Bail Slip

The petitioner /accused 1,Namely G.HariKrishnan s/o Gopal Naidu in CRL RC 216/11 and the petitioner / Accused 2 namely Raghu @Raghupathy S/o.Kandaswamy were released on bail vide orders dated 15/02/2011 in MP.2 /2011 IN CRL RC 216/11 and vide order dated 21.12.2010 in MP.2/10 IN CRL RC 1139/10 Respectively.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.08.2017

CORAM

THE HONOURABLE MR. JUSTICE C.T.SELVAM

Crl.R.C.Nos.216 of 2011 and 1139 of 2010

CRL.RC.No.216 of 2011

G.Harikrishnan
S/o.Gopal Naidu ... Petitioner/Appellant /Accused 1

Vs

State by
Inspector of Police,
Crime Branch CID Head Quarters,
Chennai-600 002.
(Crime No.13/1997) ... Respondent/ Respondent /Complaint

CRL.RC.No.1139 of 2010

Raghu @ Raghupathy
S/o.Kandaswamy .. Petitioner/Accused 2

Vs

State by
Inspector of Police,
Crime Branch CID Head Quarters,
Chennai-600 002.
... Respondent/Complaint

Criminal Revisions filed under section 397 r/w 401 of the Code of Criminal Procedure, against the judgment of learned VII Additional Sessions Judge, Chennai, passed in C.A.No.360 of 2005 on 26.10.2010 confirming the judgment of learned Additional Chief Metropolitan Magistrate, Egmore, Chennai, passed in C.C.No.6998 of 2000 on 23.09.2005.

For Petitioner : Mr.Ganeshrajan
in Crl.R.C.No.216/2011
For Petitioner : Mr.K.Balu
in Crl.R.C.No.1139/2010

For Respondent : Mr.V.Arul
in both Revision Cases Additional Public Prosecutor

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O R D E R

These revisions are preferred against judgment of learned VII Additional Sessions Judge, Chennai, passed in C.A.No.360 of 2005 on 26.10.2010.

2. The Revision Petitioner in Crl.R.C.No.216 of 2011/A1 was tried for offences under Sections 120-B, 467, 465, 474 and 420 IPC, while Revision Petitioner in Crl.R.C.No.1139 of 2010 was tried for offences under Sections 120-B, 467 r/w 109, 465 r/ 109, 471 r/w 468 and 420 IPC. A3 was tried for offences for which the second accused was tried, as also for offence under Section 473 IPC. A4 was tried for offences under Sections 120-B, 465 r/w 109, 479 r/w 468 and 420 IPC.

3. Prosecution case was that the four accused were working as Manager and staff in a Gas Agency run by PW-8. Entering upon conspiracy, they represented to members of the public that they would be able to get immediate Gas connections in their name without registering therefor and bypassing persons, who were in the waiting list and on such representation, they collected monies of Rs.4,000/- to Rs.6,000/- from gullible persons. The accused failed to keep up their promise. Between December 1995 and November 1996, they prepared bogus termination vouchers with bogus seal, writing and signatures of various Gas Companies within and outside Tamil Nadu. Using such documents, they prepared bogus verification certificates towards making forged termination vouchers appear to be genuine and had been received from the Gas Companies (IOC/Bharat Gas). They effected Gas connections to persons who paid them.

4. Before the trial Court, prosecution examined 23 witnesses, marked 77 exhibits and 15 Material Objects. None were examined on behalf of the defence nor were any exhibits marked.

5. On appreciation of materials before it, trial Court under judgment dated 23.09.2005, even while acquitting A3 and

A4, convicted these petitioners for offences u/s.420 and 478 IPC and sentenced them to 1 year R.I. for each offence and also directed payment of fine of Rs.1,000/- for each offence, i/d one month S.I. Against their conviction, these petitioners preferred C.A.No.360 of 2005, which came to be dismissed by learned VII Additional Sessions Judge, Chennai, under judgment dated 26.10.2010. Hence, these Revisions.

