

Bail Slip

The Petitioners/Accused 1 & 2 Namely V.Anandakumar S/O Venkatesh and A.V.S.Balaji S/O.Avadayappan were directed to be released on bail as per the order of this court dated 25/2/2010 and made in M.P.No.2 of 2010 in Crl.R.C.No.191 of 2010 on the file of this Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 30.11.2015

CORAM

THE HON'BLE MR.JUSTICE C.T.SELVAM

Crl.R.C.No.191 of 2010

1. Mr.V.Anandakumar
2. Mr.A.V.S.Balaji ... Petitioners/Accused 1 &2

vs.

Union of India
Represented by
The Inspector/ RPF
Loco Works-Perumbur
Chennai - 23 ... Respondent/Complainant

Criminal Revision filed u/s.397 & 401 Cr.P.C. to pass an order to call for records in Crl.Appeal No.202 of 2007 on the file of the Court of V Additional Sessions Judge, Chennai dated 05/02/2010 filed against the order in C.R.C.No.838 of 2005 on the file of Special Metropolitan Magistrate Central (Rail Way), Chennai-3, dated 14/8/2007 to set aside the conviction of the first petitioner to undergo simple imprisonment for 3 month and he has to pay Rs.5000/- as fine and in default 1 month imprisonment and 2nd petitioner and sentenced to undergo simple imprisonment for 6 months and to pay a fine of Rs.5000/- each against petitioners by the V Additional Sessions Judge, Chennai in the said Crl.Appeal No.202 of 2007 dated 05.02.2010.

For Petitioners: Mr.A.Laxmi Raj Rathnam

For Respondent : Mr.P.T.Ramkumar for Railways

O R D E R

This revision arises against the judgment of learned V Additional Sessions Judge, Chennai, passed in C.A.No.202 of

2007, on 14.08.2007, confirming the judgment of learned Special Metropolitan Magistrate, Chennai, passed in C.R.C.No.838 of 2005 on 14.08.2007.

2. The case of the prosecution is that on 22.10.2004, at about 15.15 hours, PW1 R.R.Sherif, Inspector Loco Works, Perambur along with PW3 Rajendran H.C 539/NJO/PER, Constable 949 / LW/PER and PW6 V.N.Dilip Kumar Constable 1044/LW/PER, on the look out for illegal transactions in reserved railway tickets at Anna Nagar Railway booking office, noticed A1 V.Anandakmumar holding Exs.P2 and P3, reserved tickets seeking to sell the same. PW1 intercepted A1 and questioned him regards possession of railway tickets. A1 replied that he was selling the same upon the instructions of A2 and A3, who were engaged in travel business under the name and style of "Krishna Travels". A1 further informed that A2 and A3 are engaged in procuring railway tickets illegally and selling the same at higher prices. Finding that the railway reservation tickets, Exs.P2 and P3 illegally were obtained, PW1 seized the same under Ex.P1. On the basis of the confession of A1 (Ex.P4), PW1 arrested him after serving Ex.P5, arrest intimation and registered a case in Crime No.1186 of 2004 under Section 143(1)(a) of Railways Act. Thereafter, on receiving information from PW2, who prior to registration of case had been sent to Krishna Travels by PW1 to book a ticket, PW1 along with other personnel conducted search at the premises of A1. A1 accompanied PW1 and identified A2 and A3 who were present there. During search, PW1 examined witnesses and seized Ex.10, 11 railway tickets, Ex.P11, 10 cancelled train tickets, Ex.P12, 7 railway reservation filled forms, Ex.P13, 30 unfilled reservation forms, Ex.P14 two registers and M01, seal of Krishna Travels. A2 and A3 could not explain possession of seized materials. PW1 arrested and produced A2 to A3 before VI Metropolitan Magistrate, Egmore on 23.10.2004. On completion of investigation, charge sheet was filed and the case was tried in C.R.C.No.838 of 2005 on the file of Special Metropolitan Magistrate, Chennai.

3. To prove its case, the prosecution examined PWs.1 to 10, marked 40 exhibits and one material object. None were examined on behalf of the defence nor were any exhibits marked. On appreciation of materials before it, the trial Court convicted the accused for offence under Section 143 (1)(a) of the Railways Act and sentenced A1 to 3 months S.I. and fine of Rs.5,000/- i/d 1 month S.I. and A2 to 6 months S.I. and fine of Rs.5,000/-. On appeal, the appellate Court, under judgment in C.A.No.202 of 2007 dated 05.02.2010, confirmed the findings of the trial Court and dismissed the appeal. Hence, this revision.

