

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.11.2016

CORAM:

THE HON'BLE MR.JUSTICE C.T. SELVAM

Cr1.R.C.No.314 of 2015

S.K.Paul Dhanasekaran
S/o.Kandasamy

.. Petitioner/ Accused

vs.

State by
The Inspector of Police,
Annadhanapatti Police Station
Salem

.. Respondent/ Complainant

Criminal Revision filed under Section 397 and 401 Cr.P.C. against the judgment of learned Principal Sessions Judge, Salem, passed in C.A.No.62 of 2014 on 26.02.2015, confirming the judgment of learned Judicial Magistrate IV, Salem, passed in S.T.C.No.1161 of 2011 on 02.07.2013.

For Petitioner : Mr.R.Sankarasubbu

For Respondent : Mr.K.Madhan

Government Advocate (Cr1.side)

O R D E R

This revision is preferred against two concurrent judgments of the Courts below convicting the petitioner for offence under section 506(i) IPC, sentencing him to undergo 2 years R.I fine of Rs.3,000/- i/d one month S.I.

2. The prosecution case was that on 09.12.2011 at about 09.16 p.m., the Salem City Linemedu Police Control room, situated within the jurisdiction of Annadhanappatti Police station limit received a phone call from the petitioner/accused that he is going to place a bomb at District Collectors office, Office of Commissioner of Police, Salem and also to the police stations in Salem city. Upon completion of investigation, a charge sheet was laid informing commission of offence u/s.506(i) IPC and the same was taken on file in S.T.C.No.1161 of 2011 on the file of learned Judicial Magistrate IV, Salem.

3. Before the trial Court, the prosecution examined eight witnesses marked seven exhibits and two material objects. None were examined on behalf of the defence nor were any exhibits marked.

4. On examination of materials before it, the trial Court found the charges proved and convicted the petitioner for offence u/s.506(i) IPC and sentenced him to undergo 2 year R.I and fine of Rs.3,000/- i/d. one month S.I. There against, petitioner/accused preferred C.A.No.62 of 2014 on the file of learned Principal Sessions Judge, Salem, which came to be dismissed under judgment dated 26.02.2015. Hence, this revision.

5. Heard learned counsel for petitioner and learned Government Advocate [Crl.side].

6. In dismissing the appeal filed by the petitioner, the lower Appellate Court took into consideration the fact that the relationship between the petitioner/accused and P.W.4 stood established. It had been found that P.W.4 gave a xerox copy of the driving licence of P.W.3 to the accused, who in turn obtained a sim card in the name of P.W.3. It is also stated that there is no evidence to show that petitioner/accused had spoken to P.W.1 by using the cell phone No.9842876232. Prosecution witnesses have categorically deposed that the petitioner/accused obtained sim card by using the driving licence of P.W.3. It is not the case of petitioner/accused that he never received the xerox copy of the driving licence from P.W.4 and never received any simcard in the name of P.W.3. The contention of the petitioner/accused that the cross examination of prosecution witnesses were not taken into account by the Lower Court is not correct. Hence, the Lower Appellate Court found no reason to interfere with the finding of conviction passed by the learned Judicial Magistrate IV, Salem in STC.No.1161 of 2011 dated 02.07.2013 and confirmed the order of the Lower Court.

7. In the circumstances, we find no reason to interfere with the finding of conviction. However, given the facts and circumstances of the case, the sentence of 2 years R.I fine of Rs.3,000/- i/d. one month S.I for offence u/s.506(i) IPC is harsh.

8. It is brought to notice by the learned Government Advocate (Crl.side) that the petitioner was in custody for 15 days before trial and for a further period of two and half months immediately after the judgment of the trial Court and the petitioner has paid the fine amount. This Court is of the view that such sentence already undergone by the petitioner would suffice.

Accordingly, confirming the finding of conviction, the sentence of imprisonment shall stand reduced to the period already undergone. The fine amount imposed on the petitioner is confirmed. The criminal revision petition is disposed of with the above modification.

Sd/-
Asst.Registrar (CS V)

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Sub Asst. Registrar

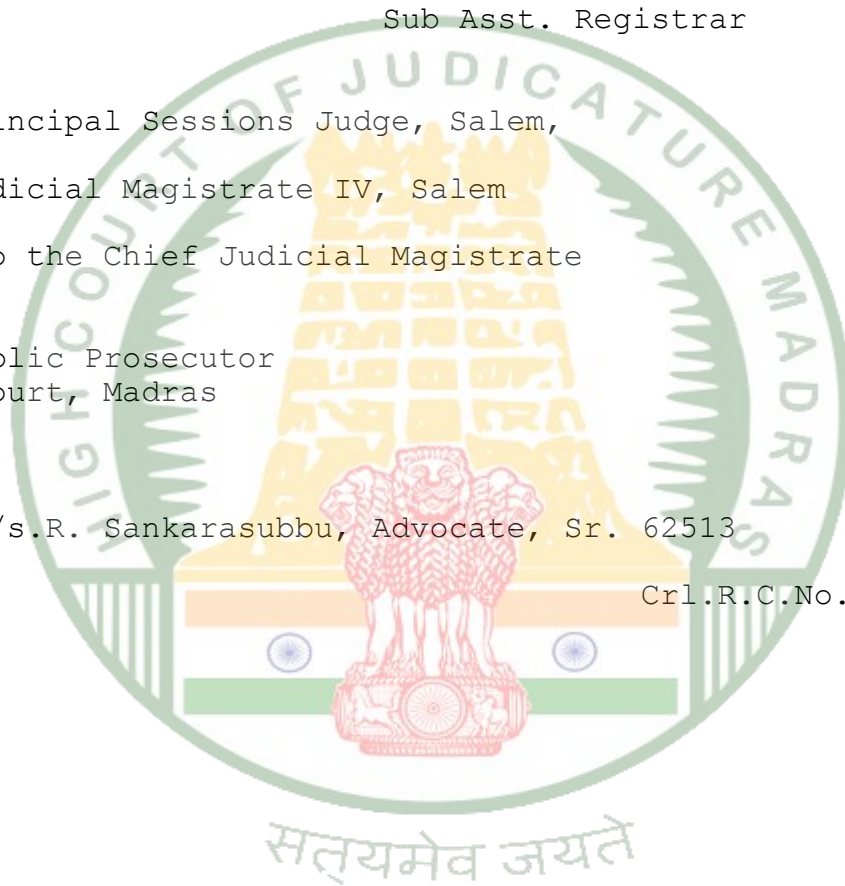
To

1. The Principal Sessions Judge, Salem,
2. The Judicial Magistrate IV, Salem
3. do thro the Chief Judicial Magistrate Salem
4. The Public Prosecutor
High Court, Madras

1 cc to M/s.R. Sankarasubbu, Advocate, Sr. 62513

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