6. Heard learned counsel for petitioners and learned Additional Public Prosecutor and perused the materials on record.

7. The entire prosecution case has suffered a death blow through the evidence of PW-8 in chief. His evidence as translated reads as follows:-

> "I am residing at No.16, Nerkundram 1st Cross Street, Vadapalani. Guruvayurappan Gas Agency is situated at No.8, Alagesan Nagar, West Street, Vadapalani, Chennai. I am acting as an Agent of Indian Gas Agency since 1985. This Company is situated at the junction of Gangaiamman Koil Street. One Seetha worked in our Company. Seetha is the accused. One Suryapriya and Baskaran, Assistant/Godown Keeper and Pandiyan and Baskar were working along with her. Sankar was working as a Mechanic. Ramamoorthy, Anandan, Raghupathy, Radhakrishnan, Kumar and Murugan were working as delivery boys. Since I am suffering from Spinal Cord problem, accused Seetha was administering the Company as a Manager. Seetha has taken care of enrollment and termination of customers. Seetha used to sign in the termination vouchers. Suryaprabha used to sign in the termination vouchers in the absence of Seetha and in the subscription vouchers. At the time of enquiry by police, termination vouchers were confirmed. I came to know through police that the confirmation vouchers have not been issued by the Distributors. Subscription vouchers were issued for the same by Seetha, Manager. Based on that, new connection was given to customers. These new connections were obtained through fabricated documents. When I enquired the customers, they informed that they have given sums of Rs.4,000/- and Rs.5,000/- to Sankar, Raghupathy and Seetha and obtained connections. Termination Voucher No.072012 dated 09.04.1996 were issued by Saithanya Enterprises, Bharathi Gas Distributors, Mutharampak, Hyderabad, in the name of Saratha, to our company. This was given by the customer itself. When police enquired, I informed that I used to give confirmation to distributors, who

gave transfer vouchers. On receipt of original, subscription will be given. Immediately, we will give consumer number and subscription to customers. Termination Voucher No.072012 is Ex.P5. Likewise, T.V.No.072012 dated 09.01.1996 is Ex.P6. We receive Ex.P5, take xerox copies, forward the same to Saithanya Enterprises and obtain confirmation from such company. After getting confirmation, we will give subscription voucher and consumer number. Ex.P7 is the subscription voucher for Exs.P5 and P6. Likewise, one Prithouse has given Ex.P3 to me. Subscription voucher for Ex.P3 is S.V.No.3122544 dated 20.02.1996. Ex.P8 - T.V.No.293851 dated 02.04.1996 belongs to one Anuradha. This letter was given by Anuradha. Ex.P9 - Subscription Voucher No.3241988 has been given Anuradha. On receipt of Ex.P2 - Termination Voucher, Ex.P1 - Subscription Voucher was given to Sivakumar. The Termination Voucher given P.N.Premchand, Nehru Nagar, Hyderabad, is Ex.P10. Ex.P11 is another Termination Voucher given by Premchand. Ex.P12 is the Subscription Voucher given to Premchand. Ex.P13 is the Termination Voucher given by R.Stella and Ex.P14 is the subscription voucher for the same. Ex.P15 is the Termination Voucher given by A.Prasath and Ex.P16 is the subscription voucher for the same. Ex.P17 - termination voucher belongs to A.Jayalakshmi. Ex.P18 - termination voucher form given by Komalavalli and Ex.P19 is the subscription voucher form issued by us. The above stated termination vouchers have been sent to concerned companies for verification and on obtaining confirmation, subscription vouchers have been given by Manager Seetha. These documents were given to police by me. Police enquired me."

8. In view of the above unrebutted evidence of PW-8, these Criminal Revisions shall stand allowed.

kmi

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

To
1.The VII Additional Sessions Judge,
Chennai.

2.The Additional Chief Metropolitan Magistrate,
Egmore, Chennai.

3.The Chief Metropolitan Magistrate,Egmore ,Chennai

4. The Inspector of Police,
Crime Branch CID Head Quarters,
Chennai-600 002.

5.The Public Prosecutor, High Court, Madras.

+1cc to Mr.K.Balu , Advocate SR.No. 62623
+1cc to Mr.Ganesh Rajan , Advocate SR.No. 62189

Crl.R.C.Nos.216 of 2011
and 1139 of 2010

ASK(30/10/2018)