

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.08.2016

CORAM:

THE HONOURABLE MR.JUSTICE G.CHOCKALINGAM

Crl.R.C.No.1396 of 2007

N.Subramanian

... Petitioner/Accused No.2

Vs.

The Inspector of Police,  
Cental Crime Branch,  
Egmore, Chennai.

... Respondent/Complainant

Prayer: Criminal Revision Case filed under Sections 397 & 401 of the Code of Criminal Procedure, praying to set aside the conviction and sentence imposed by the learned XI Metropolitan Magistrate, Saidapet, Chennai, in C.C.No.101 of 2002, dated 21.03.2005 as confirmed by the learned Additional District and Sessions Judge, Fast Track Court No.III, Chennai, in Crl.A.No.113 of 2005, dated 27.08.2007.

For Petitioner : Mr.G.R.Swaminathan

For Respondent : Mr.M.Mohamed Riyaz,  
Government Advocate (Crl.Side)

ORDER

This criminal revision case is directed against the order passed by the learned Additional District and Sessions Judge, Fast Track Court No.III, Chennai, in Crl.A.No.113 of 2005, dated 27.08.2007, confirming the conviction and sentence imposed by the learned XI Metropolitan Magistrate, Saidapet, Chennai, in C.C.No.101 of 2002, dated 21.03.2005.

2. In this case, the Inspector of Police, Central Crime Branch, Egmore, Chennai, lodged F.I.R. in Crime No.595 of 2000 against one Sundar Eswar Babu, who is the first accused, for the offences under Sections 409 and 477-A IPC and as against N.Subramanian, who is the second accused, for the offence under Section 477-A r/w. 109 IPC and after full trial, the learned XI Metropolitan Magistrate, Saidapet, Chennai, found the first accused guilty under Sections 409 and 477-A IPC and the second accused guilty under Section 477-A r/w. 109 IPC and imposed a sentence of rigorous imprisonment for two years and to pay a fine of Rs.3,000/-, in default, to undergo rigorous imprisonment for six months for the offence under Section 409 IPC and also imposed a sentence of rigorous imprisonment for

one year and to pay a fine of Rs.1,000/-, in default, to undergo rigorous imprisonment for six months for the offence under Section 477-A IPC against A.1 and imposed a sentence of rigorous imprisonment for one year and to pay a fine of Rs.1,000/-, in default, to undergo rigorous imprisonment for six months for the offence under Section 477-A IPC against A.2. The substantive sentence imposed against A.1 under Sections 409 and 477-A IPC were ordered to run concurrently. As against the said conviction and sentence passed by the learned XI Metropolitan Magistrate, Saidapet, Chennai, the petitioner/A.2 has preferred an appeal in CrI.A.No.113 of 2005 and the learned Additional District and Sessions Judge, Fast Track Court No.III, Chennai, after perusing the entire records, dismissed the said criminal appeal by order dated 27.08.2007 thereby confirming the conviction and sentence imposed against the petitioner/A.2. As against the said dismissal order, the petitioner/A.2 had preferred the present criminal revision case before this Court.

3. In this case, the first accused namely Sundar Eswar Babu was convicted and sentenced by the learned XI Metropolitan Magistrate, Saidapet, Chennai, for the offences under Sections 409 and 477-A IPC and as against the said conviction and sentence imposed by the learned Magistrate, the first accused had preferred an appeal in CrI.A.No.127 of 2005 before the learned Additional District and Sessions Judge, Fast Track Court No.III, Chennai, and the learned Additional District and Sessions Judge, had dismissed the criminal appeal preferred by the first accused by order dated 27.08.2007 thereby confirming the conviction and sentence imposed as against the first accused by the learned XI Metropolitan Magistrate, Saidapet, Chennai, in C.C.No.101 of 2002, dated 21.03.2005. As against the said dismissal order, the second accused had preferred a revision in CrI.R.C.No.1421 of 2007 and this Court, by order dated 24.01.2014, allowed the said criminal revision case and acquitted the first accused from the charges. As admitted by the prosecution, it is true that as against the order of acquittal passed by this Court, the Government has not preferred any further appeal or special leave petition.

4. In this case, the first accused, who is the main accused and who was charged for the offences under Sections 409 and 477-A IPC, was acquitted by this Court from the charges framed against him.

5. In the above said circumstances, this Court is of the considered view that since the first accused in this case was acquitted by this Court, the second accused, who is charged only for the offence under Section 477-A r/w. 109 IPC, also entitled to the same benefit.

6. In the result, this criminal revision case is allowed and the orders passed by the Courts below are set aside. The revision petitioner/A.2 is acquitted from the charges levelled against him. The bail bond, if any, executed by the petitioner/A.2 shall stand cancelled and the fine amount, if any, paid by the petitioner/A.2 is ordered to be refunded to him forthwith.

Sd/-  
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

To

1. The Additional District and Sessions Judge,  
Fast Track Court No.III, Chennai.
2. The XI Metropolitan Magistrate,  
Saidapet, Chennai.
3. The Inspector of Police,  
Cental Crime Branch,  
Egmore, Chennai.
4. The Public Prosecutor,  
High Court, Madras.

+1 cc to Mr.G.R.swaminathan, advocate,sr.44152

nrjk(co)  
krd 30/8

CrI.R.C.No.1396 of 2007

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