

BAIL SLIP

The Petitioner/A2 in all the Appeals was ordered to be enlarged on bail as per order dated 21.10.2009 in M.P.No.1 of 2009 in Crl.A.Nos.407 to 410 of 2009.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.07.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

Crl.A.Nos.407 to 410 of 2009

Chellamuthu ... Appellant in all the Appeals/
Accused No.2

Vs.

State rep. by Inspector of Police,
Negamam Police Station,
Coimbatore District.
(Crime Nos.284, 287, 285 and 286 of 2008
respectively in the appeals)

... Respondent in all the appeals/
Complainant

Criminal Appeal No.407 of 2009 filed under Section 374(2)
Cr.P.C. against the judgment dated 23.06.2009 in C.C.No.11 of
2008 on the file of the Special Court/Principal Sessions Court,
Coimbatore.

Criminal Appeal No.408 of 2009 filed under Section 374(2)
Cr.P.C. against the judgment dated 23.06.2009 in C.C.No.14 of
2008 on the file of the Special Court/Principal Sessions Court,
Coimbatore.

Criminal Appeal No.409 of 2009 filed under Section 374(2)
Cr.P.C. against the judgment dated 23.06.2009 in C.C.No.12 of
2008 on the file of the Special Court/Principal Sessions Court,
Coimbatore.

Criminal Appeal No.410 of 2009 filed under Section 374(2)
Cr.P.C. against the judgment dated 23.06.2009 in C.C.No.13 of
2008 on the file of the Special Court/Principal Sessions Court,
Coimbatore.

For Appellant : Mr.R.Bharath Kumar
in all the Appeals

For Respondent : Mr.P.Govindarajan,
Additional Public Prosecutor

JUDGMENT

All these Criminal Appeals have been filed by A-2 against the judgment, dated 23.06.2009 in C.C.Nos.11, 14, 12 and 13 of 2008 respectively, on the file of the Special Court/Principal Sessions Court, Coimbatore.

2. The case of the prosecution is that appellant/A2, along with A1, have stolen 6 Nos. of 5 HP motor pumps, of which, four motor pumps pertain to the cases herein, which were installed in the farm lands of the respective de-facto complainants, namely K.Selvaraj, Sivasubramaniam, Rangasamy and Krishnasamy, on four different dates, i.e. on 19.10.2008, 17.10.2008, 19.10.2008 and 17.10.2008 respectively. On 21.10.2008, when the respondent-Police were checking vehicles in Sindhiriipur Bus Stand, A1 was riding motor-cycle with motor pump along with A2 (appellant herein). On enquiry, the accused persons confessed the crime. A1 and A2 were arrested on 21.10.2008 at about 6.30 p.m. and the accused persons identified the stolen motor pumps in the scrap-iron shop of one Selvakumar, to whom the accused sold the motor pumps. The confessional statements of both the accused persons were recorded in the presence of P.W.3. On completion of the investigation, the charge-sheets were filed. Thereafter, the cases were committed by the Judicial Magistrate No.2, Pollachi to the Sessions Court. Charge was framed against A1 and A2 for the offence under Section 136(1)(a) of the Electricity Act. On completion of trial, in each of the cases, the trial Court acquitted both the accused for the offence under Section 136(1)(a) of the Electricity Act, but convicted both the accused for the offence under Section 379 IPC and sentenced each of them to undergo rigorous imprisonment for two years and to pay fine of Rs.1,000/- each, in default, to undergo three months rigorous imprisonment. The trial Court ordered the sentences imposed on both the accused concurrently in all the four cases. Challenging the said conviction and sentence, A2 has preferred these four appeals.

3. Learned counsel for the appellant/A2 submitted that since it is the case of the prosecution that both the accused have stolen the motor pumps from four individual persons, the offence under Section 136(1)(a) of the Electricity Act will not get

attracted. He further submitted that though the charge was framed under Section 136(1)(a) of the Electricity Act, the trial Court convicted the accused for the offence under Section 379 IPC, even though no charge was framed against the accused persons for the offence under Section 379 IPC. However, learned counsel for the appellant/A2 submitted that he is arguing the appeals only on the question of sentence and prayed that the sentences imposed on the appellant/A2 in all the four cases may be modified to the period already undergone by him.

