

Bail Slip

Crl.R.C.501/2010

The petitioners/Appellants/Accused/and 2 (viz).(1) amachandran, Male, Aged, 35 years, S/o. Krishna Gounder and (2) Selvaraj, Male, Aged 40 Years, S/o. Subbaiah, were directed to be released on bail by the order of this court dated 23.12.2010 and 04.01.2011 in Crl.MP.No.13/2010 in Crl.R.C.No.501/2010 and Modified the condition by the order of this court dated 06.08.2013 in Crl.MP.No.1/2013 in Crl.R.C.NO.501/2010 respectively.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.01.2017

CORAM

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

Crl.R.C.Nos.501 and 897 of 2010

1. Ramachandran
2. Selvaraj

...Petitioners in Crl.R.C.501/10/
Appellants/Accused 1 and 2

Subramanian @ Moorthy @
Alukkan

...Petitioner in Crl.R.C.897/10/
Appellant/Accused 3

Vs.

State represented by
Inspector of Police,
Sathyamangalam Police Station,
Erode District.

(Crime No.884/2008)

...Respondent in both Crl.R.Cs./
Respondent/Complainant

Prayer in Crl.R.C.No.501 of 2010:- Criminal Revision Petition has been filed under Section 397 & 401 Cr.P.C., to set aside the judgment and conviction dated 21.04.2010 and made in C.A.No.319/2008 on the file of the Additional District and Sessions Court (Fast Track Court No.2), Gobichettipalayam confirming the judgment and conviction dated 18.12.2008 and made in S.C.no.175/2008 on the file of the First Additional Assistant Sessions Court, Gobichettipalayam.

For Petitioners : Mr.T.Munirathina Naidu
For Respondent : Mrs.M.F.Shabana
Government Advocate
(Criminal Side)

Prayer in Crl.R.C.No.897 of 2010:- Criminal Revision Petition has been filed under Section 397 & 401 Cr.P.C., against the judgment dated 21.04.2010 passed in C.A.No.177/2009 on the file of the Additional District and Sessions Judge, Fast Track Court No.2 Gobichettipalayam, confirming the judgment of conviction dated 18.12.2008 in S.C.No.175/2008 on the file of the 1st Additional Assistant Sessions Court, Gobichettipalayam and set aside the same and to acquit the accused A3 and set the revision petitioner at liberty.

For Petitioner : Mr.Samy Chinnapilla
For Respondent : Mrs.M.F.Shabana
Government Advocate
(Criminal Side)

COMMON ORDER

Accused 1 and 2 in S.C.No.175 of 2008 on the file of the learned first Additional Assistant Sessions Court, Gobichettipalayam, are the petitioners in Crl.R.C.No.501 of 2010. Accused-3 in the above case is the petitioner in Crl.R.C.No.897 of 2010. Accused 1 and 2 have been charged for the offences under Section 489(c) IPC, and the third accused has been charged under Section 489(c) r/w 109 IPC. The trial Court convicted all the three accused and sentenced them to undergo seven years rigorous imprisonment. Challenging the above said conviction, accused 1 and 2 have jointly filed an appeal in Crl.A.No.319 of 2008 and accused 3 has filed an appeal in Crl.A.No.177 of 2009, before the learned Additional District and Session Judge, Gobichettipalayam. The appellate Court has separately delivered the judgment by dismissing both the appeals and thereby confirming the conviction and sentence imposed by the trial Court. Challenging the above said conviction and sentence of the Courts below, the above criminal revision petitions have been filed.

