



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.10.2015

Coram

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Criminal Revision Case No.36 of 2010

Manikandan @ Ayyappan

...Petitioner/Appellant/
Single Accused

Versus

State by the Inspector of Police,
Central Crime Branch,
Coimbatore.

...Respondent

Criminal Revision case filed under Sections 397 and 401 of Cr.P.C. against the judgment of conviction dated 06.04.2009 made in C.A.No.295 of 2008 on the file of the learned Additional District and Sessions Judge, Fast Track Court No.I, Coimbatore, which confirmed the conviction and sentence imposed in a judgment dated 19.08.2008 made in C.C.No.211 of 2003 on the file of the learned Judicial Magistrate No.III, Coimbatore.

For Petitioner : Mr.P.M.Duraiswamy

For Respondent : Mr.M.Mohammed Riyaz,
Government Advocate (Crl. Side)

ORDER

The Criminal Revision Case is directed against the judgment of conviction dated 06.04.2009 made in C.A.No.295 of 2008 by the learned Additional District and Sessions Judge, Fast Track Court No.I, Coimbatore, confirming the conviction and sentence dated 19.08.2008 made in C.C.No.211 of 2003 by the learned Judicial Magistrate No.III, Coimbatore.

2. The case of the prosecution is that the accused has borrowed a sum of Rs.6,71,000/- from the complainant C.V.Ganapathy in between 18.8.1995 and 29.01.1996 on a false promise that he would start a business. But the accused neither started any business nor repaid the loan amount to the de facto complainant. Hence, on the complaint of the de facto complainant, the respondent police has registered a case under Sections 420 and 506(ii) of IPC against the accused. After filing of the charge sheet, the same was taken cognizance in C.C.No.211 of 2003 by the learned Judicial Magistrate No.III,



Coimbatore and the trial court convicted him to undergo rigorous imprisonment for the offences under Sections 420 and 506(ii) of IPC and also to pay a fine of Rs.1,000/-, in default, to undergo simple imprisonment for one month for the offence under Section 420 of IPC. Aggrieved over the same, the petitioner filed an appeal before the learned Additional District and Sessions Judge, Fast Track Court No.I, Coimbatore. By judgment dated 6.4.2009, the Appellate Court confirmed the judgment of the trial court. Hence, the present revision.

3. Though several grounds have been raised in this revision, now the learned Counsel for the revision petitioner would focus his arguments only in respect of quantum of sentence. According to him, the revision petitioner is now aged about 52 years and he is the only breadwinner of his family. Further, according to him, the one year rigorous imprisonment imposed for the offence under Section 506(ii) is very high and the accused has already undergone about 50 days in the prison and paid the fine amount. It is also submitted that now the petitioner repents for the offence and therefore, the period already undergone by the petitioner in the prison may be ordered to be treated as punishment.

4. Heard the learned Government Advocate (Crl. Side) appearing for the respondent.

5. On a perusal of the records, it appears that the occurrence is said to have been taken place in between 1995-1996 and the complaint is given in 2001. Therefore, it is clear that the petitioner is undergoing the ordeal of trial for the past 14 years. Further, it is seen that the petitioner is now aged about 52 years and he is the sole breadwinner of his family. Therefore, without going into deep of the matter, considering all the aforesaid facts besides the fact that the petitioner has already paid the fine amount, the period of imprisonment of one year rigorous imprisonment for each of the offences under Sections 420 and 506(ii) of IPC imposed by the courts below is reduced to the period of imprisonment already undergone by the petitioner for the offences under Sections 420 and 506(ii) of IPC.

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

Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar



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1. The Judicial Magistrate No.III,
Coimbatore.

2. Additional District and Sessions Judge,
Fast Track Court No.I,
Coimbatore

3. The Public Prosecutor,
High Court,
Madras.

1 CC to Mr.P.M.Duraiswamy, Advocate SR.No. 55999

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KM (CO)
PSI (28.10.2015)