

BAIL SLIP

M.Chinnadurai, Petitioner/Accused in S.C.No.48 of 2008 on the file of the Assistant Sessions Judge, Rasipuram, was released on bail by the Order of this Court dated 08.04.2011 and made in M.P.No.1 of 2011 pending in CrI.R.C.No.437 of 2011 on the file of this Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.11.2016

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THE HON'BLE DR.JUSTICE P.DEVADASS

CrI.R.C.No.437 of 2011

M.Chinnadurai

... Petitioner/Accused

Vs.

The State rep. by  
The Inspector of Police,  
Rasipuram Police Station,  
Namakkal District

... Respondent/Complainant

This Criminal revision is filed under Section 379 & 401 of Cr.P.C., against the judgment made in C.A.No.60 of 2009, dated 28.9.2010 on the file of the Principal Sessions Judge, Namakkal confirming the conviction and sentence awarded by the Assistant Sessions Judge, Rasipuram in S.C.No.48 of 2008, dated 5.12.2008.

For Petitioner : Mr.S.Manoharan

For Respondent : Mr.V.R.Balasubramaniam

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O R D E R

The sole accused in the Sessions case in S.C.No.48 of 2008 on the file of the learned Assistant Sessions Judge, Rasipuram, Namakkal district is the revision petitioner.

2. The prosecution alleged that on 29.4.2008 at about 1.30 a.m. near the burial ground in Kattanchampatty village, the accused has robbed Rs.200/- from P.W.1 at knife point and

committed an offence under Section 392 r/w 397 I.P.C. P.W.1 lodged the complaint with P.W.5, S.I. of Police. P.Ws.2 and 3 were examined as ocular witnesses. Investigation has been done by P.W.6 Inspector of Police.

3. To substantiate the charge, prosecution examined P.Ws.1 to 6 marked Ex.P1 to 5 and exhibited M.Os.1 and 2.

4. The trial Court found the accused guilty under Section 392 r/w 397 I.P.C. and sentenced him to 7 years R.I.

5. The accused appealed to the Principal Sessions Court, Namakkal in C.A.No.60 of 2009. The learned Appellate Judge confirmed the conviction and sentence and dismissed the Criminal appeal.

6. Challenging the said conviction and sentence, the accused has filed this revision.

7. According to the learned counsel for the revision petitioner, the case is a put-up case. The falsity of the prosecution case is exposed by the evidence of P.Ws.1 to 3. Further, there are very many contradictions in their evidence. The trial Court as well as the Appellate Court have overlooked these aspects.

8. The learned counsel for the revision petitioner further contended that the evidence of P.Ws.1 to 3 is Parrot-like, artificial and concocted. They are manufactured witnesses. They does not deserve credence. These aspects were overlooked by both the Courts. Both the Courts have not appreciated the evidence in proper perspective. Thus, the conviction and sentence of the trial Court as well as the Appellate Court suffers from legality and propriety.

9. On the other hand, the learned Govt. Advocate (Crl.side) would contend that the accused robbed P.W.1 Rs.200/- showing M.O.1 penknife. This has been witnessed to by P.Ws.2 and 3. In the circumstances, both the Courts have rightly recorded the conviction and appropriately punished him. The findings recorded by both the Courts below does not suffer from any legality or propriety.

10. I have anxiously considered the rival submissions, perused the judgment of both the Courts and the entire materials on record.

11. In this case, P.W.1 is stated to be the victim. On the occurrence day, the accused is stated to have robbed Rs.200/- from him at knife point (M.O.1). P.Ws.2 and 3 were

examined as eye witnesses. Both the Courts have heavily relied on the evidence of P.Ws.1 to 3.

12. According to P.W.1 at the time of occurrence, he came to the scene place in a motorbike and he was restrained by the accused, there were some discussion between them, P.W.1 interviewed him, verified whether he is a rowdy, the accused also answered him that if he enquire about him in the village, everybody will tell that he is a notorious criminal. P.W.1 also stated that the accused has also told him his full name. Thereafter, the robbery is alleged to have taken place. P.Ws.2 and 3 have also stated that they also interviewed the accused. To them also, like P.W.1, the accused coolly replied. The accused is also stated to have told them that he is a rowdy.

