

BAIL SLIP

The Petition/1st Accused in Crl.R.C.578 of 2008 viz., Thirumoorthy, S/o.Samalai Nadar was directed to be released on bail as per order of this Court dated 28.04.2008 made in M.P.No.1 of 2008 in Crl.R.C.578 of 2008.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.7.2015

CORAM:

THE HONOURABLE MR.JUSTICE B. RAJENDRAN

CRL. RC. No.578 of 2008
and
MP.No.1 of 2015

Thirumoorthy ... Petitioner/accused

Versus

State Rep.by
The Inspector of Police
Dharapuram Police Station
Erode District ... Respondent/ Complainant

Petition filed under Sections 397 read with 401 of the Criminal Procedure Code, to call for the records and to set aside the judgment of dismissing Appeal in C.A.No.132 of 2007 dated 10.9.2007 on the file of the learned Additional District and Sessions Court, Fast Track No.3, at Dharapuram in confirming sentence imposed in S.C.No.41 of 2007 dated 09.7.2007 passed by the learned Assistant Sessions Court at Dharapuram and allow the above Criminal Revision petition.

For Petitioner : Mr.V.Raghavachari
for Mr.Ma.P.Thangavel
For Respondent : Mr.V.Arul
Government Advocate

ORDER

The revision has been filed by the petitioner/accused against the Judgment dated 10.9.2007 passed in Crl.A.No. 132 of 2007 on the file of the Additional District and Sessions Judge, Fast Track Court No.3

at Dharapuram confirming the Judgment dated 09.7.2007 passed in S.C.No.41 of 2007 on the file of the learned Assistant Sessions Judge at Dharapuram.

2. Earlier, the petitioner has filed application for compounding the offence. Since the offence is under Section 307 IPC, this Court has not permitted the petitioner to compound the offence.

3. Today, when the matter is taken up, the 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. The learned counsel for the petitioner submitted that the accused is 62 years old and he was in jail for more than 300 days and he also paid fine amount. The learned counsel further submitted that already compromise was entered into between the parties and the victim also agreed to compound the offence. The learned counsel also submitted that the sentence imposed by the Courts below is very excessive. Therefore, the learned counsel for the petitioner prayed for showing leniency against the petitioner. In support of his contention, the learned counsel placed reliance on the judgments of the Hon'ble Supreme Court in GIAN SINGH V. STATE OF PUNJAB AND ANOTHER [(2012 (5) CTC 526] and GULAB DAS & OTHERS v. STATE OF MADHYA PRADESH (CDJ 2011 SC 1176).

4. I have heard the learned Government Advocate appearing for the respondent on the submission made by the learned counsel for the petitioner and perused the materials available on record.

5. The trial court convicted the petitioner/accused for the offences punishable under Section 307 IPC (2 Counts) and sentenced to undergo rigorous imprisonment of 5 years and imposed fine of Rs.500/- for each count, in default, Rigorous Imprisonment for one year and for the offence under Section 324 of IPC (3 counts), he was sentenced to undergo 3 years Rigorous Imprisonment for each counts in S.C.No.41 of 2007 dated 09.7.2007.

6. Considering the submission made by the learned counsel for the petitioner and the fact that he is argued only on the question of sentence and that the petitioner is aged more than 62 years and that the petitioner has already undergone sentence for a period of more than 300 days and also the fact that the compromise has been entered into between the petitioner and the victim, I am of the view that some indulgence may be shown to the petitioner. Accordingly, while confirming the conviction imposed by the Courts below, the sentenced is modified to that of the period already undergone by him. It is also made clear that the fine amount shall also be treated as sentence undergone.

7. With the above modification of sentence, the Criminal Revision Case is partly allowed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

ga

To

1. The Additional District and Sessions Judge,
Fast Track No.3,
Dharapuram
2. -do- Through Principle District and Sessions Judge,
Erode.
3. The Assistant Sessions Judge at Dharapuram
4. The Inspector of Police,
Dharapuram Police Station,
Erode.
5. The Judicial Magistrate,
Dharapuram.
- 5a.-do- Through The Chief Judicial Magistrate,
Erode.
6. The Superintendent, सत्यमेव जयते
Central Prison,
Coimbatore.
7. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.Ma.P.Thangavel, Advocate, S.R.No.37451

CRL.RC.No.578 of 2008

VD(CO)
CA(12/08/2015)