

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.06.2015

CORAM:

THE HONOURABLE MR.JUSTICE B. RAJENDRAN

CRL. R.C. Nos. 1542 to 1550 of 2008

Arumugam

@ Attali Arumugam

...Petitioner in all Crl.R.Cs.

Versus

State rep. by

The Inspector of Police

Hasthampatti Police

...Respondent in all Cr.R.Cs.

Criminal Revision Cases filed under Sections 397 read with 401 of the Criminal Procedure Code, against the Judgment dated 06.06.2008 passed in Crl.A. Nos. 43, 47, 45, 42, 46, 41, 44, 39, 40 of 2008, on the file of the Additional District & Sessions Judge, Fast Track Court No.II, Salem, confirming the judgment of conviction and sentence dated 26.09.2007 passed in C.C. Nos. 59, 75, 61,57, 62, 56, 60, 52, 55 of 2007 on the file of the learned Judicial Magistrate No.III, Salem.

For Petitioner : Mr.R.Sankarasubbu
in all Crl.R.Cs.

For Respondent : Mr.V.Arul
in all Crl.R.Cs. Government Advocate (Crl.Side)

COMMON ORDER

On the basis of the complaints given by the defacto complainants cases in Crime Nos.1450/2006, 1481/2006, 1479/2006, 1478/2006, 1342/2006, 1401/2006, 1480/2006 and 1484/2006 were registered against the petitioner / accused, viz., Arumugam @ Attali Arumugam for the offence punishable under Section 379 of IPC. A case in Cr.No.1439 of 2006 was registered against the accused for the offences under Sections 457 (2) IPC and 380 IPC. The Trial Court proceeded with the case. Ultimately, after trial, the Trial Court convicted the accused in C.C.Nos. 59, 75, 61,57, 62, 56, 52 and 55 of 2007 for the offence punishable under Section 379 of IPC and sentenced him to undergo ten months rigorous imprisonment in each cases and the sentence imposed in C.C.No.52 of 2007 was ordered to run concurrently along with the other C.C.Nos. 59, 75, 61,57, 62, 56 and 55 of 2007. After trial, the Trial Court convicted the accused in C.C.No.60 of 2007 for the offences under Sections 457 (2) IPC and 380

IPC and sentenced to undergo ten months rigorous imprisonment for the offence under Section 457 (2) IPC and to pay a fine of Rs.250/-, in default to undergo rigorous imprisonment for three months and sentenced to undergo ten months rigorous imprisonment for the offence under Section 380 IPC and was imposed with a fine of Rs.250/-, in default to undergo rigorous imprisonment for three months and the sentences were ordered to run concurrently along with the sentence imposed in C.C.No.52 of 2007, after giving set off under Section 428 Cr.P.C. Aggrieved by the same, the accused has filed CrI.A. Nos. 43, 47, 45, 42, 46, 41, 44, 39, 40 of 2008, before the learned Additional District and Sessions Judge, Fast Track Court-II, Salem, and the same were dismissed by the Appellate Court, confirming the judgment of conviction and sentence imposed on the accused by the Trial Court. Aggrieved against the same, the petitioner, who is arrayed as accused, has filed the present Criminal Revision Cases.

2. The case of the prosecution is that on 25.10.2006, 25.10.2006, 18.08.2006, 18.08.2006, 25.09.2006, 15.07.2006, 11.10.2006, 30.09.2006, 03.11.2006 respectively, the petitioner/accused is alleged to have stolen the T.V.S.XL.Super bearing Regn.Nos.TN-30-H-2052, TN-30-C-1957, TN-30-F-4941; T.V.S.50 bearing Regn.No.TN-27-K-2760; T.V.S.XL.Super bearing Regn.No.TN-30-F-1249; T.V.S.50 bearing Regn.No.TN-27-D-6806; 16 sovereigns of gold jewels; T.V.S.X.L.Super bearing Regn. No. TN-30-J-4492 and Regn.No.TN-27-L-6672 respectively and in this context, the defacto complainants have given complaints, based on which, the accused was proceeded with for the offences as mentioned above.

3. Today, when the matters are taken up, Mr.R.Sankarasubbu, learned counsel appearing for the petitioner/accused did not argue on merits but confined his argument only on the question of sentence imposed on the petitioner by the Courts below. He would submit that though, the petitioner was convicted for the offence under Section 379 IPC and sentenced to undergo rigorous imprisonment for ten months, in view of the fact, it was not stated to run concurrently, the petitioner/accused was directed to undergo ten months rigorous imprisonment continuously in each of the cases. He would further add that the petitioner/accused had already undergone imprisonment for a period of 48 months i.e., four years and therefore, he prayed for showing leniency in reduction of sentence to the effect that the period already undergone may be held sufficient in all the cases.

4. I heard Mr.V.Arul, learned Government Advocate appearing for the respondent, who on instructions would confirm that the petitioner/accused has undergone 48 months of imprisonment.

