

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.10.2015

Coram

THE HONOURABLE MR.JUSTICE B. RAJENDRAN

Criminal Revision Case Nos.944 and 945 of 2009

Crl.R.C.No.944 of 2009

Santha Kumar

.. Petitioner

Versus

State rep. by the Inspector of Police,
Madhukarai Police Station,
Coimbatore.

.. Respondent

Criminal Revision case filed under Sections 397 and 401 of Cr.P.C. against the Judgment passed in C.A.No.191 of 2008 dated 21.07.2009 on the file of the learned District and Sessions Judge, Coimbatore, confirming the order of the learned Judicial Magistrate No.VII, Coimbatore, passed in C.C.No.320 of 2008 dated 09.06.2008.

For Petitioner : Mr.V.Purushothaman

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

Crl.R.C.No.945 of 2009 :

P.Venkatesh @ Venkatachalam Kumar

.. Petitioner

Versus

State rep. by the Inspector of Police,
Madhukarai Police Station,
Coimbatore.

.. Respondent

Criminal Revision case filed under Sections 397 and 401 of Cr.P.C. against the Judgment passed in C.A.No.190 of 2008 dated 21.07.2009 on the file of the learned District and Sessions Judge, Coimbatore, confirming the order of the learned Judicial Magistrate No.VII, Coimbatore, passed in C.C.No.186 of 2004 dated 09.06.2008.

For Petitioner : Mr.V.Purushothaman

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

ORDER

The Criminal Revision Case No.944 of 2009 is filed against the Judgment passed in C.A.No.191 of 2008 dated 21.07.2009 on the file of the learned District and Sessions Judge, Coimbatore, confirming the judgment of the learned Judicial Magistrate No.VII, Coimbatore, passed in C.C.No.320 of 2008 dated 09.06.2008.

2. The Criminal Revision Case No.945 of 2009 is filed against the judgment passed in C.A.No.190 of 2008 dated 21.07.2009 on the file of the learned District and Sessions Judge, Coimbatore, confirming the judgment of the learned Judicial Magistrate No.VII, Coimbatore, passed in C.C.No.186 of 2004 dated 09.06.2008.

3. The case of the prosecution is that the complainant Poobendersingh belongs to Punjab. He approached his relative Babu @ Darveender Balsingh at Coimbatore to purchase a Tractor for agricultural purpose, who in turn, approached the 1st accused, namely, P.Venkatesh @ Venkatachalam Kumar, revision petitioner in Crl.R.C.No.945 of 2009. The 1st accused agreed for the same. In continuation of the same, on 20.12.2003, the petitioners in Crl.R.C.Nos.944 and 945 of 2009 who are accused 1 and 3 along with the 2nd accused Sathik came in an Ambassador Car and promised to buy tractor from Palacode and accompanied the complainant Poobendersingh and his relative Babu @ Darveender Balsingh. While they were proceeding towards Palacode at Puthukarai-Palacode road near Navakarai Nandhi Koil, when the said complainant and his friend asked to stop the car for natural call and got down, the accused 1 to 3 has taken Rs.2,00,000/- which was put by the complainant in the Car and ran away in the car thereby committed an offence punishable under Section 420 of IPC. The trial court, after full fledged trial, convicted the accused under Section 420 of IPC and sentenced them to undergo rigorous imprisonment of one year and to pay a fine of Rs.1,000/- each, in default, to undergo one week simple imprisonment. Aggrieved over the same, the 1st and 3rd accused have filed C.A.Nos.190 and 191 of 2008 before the learned Principal District and Sessions Judge, Coimbatore. The learned Appellate Judge confirmed the conviction and sentence imposed by the trial court by judgments dated 09.06.2008. Hence, the present revision cases.

4. Learned Counsel for the petitioners in both the revisions would contend that there was no such occurrence took place as stated by P.W.1 since there were contradictions in the evidence of P.W.6 and P.W.8 who lodged the complaint. The learned Counsel would further contend that P.W.3 who has been cited as eye-witness to the occurrence, has turned hostile by not supporting the case of the prosecution. He would also contend that there was a delay in lodging the complaint and the courts below without taking into consideration the above contradictions have convicted the accused. Hence, he prays to set aside the same.

5. Learned Government Advocate (Crl. Side) would submit that the evidence of P.W.1, P.W.6 and P.W.8 would clearly link the accused with the crime and the evidence of P.W.8 is very cogent. The learned Government Advocate would further submit that as per the admissible portion of the confession statement of the 2nd accused Sathik, the case properties, namely, M.O.1 series Ten Rupees Notes 100 and M.O.2 Ambassador Car were recovered under Ex.P.27 Mahazar. Having considered

all the oral and documentary evidence, the courts below have concurrently held against the accused 1 to 3. Therefore, the present revisions have to be dismissed.

6. I have considered the submissions made on either side and I have also perused the evidence and judgments of the courts below.