2. The case of the prosecution is briefly as follows :-
P.W.1 is the Sub-Inspector of Police working in the Sathyamangalam Police Station. P.Ws.2 and 3 are the Constables working at the same Police Station. On 04.12.2006, at about 2 p.m all the three witness were engaged on vehicle check up duty. On suspicious they stopped a Maruthi van bearing registration No. TN33AD1454, in which the accused 1 and 2 were travelling and it was driven by the third accused-Subramanian. On seeing the police the third accused left the van and ran away from the

scene of occurrence. On searching the vehicle, they found the cell phone and driving licence of the driver Subramanian. They also found that the first accused was in possession of Rs.500/-denominated counterfeit currency notes 26 in number, and Rs.1,000/- denominated counterfeit notes 2 in numbers, totalling Rs.15,000/- and the second accused was found in possession of Rs.500/- denominated counterfeit notes 20 in numbers and Rs.1,000/- denominated counterfeit notes 5 in numbers, totalling Rs.15,000/-. P.W.1-Sub Inspector of police has seized the vehicle and prepared mahazar and filed a special report, before the P.W.6-the Inspector of Police and handed over the accused 1 and 2 along with the counterfeit currency notes. Based on the special report P.W.6 registered a criminal case in Crime No.884 of 2006, for the offences under Section 489(c) IPC and he commenced the investigation. Accused 1 and 2 were arrested and on such arrest, both the accused voluntarily gave confession statements. On the basis of the disclosure statement given by the first accused, the P.W.6 has recovered 20 numbers of Rs.500/- denominated currency counterfeit notes from his house and on the basis of disclosure statement of the second accused, he recovered 30 numbers of Rs.500/- denominated counterfeit notes, which were seized under a Mahazar. He prepared the Observation Mahazar and Rough Sketch also. Then he send the Material Objects to the learned Judicial Magistrate, Sathyamangalam, and handed over the case to P.W.7. P.W.7 after obtaining the report from the forensics lab, he filed a charge sheet.

3. Based on the materials, the trial Court framed the charges as mentioned above and the accused denied the same. For proving the prosecution case, 7 witnesses were examined and 12 exhibits were marked and 11 material objects were produced.

4. Out of the witness examined by the prosecution, P.W.1 is the Sub-Inspector of police from the respondent police station. According to him on the date of occurrence ie., 04.12.2006 at about 2p.m., he along with P.Ws.2 and 3 were on the vehicle inspection and on suspicious, they stopped a Maruthi van driven by third accused, on seeing them he ran away. Accused 1 and 2 were sitting in the vehicle and on searching, they found the first accused was in possession of Rs.500/- denominated counterfeit notes 26 in numbers and Rs.1,000/- denominated counterfeit notes 2 in numbers, totalling Rs.15,000/- and the second accused was found in possession of Rs.500/- denominated counterfeit notes 20 in numbers and Rs.1,000/- denominated counterfeit notes 5 in numbers, totalling Rs.15,000/-. They also seized the cell phone and driving licence of the third accused under the Mahazar, and prepared an Observation Mahazar and handed over the accused along with a report to P.W.6, the Inspector of Police.

5. P.W.2 is the Constable working in the respondent police station. He has deposed that on 04.12.2006, he was on the vehicle inspection duty with P.Ws.1 and 3. On suspicion, they stopped a Maruthi Van bearing registration No.TN 33 AD 1454 driven by the third accused and the third accused ran away from the vehicle. On searching the first and second accused, they found the counterfeit currency notes and seized the same under the Mahazar. P.W.3 is the another Constable working in the respondent police station. He has also reiterated the evidence of P.Ws.1 and 2. P.W.5 is the Scientific Assistant working in the Forensic Department and examined the currency notes seized from the accused and gave an opinion that all the notes were counterfeit notes. P.W.4 is the Village Administrative Officer who is the witness to the confession statements and the recovery of counterfeit notes from the accused 1 and 2. P.W.6 is the Inspector who has recorded the confession statement and handed over the investigation to P.W.7 and P.W.7, completed the investigation and filed the charge sheet.

6. When the above incriminating materials were put to the accused under Section 313 of Cr.P.C., they denied the same as false. However, they have not examined any witness nor marked any documents.

