagiri.

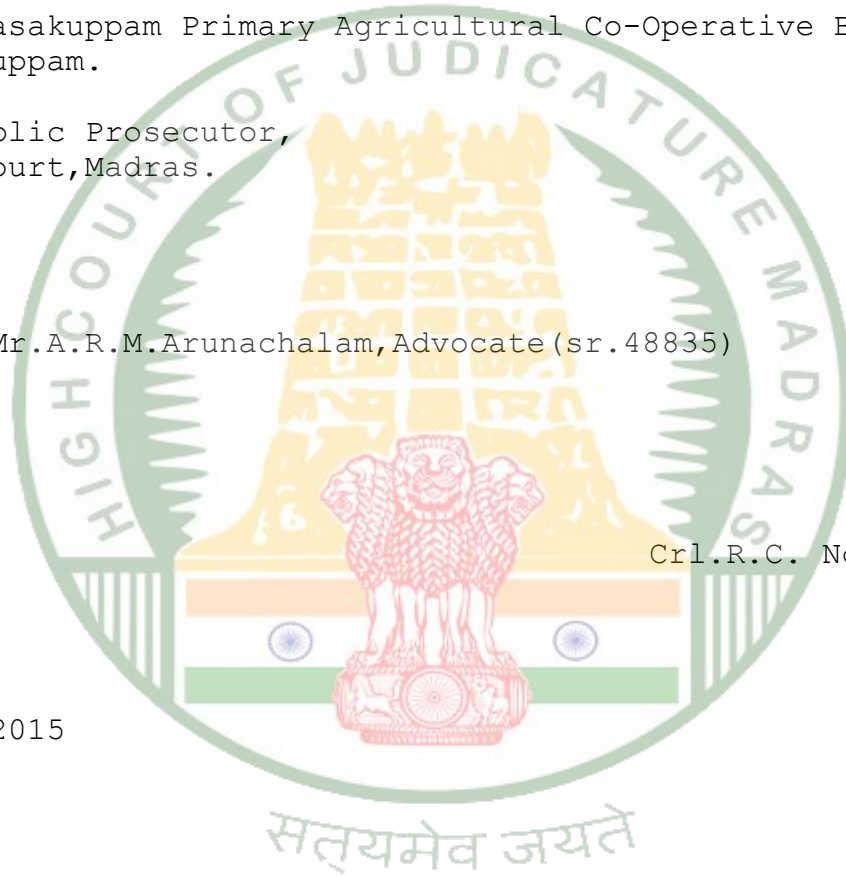
2. The Additional District & Sessions Judge,
Krishnagiri.

3. The District Munsif-cum-Judicial Magistrate,
Denkanikottai.
4. The Chief Judicial Magistrate,
Dharumapuri District,
Krishnagiri.
5. The Arasakuppam Primary Agricultural Co-Operative Bank
Arasakuppam.
6. The Public Prosecutor,
High court, Madras.

+1 cc to Mr.A.R.M.Arunachalam, Advocate (sr.48835)

CrI.R.C. No. 1143 of 2009

sai(co)
cp 09/10/2015



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