

Bail Slip

The Petitioner/Sole accused namely Srikumar S/o Fredrick directed to be released on bail as per order of this court dated 29/04/2013 made in CrI.MP.No.1/13 in Cr.R.C.No.603/13, on the file of this court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.09.2018

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

CrI.R.C.No.603 of 2013

Sri Kumar

...Petitioner/Accused

Vs.

State represented by
Inspector of Police,
G-1 Police Station,
The Nilgiris District,
(Crime No.306 of 2009)

...Respondent/Complainant

This Criminal Revision filed under Section 397 and 401 of Code of Criminal Procedure against the order passed in C.A. No.10 of 2011 by order dated 12.03.2013 on the file of the Learned Sessions Judge, The Nilgiris, Udagamandalam confirming the conviction and modifying the sentence passed in C.C.No.143 of 2009 by order dated 28.07.2011 by the Learned Judicial Magistrate, Udagamandalam and set aside the same.

For Petitioner : M/s.C.Ramkumar

For Respondent : Mr.R.Ravichandran
Govt. Advocate (CrI.Side)

O R D E R

The Criminal Revision Case has been filed to set aside the order passed in C.A. No.10 of 2011 by order dated 12.03.2018 on the file of the Learned Sessions Judge, The Nilgiris, confirming the conviction and modifying the sentence passed in C.C.No.143 of 2009 by order dated 28.07.2011 by the Learned Judicial Magistrate, Udagamandalam.

2. The case of the prosecution is that the revision petitioner alleged to have trespassed into the house on 24.09.2009 around 2.00 am and committed theft of copper wire,

pipe, water metre, EB metre worth about Rs.3,000/-. Therefore, the respondent police filed a case against the revision petitioner in Crime No.306 of 2009. After conducting investigation, the respondent police laid the charge sheet against the revision petitioner for the offences under Sections 457 and 380 of IPC. After filing of charge sheet, the revision petitioner was tried before the Judicial Magistrate, Udagamandalam in C.C.No.143 of 2009 and on 28.07.2011 the learned Magistrate convicted the petitioner and sentenced to undergo two years rigorous imprisonment for the offence under Sections 457 (1) and 380 of IPC each and also ordered to pay a fine of Rs.5,000/- for each offence, in default to undergo six month rigorous imprisonment for the each offences under Sections 457 (1) and 380 of IPC.

3. Aggrieved by the above judgment, the revision petitioner preferred an appeal before the learned Sessions Judge, The Nilgris in C.A.No.10 of 2011.

4. During trial, to prove the case of the prosecution, on the side of the prosecution six witnesses P.W's.1 to 6 were examined, eight documents Ex's.P.1 to 8 and five material objects M.O's.1 to 5 were marked. No oral and documentary evidence has been placed on the side of the revision petitioner.

5. After completing trial and considering the facts and circumstances of the case, the learned Sessions Judge, The Nilgris, confirmed the conviction for the offences under Sections 457 (1) and 380 of IPC but modified the sentence to undergo six months rigorous imprisonment instead of two years rigorous imprisonment and fine amount of Rs.5,000/- in default to undergo 3 months rigorous imprisonment each for the offences of 457 (1) and 380 of IPC.

6. Against the Judgment of the learned Sessions Judge, The Nilgris, in C.A.No.10 of 2011 dated 12.03.2013, the revision petitioner has preferred the present Criminal Revision Case.

7. The learned counsel for the revision petitioner would submit that there was a delay in filing the FIR. It was not properly explained on the side of the prosecution. Further the mahazar witnesses have not at all supported the case of the prosecution and the finger prints has not tallied with the revision petitioner and there is no proof to show that the properties were belong to E.B.department. Moreover, the respondent police has foisted a false case against the revision petitioner. He would further submit that the respondent police has fixed the accused and foisted a false case and they filed the charge sheet without conducting any investigation. For statistical purpose, the revision petitioner was dragged into this case. Therefore, Judgment passed by both the Courts below is liable to be set aside.

8. Mr.R.Ravichandran, the learned Government Advocate (Criminal Side) would submit that the revision petitioner is a habitual offender and he has got other previous cases and convicted in three cases. On reading of the evidences and witnesses, it has been clearly proved by the prosecution that the revision petitioner has committed offence under Sections 457 and 380 of IPC.

9. Heard both sides and perused the materials available on record.

10. Being the Revision Court, this Court cannot sit in the arm chair of the Appellate Court and re-appreciate the entire evidences and materials available on record. However, this Court has to find out the perversity in the judgment passed by the learned Sessions Judge, The Nilgiris, in C.A.No.10 of 2011 dated 12.03.2013. This Court perused the judgment passed by the trial court as well as the Appellate Court and oral and documentary evidence. This Court does not find any perversity in the judgment passed by the learned Sessions Judge, The Nilgiris. There is no merit in the revision and there is no sound reason to interfere with the Judgment of conviction passed by the Courts below. Since the Appellate Court has showed its leniency and modified the sentence, this Court does not find any mitigating circumstances to modify the sentence.

11. Therefore, the Criminal Revision Case is dismissed.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

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To

1. The Judicial Magistrate, Udagamandalam
2. - do - through' The Chief Judicial Magistrate, The Nilgiris
- 3 .The Learned Sessions Judge, The Nilgiris
4. The Principal Sessions Judge, Nilgiris
5. The Inspector of Police, G-1 Police Station,
The Nilgiris District.

6. The Public Prosecutor, High Court of Madras.
 7. The Section Officer, Criminal Section, High Court, Madras.
 8. The Superintendent of Police, The Nilgiris District
- +1cc to Mr.C.Ramkumar, Advocate SR.No.67608

Cr1.R.C.No.603 of 2013

SKV (CO)
GMY (13/12/2018)



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