

BAIL SLIP

The Petitioners/Accused No.3 & 1 namely Rajamani S/O.Veerappan & Saravanan S/O.Sappani were directed to be released on bail as per order of this Court dated 23.12.2009 and made in Crl.MP.NO.1+1/2009 in Crl.RC.NO.1250 & 1251/09 on the file of this Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14-10-2015

Coram

THE HON'BLE MR. JUSTICE B. RAJENDRAN

Criminal Revision Case Nos. 1250 and 1251 of 2009

Rajamani .. Petitioner in
Crl.R.C.No. 1250 of 2009/Accused NO.3

Saravanan .. Petitioner in Crl.R.C.No. 1251 of
2009 /Accused NO.1

Versus

The State of Tamilnadu
rep. by Inspector of Police
Prohibition and Enforcement Wing
Salem City, Salem.
(Cr.No.1119/2004) .. Respondent in both revisions /
Complainant

Criminal Revision Cases filed under Sections 397 and 401 of Cr.P.C. against the judgment dated 27.11.2009 made in Crl.A. Nos.85 and 86 of 2009 on the file of the learned Additional District and Sessions Judge, Salem, confirming the judgment of conviction and sentence passed in C.C.No.136 of 2007 on the file of the learned Judicial Magistrate No.VI, Salem, dated 08.08.2009.

For Petitioners : Mr.C.K.M.Appaji
in both revisions

For Respondent : Mr.V.Arul
in both revisions Government Advocate
(Criminal Side)

COMMON ORDER

The case of the prosecution is that on 15.10.2004, at about 4.45 a.m., the petitioners/accused Nos.3 and 1 along with other accused had involved in transportation of 1290 plastic bottles of IMFL each containing 750 ml in 36 number of gunny bags in a lorry bearing Regn.No. TN-47-C-5657. The respondent police had charge sheeted them for the commission of offence under Section 4(1)(aaa) of TNP Act. After trial in C.C.No.136 of 2007, the petitioners were convicted by the Judicial Magistrate No.6, Salem, for an offence punishable under Section 4(1)(aaa) of TNP Act and sentenced them to undergo rigorous imprisonment for a period of two years each, with fine of Rs.5,000/- each, in default of payment of fine, they shall undergo simple imprisonment for a further period of three months. As against the judgment of conviction and sentence passed by the Trial Court, the petitioners have filed Crl.A. Nos.85 and 86 of 2009 before the Additional District and Sessions Judge, Salem. The Appellate Court, by judgments dated 27.11.2009, have confirmed the conviction and sentence. Aggrieved against the same, these Criminal Revision Cases are filed.

2. Today, when these revisions are taken up, Mr.C.K.M.Appaji, learned counsel appearing for the petitioners/accused Nos.3 and 1 would submit that he is not arguing the matter on merits, but, he is confining his argument only on the question of sentence imposed on the petitioners/accused Nos.3 and 1 by the Appellate Court. He would further submit that the petitioners are now aged 54 years and 44 years and they are the sole breadwinners of the family and there is no previous case pending against the petitioners and they are in prison for some days and that the fine amount has been paid, hence, they prayed for showing leniency in reduction of sentence.

3. Mr.V.Arul, learned Government Advocate appearing for the respondent would submit that the Trial Court has taken into consideration the possession of huge quantity of IMFL by the petitioners and sentenced them to undergo imprisonment as stated supra, however, insofar as for the reduction in sentence is concerned, he leaves it to the discretion of this Court.

4. Heard both sides. By consent, these Criminal Revision Cases are taken up for final disposal.

5. Taking into consideration of the fact that the learned counsel appearing for the petitioners is not arguing the matter on merits, but, he is confining his argument only on the question of sentence imposed on the petitioners/accused Nos.3 and 1 by the Appellate Court and prayed for showing leniency in reduction of sentence, this Court taking into consideration the

submission of the learned counsel for the petitioners that the petitioners are aged 54 and 44 years respectively and they have to take care of their family members and they are the sole breadwinners of the family and they are the first time offender, I am of the view that some leniency can be shown to the petitioners in reducing the sentence. Accordingly, while confirming the conviction imposed by the Appellate Court, the sentence alone is reduced to six months rigorous imprisonment.