4. Heard learned counsel for petitioners and learned counsel for respondent.

5. A3 died pending appeal. This revision would succeed on the sole consideration that PW1 Inspector of Police, chose to send PW2 to the business premises of the accused as a decoy requiring her to attempt purchase of railway tickets through the accused. If the investigating officer on questioning A1 had been satisfied that an offence stood committed he ought to have straightaway registered a case and thereafter, conducted investigation. Using PW-2 as a decoy towards gathering material prior to registration of a case renders the investigation suspect as the same informs a premeditated approach. When a person belonging to the prosecution party is at the accused premises before the investigation officer visits and searches the same, not much reliance could be placed on the recoveries and seizures made through such process. If so considered all that would be left would be the confession of the accused. The same without any corroboration cannot form the basis of conviction.

For the aforesaid reasons, this revision stands allowed and the judgment of learned V Additional Sessions Judge, Chennai, passed in C.A.No.202 of 2007, on 14.08.2007, confirming the judgment of learned Special Metropolitan Magistrate, Chennai, passed in C.R.C.No.838 of 2005 on 14.08.2007, stands set aside. Petitioners/A1 and A2 are acquitted of all charges. Bail bonds, if any, executed by them shall stand cancelled. Fine amount, if any, paid by petitioners shall be refunded.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Inspector/RPF,
Loco Works Perumbur,
Chennai-23.

2.V Additional Sessions Judge,
Chennai.

3.-Do-Thro The Principal Sessions Judge,
chennai.

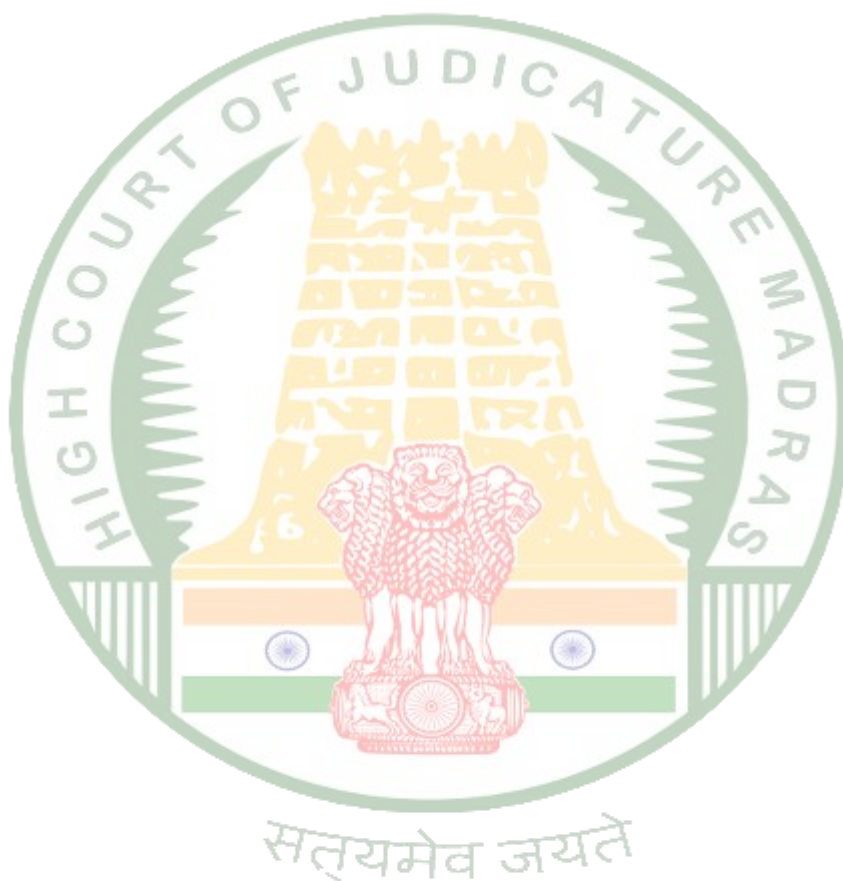
4.The Special Metropolitan Magistrate,
Central (Railway)
chennai-3.

5.The Public Prosecutor,
High Court,
Madras.

+1cc to Mr.A.Laxmi Ray Rathnam, Advocate, S.R.No.65002
+1cc to Mr.P.T.Ramkumar, Advocate, S.R.No.64984

Cr1.R.C.No.191 of 2010

skv (CO)
srg (26/02/2016)



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