

Bail Slip

Crl.A.No.773 of 2007

The Petitioner/Accused No.7 viz., namely K.Harish, S/O Janaka Rao, be and hereby is directed to released on bail dated 30.8.07 made in Crl.M.P.No.1/2007 in Crl Appeal No.773/07 on the file of this Court.

Crl.A.No.777 of 2007

The Petitioner/Accused No.8 Viz., namely Mathivanan, S/O.Jayaraman, be and hereby is directed to released on bail dated 30.08.2007 made in Crl.M.P.No.1/2007 in Crl A No.777/07 on the file of this Court.

Crl.A.799 of 2007

The Petitioner/Accused No.5 Viz., namely Krishnan, S/O Manickam be and hereby is directed to released on bail order dated 30.8.07 made in Crl MP No.1/2007 in Crl A.No.799/2007 on the file of this Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.01.2017

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

Criminal Appeal Nos.773, 777 and 799 of 2007

K.Harish ... Appellant/A7 in
Crl.A.773/2007

Nondi Ganapathy (died)

Mathivanan ... Appellants/A8 in
Crl.A.777/2007

Krishnan ... Appellant/A5 in
Crl.A.799/2007

Vs

State rep. By
The Inspector of Police,
Crime Branch C.I.D.,
Counterfeit Currency Wing,
Chennai-4

... Respondent/Complainant
in all Crl.As.

Prayer in all Crl.As:- Criminal Appeals filed under Section 374(2) of Cr.P.C., to set aside the judgment passed in S.C.No.132 of 1998 dated 18.08.2007 by the VII Additional Sessions Judge, Chennai.

For Appellants in all Crl.As: Mr.S.Karthikeyan

For Respondent in all Crl.As: Mrs.M.F.Shabana,
Gov. Adv. (Crl. Side)

COMMON JUDGEMENT

A2, A5, A7 and A8 in S.C.No.132 of 1998 on the file of the learned VII Additional Sessions Judge, Chennai are the appellants herein. Totally, there are 10 accused. The case against A6 & A9 was split up. A1 stood charged for the offences under Sections 120(b) and 489 IPC, A2 stood charged for the offences under Sections 120(b), 489-b (2 counts) and 489-C. A3 stood charged for the offences under Sections 120(b), 489-b r/w.109, 489-c IPC. A4 stood charged for the offences under Sections 120(b), 489-b, 489-c IPC. A5 stood charged for the offences under Sections 120(b), 489-b, 489-c IPC. A7 stood charged for the offences under Sections 120(b), 489-b, 489-c IPC. A8 stood charged for the offences under Sections 120(b), 489-b(2 counts), 489-c IPC and A10 stood charged for the offences under Sections 120(b), 489-b(2 counts) IPC. The trial Court, by judgment dated 18.08.2007, convicted A2, A5, A7 and A8 under Section 489-C IPC, and sentenced them to undergo rigorous imprisonment for 5 years, and the trial court acquitted them from the other charges levelled against them. Challenging the same, A7 filed an appeal in Crl.A.No.773 of 2007, A2 & A8 filed an appeal in Crl.A.No.777 of 2007 and A5 filed an appeal in Crl.A.No.799 of 2007.

2. Pending appeals, the first appellant/A2 in Crl.A.No.777 of 2007 died and hence, the appeal against A2 was dismissed as abated.

3. The case of the prosecution, in brief, is as follows:-

On 05.01.1991, at about 7.30 p.m., P.W.10, Inspector of Police, Veppery police station, while on patrol, on suspicion interrogated A4 and he admitted that he was involved in exchange of fake currencies of Rs.10/- denomination and on search, he found 10 numbers of counterfeit currency notes of Rs.10/- denomination and recovered the same under Ex.P.1 Mahazar. A4 identified A3 and A5 and from them, P.W.10 recovered 100 numbers of counterfeit currency notes of Rs.10/- denomination, and 52 numbers of counterfeit currency notes of Rs.10/- denomination from them respectively, and he registered a case in Crime No.13/1991 on the file of the G1, Veppery Police Station for an offence under Section 489-C IPC.

