Bail Slip:- The Appellant/Accused namely N. Ramasamy, S/o.Narasimhan was directed to be released on bail as per order dated 2.8.2010 in Crl.M.P.2/10 in Crl.R.C.No.778/10 on the file of this court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.06.2015

Coram

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Criminal Revision Case No.778 of 2010

N.Ramasamy .. Petitioner

Versus

State of Tamil Nadu
rep.by Inspector of Police
CCIW, Vellore. .. Respondent

Criminal Revision case filed under Sections 397 and 401 of Cr.P.C. against the Judgment dated 23.06.2010 passed by the learned Additional District and Sessions Judge, Fast Track Court, Vellore, Tirupathur in C.A.No.54 of 2008 confirming the order dated 20.02.2008 passed by the learned Judicial Magistrate No.II, Vellore in C.C.No.163 of 2007.

For Petitioner : No appearance

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

ORDER

For the past two hearings, there was no representation for the petitioner. Hence, the matter was listed today under the caption ''for dismissal''. Even today, there is no representation for the petitioner. Hence, as per the judgment of the Hon'ble Apex Court reported in (2013) 3 SCC 721 [K.S.Panduranga vs. State of Karnataka], if the petitioner do not appear, there is no necessity for the Court, which is hearing the matter, to issue warrant for special notice or appoint any Amicus Curiae to argue the matter on behalf of the petitioner. The Court is empowered to deal with the matter on merits and dispose of the same. Accordingly, this matter is taken up for disposal on merits.

2. The petitioner is arrayed as A1 in C.C.No.163 of 2007 on the file of the learned Judicial Magistrate No.2, Vellore and has been convicted along with A2 for the offences under Sections 408 r/w 35 IPC and 477-A r/w 35 IPC and sentenced to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.500/- for each of the offences, in default, to undergo simple imprisonment for one month and both the sentences were ordered to run concurrently. As against the conviction and sentence imposed, the

petitioner filed Crl. Appeal No.54 of 2008 and the first appellate Court by judgment dated 23.06.2010 confirmed the same. Aggrieved by the said order, the present Criminal Revision Case is filed by A1 alone.

3. The case of the prosecution is that the petitioner along with A2, who were working as the Clerk and Secretary respectively in the Umarabad Primary Agricultural Co-operative Bank had misappropriated the funds of the said Bank during the year 1997. The further allegation is that they have also shown wrong stock entries in the ledger book during the said period regarding the details of the fertilizers purchased and sold. Hence the complaint.

4. The main ground raised by the petitioner in this revision is that the prosecution has alleged five individual cases of criminal breach of trust under a single charge, which is not permissible under law. Further he would contend that the Audit report pertaining to each of the alleged criminal breach of trust has not been produced and that the petitioner is only working as a Clerk in the Co-operative Bank and as such he cannot be made responsible for the assets and cash belonging to the said Bank. It is his further contention that fixing the liability on the petitioner is a motivated one as there is a delay of eight years in conducting the audit. Accordingly, he prayed for setting aside the conviction and sentence ordered by the courts below.

5. Learned Government Advocate (Criminal side) would mainly contend that in respect of the charges framed against the petitioner, the departmental enquiry has been initiated under Section 81 of the Tamil Nadu Co-operative Societies Act, 1983 and the same has been culminated into Section 87 surcharge proceedings. Therefore, he would contend that the audit reports filed under Exs.P4 and P5 are only superfluous. Under these circumstances, both the Courts below after analysing the entire oral and documentary evidence adduced came to the conclusion that the petitioner has committed the offence. Accordingly, he would pray for the dismissal of the criminal revision case.

6. I have heard the learned Government Advocate (Criminal side) and perused the materials available on record.

7. On a perusal of the judgments passed by both the Courts below, it is seen that the petitioner is an employee of the Primary Agricultural Co-operative Bank and he along with another person has misappropriated the funds and the same has been proved beyond reasonable doubt. Further, as regards the contention raised by the petitioner that since the audit report has been filed beyond eight years time, the same is fatal to the prosecution case, I am of the considered view that as per the Act, departmental action has been taken against the petitioner and charges also have been framed for the misappropriation committed.

8. In view of the above, I do not find any reason to interfere with the order passed by both the Courts below. Accordingly, this Criminal Revision case is dismissed.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

vj2

To

1. The Additional District and Sessions Judge
   Fast Track Court, Vellore, Tirupathur

2. The Judicial Magistrate No.II, Vellore

3. The Public Prosecutor, High Court, Madras

Crl RC No.778 of 2010

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