4. Learned Additional Public Prosecutor appearing for the respondent submitted that the appellant/A2 was in prison for 53 days as under-trial prisoner and after conviction, he was in prison for 20 days after conviction and totally, he was in prison for 73 days.

5. Heard both sides and perused the materials available on record.

6. Even in my considered opinion, since the appeals are of the year 2009 and eight years have lapsed, at this distant point of time, it would be appropriate to modify the sentences imposed on the appellant/A2, to the period already undergone by him. Accordingly, the sentences imposed on the appellant/A2 in all the four appeals are modified to the period already undergone by him. With these observations, the appeals are partly allowed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

CS

To

1. The Special Judge/Principal
Sessions Judge,
Coimbatore.
2. The Judicial Magistrate No.I,
Pollachi.
3. Do- Through The Chief Judicial Magistrate,
Coimbatore.

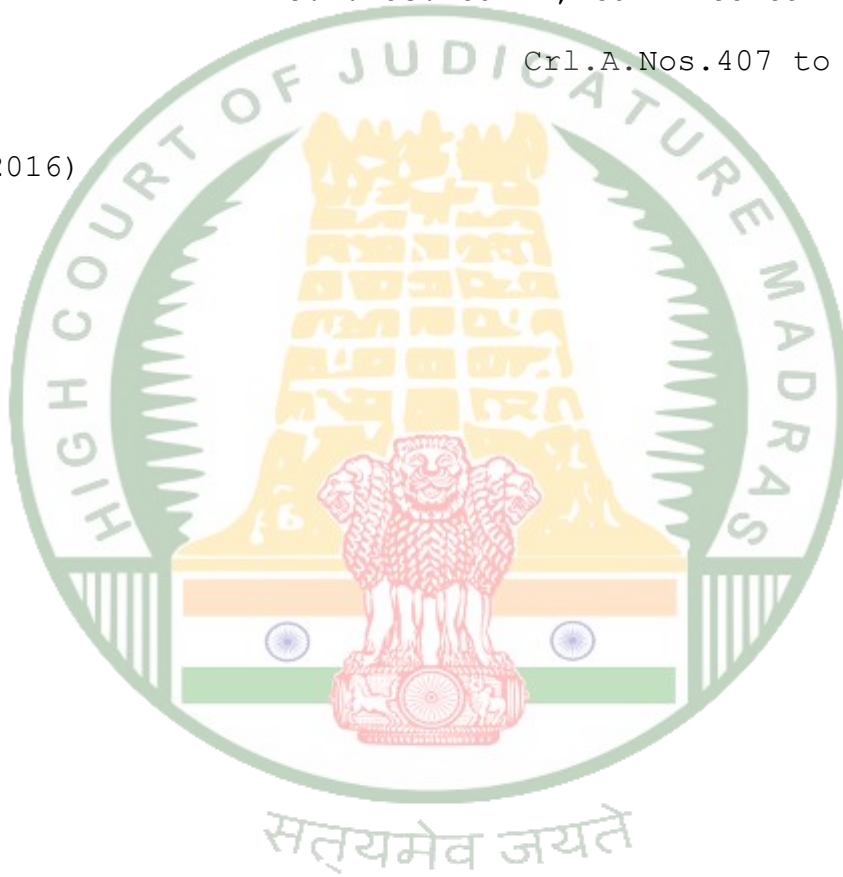
4. The Inspector of Police,
Negamam Police Station,
Coimbatore District.
(Crime Nos.284, 287, 285 and 286 of 2008)

5. The Public Prosecutor,
High Court, Madras.

+4cc's to Mr.R.Bharath Kumar, Advocate,
S.R.Nos. 39142, 39277 to 39279

Crl.A.Nos.407 to 410 of 2009

UG(CO)
CA(09/08/2016)



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