4. After registering the complaint, during investigation, P.W.10 arrested A6 & A7 and recovered 75 numbers of counterfeit currency of Rs.10/- denomination from A6 and recovered 85 numbers of counterfeit currency notes of Rs.10/- denomination from A7, under Mahazar, Ex.P4. Subsequently, on 09.01.2001, when the Inspector of Police, Secretariat Colony Police Station, on patrol, arrested A10 and recovered one number of counterfeit currency of Rs.10/-, denomination from her and registered a case in Crime No.25/91 for an offence under Section 489-B. During investigation, he came to know about the involvement of A8 and A9 and arrested them and recovered 26 numbers of counterfeit currency of Rs.10/- denomination from A8 and recovered 43 numbers of counterfeit currency of Rs.10/- denomination from A9. Then, he transferred both the cases to the respondent police and they have arrested A1 and A2.

5. Thereafter, P.W.11, then Inspector of Police, attached to the respondent police, continued further investigation and after obtaining a report from the Government Currency Notes Press, Nasic, he filed a final report against the accused.

6. Based on the above materials, the trial Court framed the charges as detailed in the first paragraph of this judgment against the accused. The accused denied the same. In order to prove the case of the prosecution, on the side of the prosecution, as many as 11 witnesses were examined and 16 documents were exhibited, besides 9 material objects were marked.

7. Out of the witness examined, P.W.1 is the witness to the seizure and recovery of the counterfeit currency notes from A3 and A4. P.W.2, who is a witness to the confession of A10 and recovery of the counterfeit currency note from A10, and turned hostile. P.W.3 and P.W.4, are the witnesses to the recovery of

counterfeit currency notes from A8. P.W.5 and P.W.6, who are also witnesses to the recovery of counterfeit currency notes from A10 & A2, have turned hostile. P.W.7, is a witness to the recovery of counterfeit currency note from A2.

8. P.W.8, Inspector of Police, attached to the Secretariat Colony Police Station, has spoken about the arrest of A8, A9 and A10 and also the recovery of counterfeit currency notes from them. P.W.9, Inspector of police, attached to the respondent police station, took the case for further investigation and sent requisition to the Judicial Magistrate for sending the counterfeit currency notes for examination to the Currency Note Press, Nasik. P.W.10, Inspector of Police, attached to the G1, Veppery Police station, has spoken about the arrest of A3 to A7 and the recovery of counterfeit currency notes from them. P.W.11, then Inspector of Police, attached to the respondent police, conducted further investigation and on completion of investigation, he laid charge sheet against the accused.

9. When the above incriminating materials were put to the accused under Section 313 Cr.P.C., they denied the same as false. However, they did not examine any witness or marked any documents.

10. Having considered all the above materials, the trial Court convicted the appellants/accused as stated in the first paragraph of this judgment. Challenging the same, the appellants/accused are before this Court with these Criminal Appeals.

11. Pending appeals, first appellant/A2 in CrI.A.777 of 2007 died and only appellants/A5, 7, & 8 are prosecuting the appeals.

12. Mr.S.Karthikeyan, learned counsel appearing for the appellants would submit that the counterfeit currency notes alleged to have been seized from A5, A7 and A8, were not sent for examination to the Government Press, Nasik, and the prosecution failed to prove that the currency notes which were recovered from the accused were counterfeit currency. In absence of any proof that the currency notes which were recovered from the accused are counterfeit notes, they cannot be convicted under Section 498-C IPC.

13. Per contra, Mrs.M.F.Shabana, learned Government Advocate(Crl. Side), appearing for the respondent would submit that all the currency notes were sent for chemical examination before the Government Press, Nasik, and report has also been received to that effect, and based on that, the trial court convicted the accused and there is no reason to interfere with the judgment of the trial Court.

14. I have considered the rival submissions and also perused the records carefully.

15. So far as A5 is concerned, 52 numbers of currency notes of Rs.10/- denomination were seized from him under Mahazar, Ex.P.2, 85 numbers of counterfeit currency notes of Rs.10/- denomination were seized from A7, under Mahazar, Ex.P.4, and 26 numbers of counterfeit currency notes of Rs.10/- denomination were seized from A8, under Mahazar, Ex.P.5. Eventhough the investigating officer had filed a memo to send all the currency notes of Rs.10/- denomination for chemical examination to Currency Note Press, Nasik,(Ex.P.12), only two numbers of currency notes of Rs.10/- denomination were sent for chemical examination, which were not seized from these appellants.

16. So far as A8 is concerned, eventhough a requisition said to have been sent by the learned Judicial Magistrate to the Currency Note Press, Nasik, the requisition letter was not marked and the report received from the Currency Note Press, Nasik, also did not contain any details regarding the currency note numbers.