7. A perusal of the Ex.P.4 complaint would go to show that while P.W.8 Poobendersingh along with his friend P.W.6 Babu @ Darveender Balsingh approached the 1st accused to purchase a tractor, he along with other two accused came in an Ambassador Car on the promise that they would take them to Palacode to buy a tractor and accompanied them in the Ambassador Car and while they were travelling, when P.W.8 and P.W.6 asked the accused to stop the car for natural call, at that time, when they got down, along with the money of Rs.2,00,000/- belongs to the P.W.8, the accused fled away in the car. The complaint is very cogent. P.W.6, the relative of P.W.8 also corroborates the said version in his evidence.

8. Nextly, though it is contended that P.W.8 does not know as to what has written in Ex.P.4, he has categorically admitted in his evidence that he has been residing in Coimbatore from 1957 to 1970. So, he knew Tamil. Hence, he was able to answer though the chief examination was taken in Tamil. Further, the evidence of P.W.8 corroborates with the evidence of P.W.6 and P.W.1.

9. It is also to be noted that the occurrence has taken place on 21.12.2003, but the FIR was lodged on 23.12.2003. The reason given for the said delay by P.W.8, P.W.6 and P.W.1 is that they were in search of the accused. Hence, there was a delay in lodging the complaint. Further, the eye-witness P.W.3 who turned hostile does not affect the case of the prosecution and there is no necessity for P.W.8 to lodge a complaint against the accused persons without any basis.

10. In view of all the above, since the prosecution has proved its case beyond reasonable doubt, the courts below have convicted the accused under Section 420 of IPC and sentenced them accordingly. I find no infirmity in the reasoned judgments of the courts below.

11. In the result, the Criminal Revision Cases fail and the same are accordingly dismissed. The trial court is directed to take steps to secure the accused to undergo the remaining period of sentence.
tsi

Sd/-
Assistant Registrar (Judicial)

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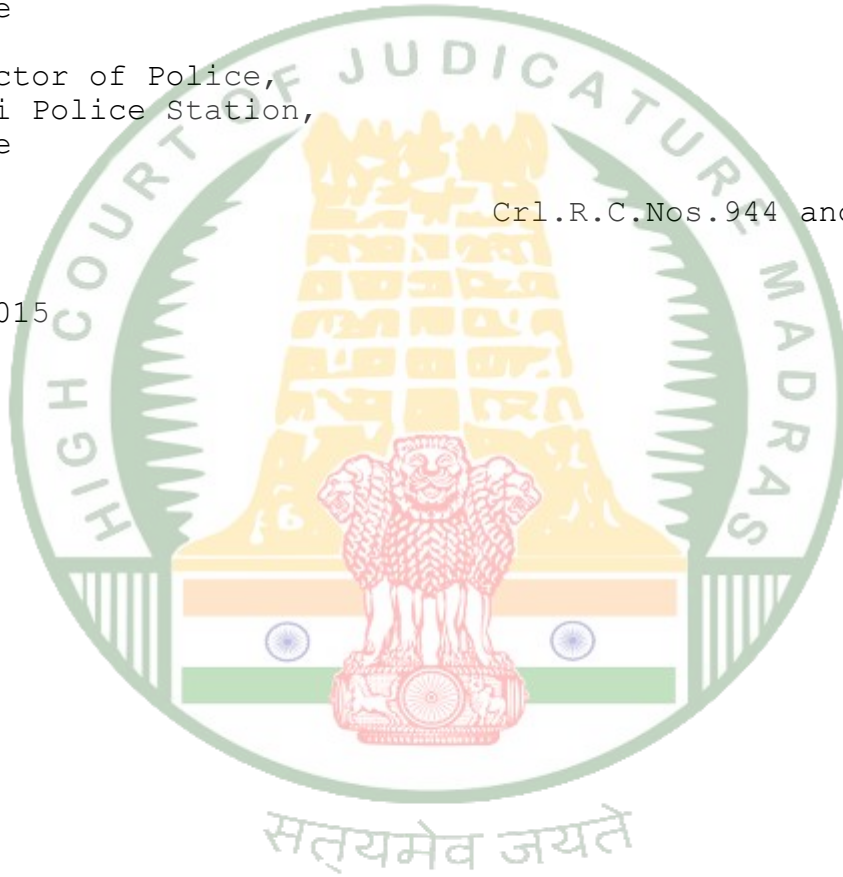
Sub-Assistant Registrar

To

1. The District and Sessions Judge,
Coimbatore.
2. The Judicial Magistrate No.VII,
Coimbatore.
3. The Public Prosecutor,
Madras
4. The Chief Judicial Magistrate,
Coimbatore
5. The Inspector of Police,
Madhukarai Police Station,
Coimbatore

Crl.R.C.Nos.944 and 945 of 2009

NM(CO)
sd : 26/10/2015



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