7. Considering the materials, the trial Court convicted all the accused as stated above. Challenging the above said conviction, the accused has filed two appeals and the appellate Court has also dismissed both the appeals confirming the conviction and sentence of the lower Court. Challenging the above, the petitioners are before this Court with these revision petitions.

8. I heard Mr.T.Munirathina Naidu, learned counsel for the accused 1 and 2 and Mr.Samy Chinnapilla, learned counsel for the third accused and Mrs.M.F.Shabana, learned Government Advocate appearing for the respondent.

9. From the evidence of P.W. 1, 2 and 3, it is seen that on searching the Maruthi van driven by third accused, in which the first and second accused were traveling, P.W.1, seized the counterfeit notes from the first and second accused. The third accused ran away from the scene. P.W.1 had also seized the driving licence and cellphone of the third accused from the van. Thereafter P.W.1 handed over the accused along with the materials before his superior. On the basis of confession statement given by the first and second accused some counterfeit notes have also been recovered from the houses of accused 1 and 2, and the currency notes were sent for examination. P.W.5 is the Scientific Officer working in the Forensic Lab, who examined the currency notes seized from the accused and gave the opinion

that they are counterfeit notes.

10. In the above circumstances, the prosecution has proved that the accused 1 and 2 were in possession of the counterfeit notes and they have implicated the third accused was owner of the Maruthi Van and they received the counterfeit notes from a third party. All the accused were traveling in the Maruthi van which belongs to the third accused, from available evidence the prosecution has clearly established that accused 1 and 2 were in the possession of counterfeit currency notes. Considering the above materials, both the Courts below concluded that the prosecution has proved the case and convicted the accused. I find no reason to interfere with the conclusion and there is no illegality or perversity in the judgment of the Courts below.

11. So far as the third accused is concerned, he was the owner of the Maruthi van and P.W.1 has also seized the cell phone and copy of the driving license of the third accused from the van. The first and second accused has also given a confession statement that it is only the third accused took them to third party where they received the counterfeit notes. Even though the confession is not substantial evidence against the third accused, considering all the materials that the vehicle belongs to the third accused and all the accused were traveling in the van and when the van was stopped by the P.Ws.1 to 3, the third accused ran away from the scene of occurrence, the Courts below has convicted the third accused also under Section 489(c) r/w 109 IPC . I find no perversity in the orders passed by the Courts below, hence the conviction is liable to be confirmed.

12. So far as the sentence imposed on the petitioners is concerned, the trial Court has imposed the maximum punishment of seven years to all the accused. Taking into consideration of the fact that all the petitioners are poor persons and have no bad antecedents and considering all the above mitigating circumstances the sentence imposed on the petitioners/accused is modified into Rigorous Imprisonment for one year.

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13. In the result, the Revision Petition is partly allowed and the conviction of the first and second accused under Section 489(c) IPC is confirmed and the conviction of the third accused under Section 489(c) r/w 109 IPC is also confirmed. However the sentence imposed on the petitioners is modified into Rigorous Imprisonment for one year, and the period already undergone should be given setoff under Section 428 Criminal Procedure Code.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

rts

To

1. The Additional District and Sessions Judge (Fast Track Court No.2),

Gobichettipalayam

2. The First Additional Assistant Sessions Judge, Gobichettipalayam.

3 Thro The Principal District and Sessions Judge, Erode

4 The Judicial Magistrate, Sathyamangalam

5 The Chief Judicial Magistrate Erode

6 The Officer incharge, Sub Jail, Sathyamangalam

7 The Superintendent, Central Prison, Coimbatore

8. The Inspector of Police,

Sathyamangalam Police Station, Erode District.

9 The Section Officer, Crl.Section, High Court, Madras

10 The Director General of Police

Mylapore, Chennai 4

11. The Public Prosecutor,

High Court, Madras.

+1cc to Mr.Samichinnapillai, Advocate, S.R.No.1519

+2cc to Mr.R.T. Doraisamy, Advocate, S.R.No.1058

GR(CO)

md(06/02/2017)

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