13. Even as per the prosecution version at the time of occurrence, three persons (P.Ws.1 to 3) were present. The accused was alone. In such circumstances, it is quite unbelievable that the accused have threatened to kill them. Further, P.Ws.1 to 3 quarrel led themselves in their evidence on the vital aspects of the prosecution version of the case. The evidence of P.Ws.1 to 3 is also parrot-like. It appears to be a story-telling and a fairy-tale. Their evidence is quite artificial and dramatic. Their evidence suffers from inherent improbability. It is highly dangerous to act upon such a testimony and visited a person with penal consequences. These aspects were completely missed by both the Courts. Both the Courts have not appreciated the evidence in proper perspective. The findings recorded based on such evidence suffers from legality and propriety.

14. In view of the foregoing, it is ordered as under:

- (1) This revision is allowed.
- (2) The conviction recorded and the sentence awarded by the trial Court as well as the Appellate Court are set aside.
- (3) The revision petitioner/accused is acquitted from the charge under Section 392 r/w 397 I.P.C.

Sd/-

Assistant Registrar(CS VI)

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Sub Assistant Registrar

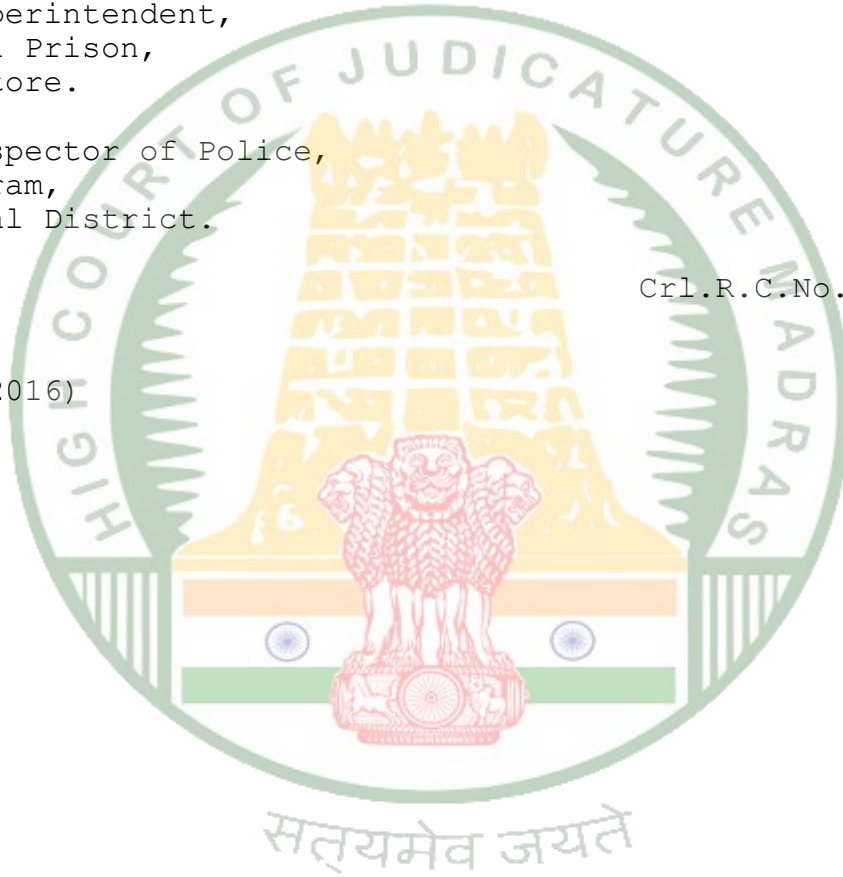
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To

1. The Principal Sessions Judge,  
Namakkal.
2. The Assistant Sessions Judge,  
Rasipuram, Namakkal.
3. The Government Advocate (Crl.side),  
High Court, Madras.
4. The Superintendent,  
Central Prison,  
Coimbatore.
5. The Inspector of Police,  
Rasipuram,  
Namakkal District.

Crl.R.C.No.437 of 2011

KSJ(CO)  
CA(28/12/2016)



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