17. In the above circumstances, absolutely, there is no material available on record to show that the currency notes seized from the accused were sent for examination to the Currency Note Press, Nasik to prove that the currency notes, recovered from the accused are counterfeit notes. Hence, I am of the considered opinion that the prosecution has failed to prove that the currency notes, which alleged to have been recovered from the appellants are counterfeit notes. In the absence of any proof of possession of counterfeit currency notes, the appellants cannot be convicted under Section 489-C IPC. Hence, they are entitled for acquittal.

18. In the result, the Criminal Appeals are allowed and the conviction and sentence imposed on the appellants/accused by the learned VII Additional Sessions Judge, Chennai in S.C.No.132/1998, dated 18.08.2007 are hereby set aside. Bail bond, if any, shall stand cancelled. Since the first appellant/A2 in CrI.A.777 of 2007 died, CrI.A.777 of 2007 shall stand abated as against the first appellant/A2.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

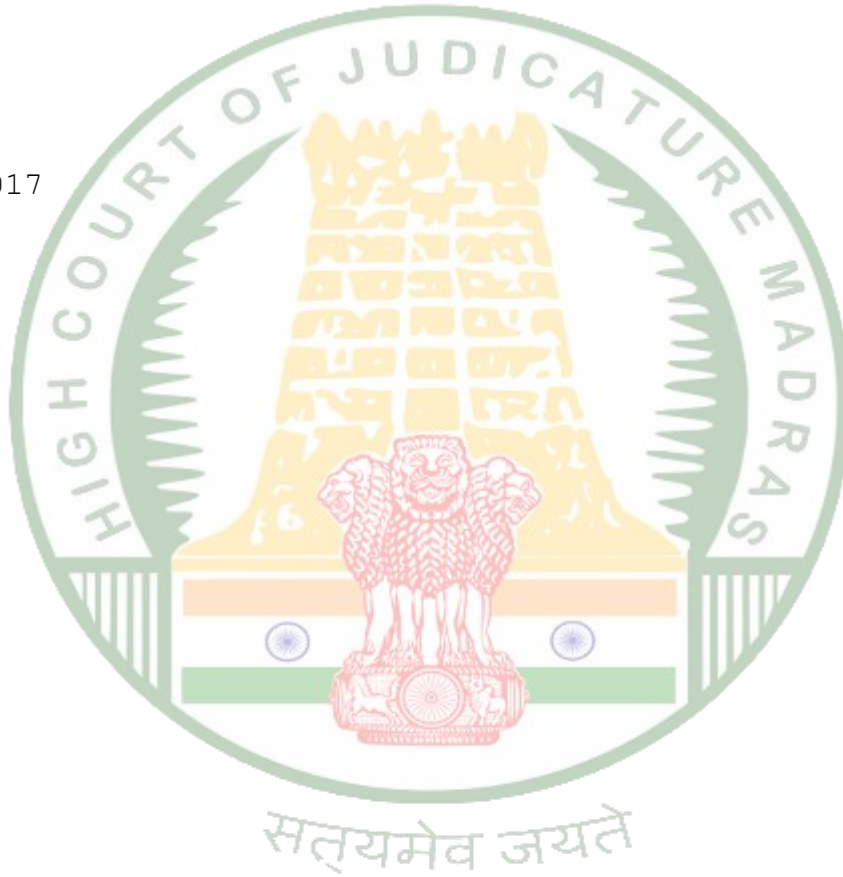
1. The VII Additional Sessions Judge,
Chennai.
2. The Additional Chief Metropolitan Magistrate,
Egmore, Chennai-8.
- 2.a.The Principal Sessions Judge,
Chennai- for Information)
3. The Public Prosecutor,
High Court, Madras.
4. The Inspector of Police,
Crime Branch C.I.D.,
Counterfeit Currency Wing,
Chennai-4.
5. The Superintendent,
Central Prison,
Puzhal, Chennai.
6. The Inspector of Police,
G1, Vepery Police Station,
Chennai.
7. The District Collector,
Chennai.

8. The Director General of Police,
Mylapore, Chennai-4.

+1cc to Mr.S.Karthikeyan, Advocate Sr.4664

Crl.A.Nos.773,777 & 799 of
2007

kj[co]
srg 9/3/2017



WEB COPY