6. In the result, with the above modification in sentence, these Criminal Revision Cases are partly allowed. The conviction passed by the Appellate Court dated 27.11.2009 stands confirmed and the sentence alone is modified to the effect that the petitioners/accused Nos.3 and 1 shall undergo rigorous imprisonment for a period of six months. Insofar as the fine amount is concerned, it is enhanced from Rs.5,000/- each to Rs.10,000/- each, in default, to undergo simple imprisonment for one month. It is represented that the petitioners have already paid the fine amount of Rs.5,000/- each. The said statement is recorded and the petitioners are directed to pay the balance enhanced fine amount of Rs.5,000/- each (Rs.10,000/- - Rs.5,000/- (already paid) = Rs.5,000/-) within a period of two weeks from the date of receipt of a copy of this order. It is represented that the petitioners/accused Nos.3 and 1 were in jail for some days. The Trial Court is directed to take steps to secure the presence of the petitioners/accused Nos. 3 and 1 to undergo the remaining period of sentence, if any. It is needless to mention that any sentence already undergone by the petitioners/accused Nos.3 and 1 shall be given set off as contemplated under Section 428 of Cr.P.C.

-s/d-
Assistant Registrar

True Copy

सत्यमेव जयते
Sub-Assistant Registrar

paa
To

1.The Inspector of Police
Prohibition and Enforcement Wing
Salem City, Salem.

2.The Additional District Judge
-cum-Sessions Judge,
Salem.

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3.-do-Thro'Principal Sessions Judge,
Salem

4.The Judicial Magistrate No.VI,
Salem.

5.-do-Thro'The Chief Judicial Magistrate
Salem

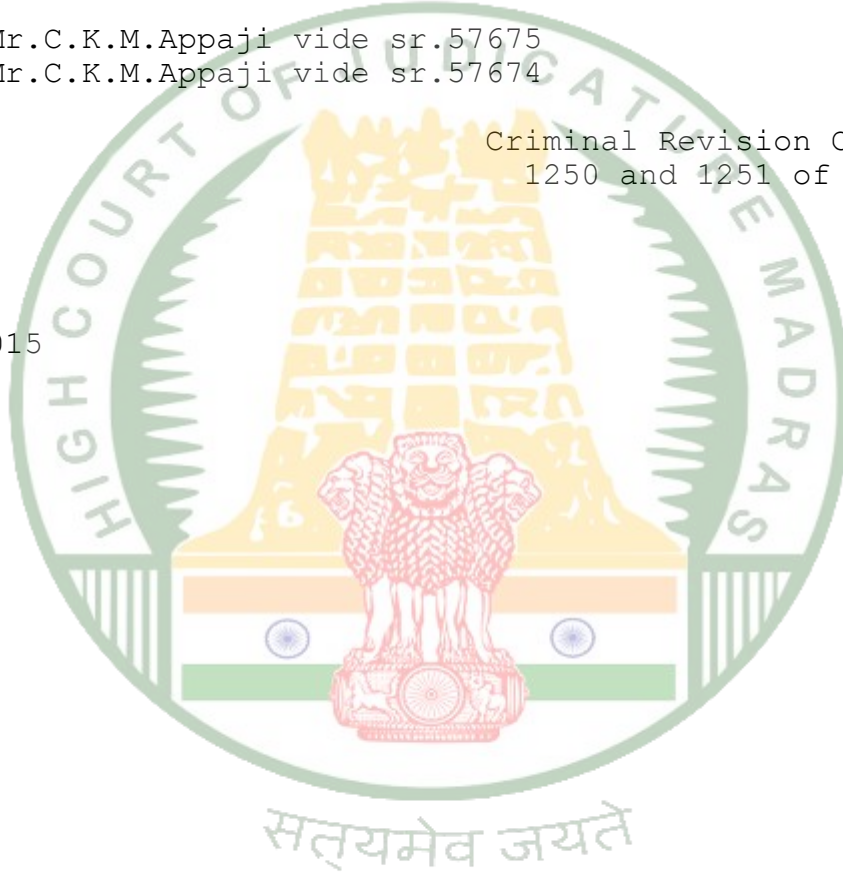
6.The Public Prosecutor, High Court, Madras

+1 cc to Mr.C.K.M.Appaji vide sr.57675

+1 cc to Mr.C.K.M.Appaji vide sr.57674

Criminal Revision Case Nos.
1250 and 1251 of 2009

aa02/11/2015



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