5. Heard both sides. By consent, all the Criminal Revision Cases are taken up for final disposal.

6. On a perusal of the judgment of the Trial Court, it is seen that the petitioner was convicted in C.C.Nos. 59, 75, 61, 57, 62, 56, 52 and 55 of 2007 for the offence punishable under Section 379

of IPC and sentenced to undergo ten months rigorous imprisonment in each cases and the sentence imposed in C.C.No.52 of 2007 was ordered to run concurrently along with the other C.C.Nos. 59, 75, 61,57, 62, 56 and 55 of 2007. The Trial Court further convicted the accused in C.C.No.60 of 2007 for the offences under Sections 457 (2) IPC and 380 IPC and sentenced to undergo ten months rigorous imprisonment for the offence under Section 457 (2) IPC and to pay a fine of Rs.250/-, in default to under rigorous imprisonment for three months and sentenced to undergo ten months rigorous imprisonment for the offence under Section 380 IPC and was imposed with a fine of Rs.250/-, in default to undergo rigorous imprisonment for three months and the sentences were ordered to run concurrently along with the sentence imposed in C.C.No.52 of 2007, after giving set off under Section 428 Cr.P.C. Aggrieved by the same, the accused has filed Crl.A. Nos. 43, 47, 45, 42, 46, 41, 44, 39, 40 of 2008, before the learned Additional District and Sessions Judge, Fast Track Court-II, Salem, and the same were dismissed by the Appellate Court, confirming the judgment of conviction and sentence imposed on the accused by the Trial Court. The grievance of the petitioner/ accused is that though, the Trial Court convicted the petitioner for the offence under Section 379 IPC and sentenced to undergo rigorous imprisonment for ten months, in view of the fact, it was not stated to run concurrently, the petitioner/accused was directed to undergo ten months rigorous imprisonment continuously in each of the cases and now that the petitioner had already undergone sentence for a period of 48 months (i.e., four years) and hence, prayed this Court for showing leniency in reduction of sentence to the effect that the period already undergone may be held sufficient in all the cases. Taking into consideration the submission of the counsel for the petitioner that for the offence under Section 379 IPC, the petitioner/accused had already undergone sentence for a period of nearly four years so far, in view of the fact that the Trial Court has not stated in its order to run concurrently and simpliciter it was stated as ten months rigorous imprisonment, he has directed to undergo ten months rigorous imprisonment continuously in each of the cases and now that the petitioner had already undergone sentence for a period of 48 months (i.e., four years), I am of the view that some leniency can be shown to the petitioner/accused in reducing the sentence. Accordingly, while confirming the conviction imposed by the Courts below, the sentence alone is reduced to the period already undergone by the petitioner/accused viz., 48 months undergone will be the sentence in all the cases.

7. With the above modification in sentence, these Criminal Revision Cases are partly allowed.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

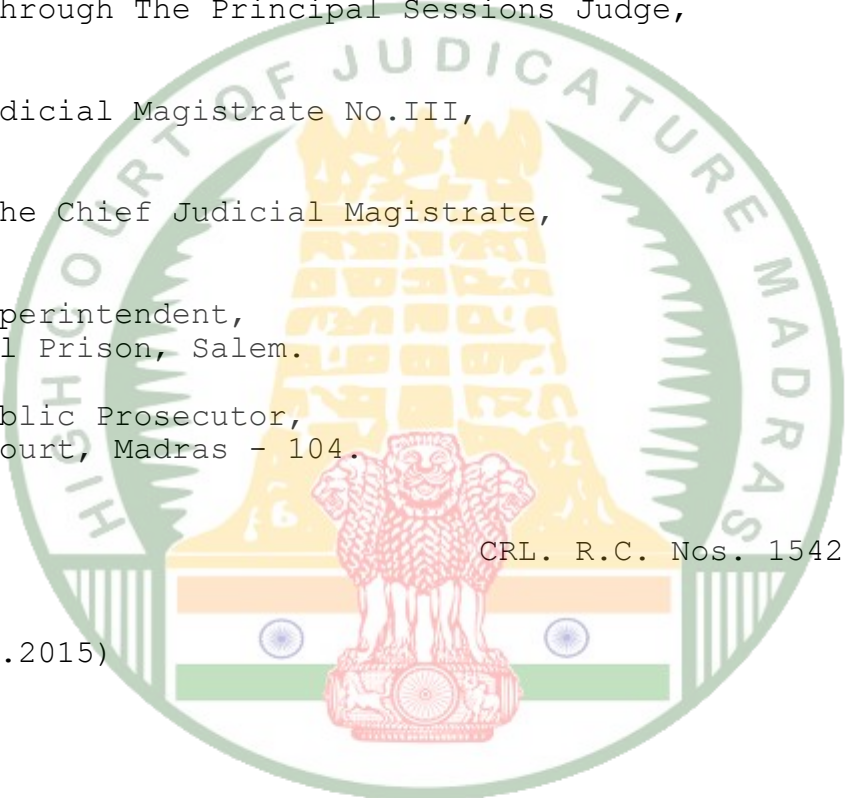
paa

To

1. The Inspector of Police
Hasthampatti Police.
2. The Additional District & Sessions Judge,
Fast Track Court No.II, Salem.
3. -Do- Through The Principal Sessions Judge,
Salem.
4. The Judicial Magistrate No.III,
Salem.
5. -Do- The Chief Judicial Magistrate,
Salem.
6. The Superintendent,
Central Prison, Salem.
7. The Public Prosecutor,
High Court, Madras - 104.

CRL. R.C. Nos. 1542 to 1550 of 2008

RSK (CO)
PSI (06.07.2015)



सत्यमेव जयते

WEB COPY