



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 07.07.2015

CORAM:
THE HONOURABLE MR.JUSTICE S.NAGAMUTHU

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Cr1.A(MD)No.314 of 2011

G.Raveendran

.. Appellant/Sole Accused

Vs.

State rep. by
The Superintendent of Customs,
Customs Sea Base Unit,
Kulasekarapattinam,
Tuticorin District
O.R.No.1/2006/CSBU)

.. Respondent/Complainant

PRAYER: Criminal Appeal filed under Section 374(2) of Cr.P.C. against the conviction and sentence made in C.C.No.524 of 2006 dated 22.08.2011, by the Additional District and Sessions Judge, (Principal Special Court) for E.C. Act Cases, Madurai.

For Appellant : Mr.M.Subash Babu

For Respondent : Mr.C.Arul Vadivel @ Sekar
Special Public Prosecutor for
Customs

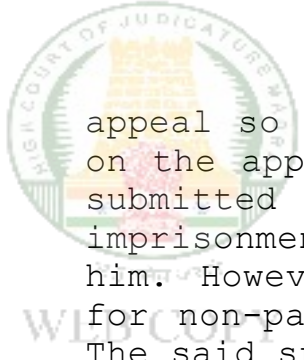
J U D G M E N T

The appellant is the sole accused in C.C.No.524 of 2006 on the file of the Principal Special Judge (NDPS Act Cases) -cum- Additional District Judge, Madurai. He stood charged for the offences under Section 8(c) r/w Section 29, 8(c) r/w Section 21(c) and 8(c) r/w Section 23(C) r/w Section 28 of NDPS Act. The trial Court, by judgment dated 22.08.2011, convicted him for all the charges and sentenced him to undergo rigorous imprisonment for 10 years and to pay a fine of Rs.1,00,000/- each, in default to undergo rigorous imprisonment for 3 years under each charge and the substantive sentence of imprisonment of 10 years imposed under three charges have been ordered to run concurrently. The total fine amount is Rs. 3 lakhs. Challenging the said conviction and sentence, the appellant is before this Court with this appeal.

2. I have heard the learned counsel appearing for the appellant and the learned Special Public Prosecutor appearing for the respondent. I have also perused the records carefully.

<https://hcservices.ecourts.gov.in/hcservices/>

3. At the outset across the bar, the learned counsel appearing for the appellant submitted that he does not press this



appeal so far as it relates to challenging the conviction imposed on the appellant under all the three charges. The learned counsel submitted that he does not challenge the substantive sentence of imprisonment as well as the fine imposed by the trial court on him. However, he would submit that the default sentence imposed for non-payment of fine under each charge alone may be reduced. The said statement is recorded.

4. The learned counsel for the appellant would submit that from the date of arrest he has been in jail and almost he has spent 9 years 3 months and 7 days in prison and the remaining period is around 9 months alone. The learned counsel would submit that the appellant shall undergo the entire period of substantive sentence concurrently for all the charges. The learned counsel however submitted that the appellant has not paid the fine amount as he is in financial stress and therefore, he is not in a position to pay the same. The learned counsel would further submit that the appellant is prepared to undergo the default sentence for non-payment of fine under each charge. However, according to the learned counsel the default sentence may be reduced.

5. The learned Special Public Prosecutor would oppose this request. According to him, going by the gravity of the offence said to have been committed, the default sentence of imprisonment imposed for non-payment of the fine amount need not be reduced.

6. I have considered the above submissions.

7. The appellant claims to be a poor man and he is not able to pay the fine amount. In my considered view, the default sentence imposed in this case that is to undergo rigorous imprisonment for three years is exorbitant and the same is unreasonable. Since the appellant lives in poverty, the said default sentence has to be reduced considerably. In my considered view, directing the appellant to undergo rigorous imprisonment for one month under each charge for his failure to pay the fine amount would meet the ends of justice.

8. In the result, this appeal is partly allowed in the following terms:

i) The conviction of the appellant under Section 8(c) r/w Section 29, 8(c) r/w Section 21(c) and 8(c) r/w Section 23(c) r/w Section 28 is confirmed.

ii) The substantive sentence of imprisonment and the fine amount imposed by the trial court under all the three charges are also confirmed.

<https://hcservices.ecourts.gov.in/hcservice> The default sentence imposed on the appellant for non-payment of fine amount is reduced to one month under each charge.



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Sd/

ASSISTANT REGISTRAR (PER. ADMIN)

/TRUE COPY/

SUB ASSISTANT REGISTRAR

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To

- 1.The Principal Special Judge (EC and NDPS Act Cases) cum Additional District and Sessions Judge, Madurai.
- 2.The Superintendent of Customs, Customs Sea Base Unit, Kulasekarapattinam, Tuticorin District
3. The Superintendent, Central Prison, Madurai
(In duplicate to communicate the accused)
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.
5. The Special Public Prosecutor for Customs,
Madurai Bench of Madras High Court, Madurai.

Copy to

The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court,
Madurai.

+ 1 CC to Mr. M. Subash Babu, ADV SR.No.37009

+ 1 CC to Mr. C. Arul Vadivel @ Sekar, ADV SR.No.36913

Cr1.A(MD)No.341 of 2011
07.07.2015

JMN - 27.07.2015 - 3P - 8C