

BAIL SLIP

The Petitioners/Accused 2, 3 and 5 namely 1) Krishnappa S/o.Giriyappa aged 44 years 2) Rajappa S/o.Arulathappa aged 38 years 3) Muthappa S/o.Erappa aged 63 years are directed to be released on bail in CrI.M.P.No.1 of 2013 in CrI.R.C.No.976 of 2013 order dated 26/09/2013 by this Hon'ble Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.09.2018

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

CrI.R.C.No.976 of 2013

1. Krishnappa
2. Rajappa
3. Muthappa ...Petitioners/Accused 2, 3 and 5

Vs.

State by
The Sub Inspector of Police,
Bagalur Police Station,
Krishnagiri District
(Crime No.244/1998) ...Respondent / Complainant

This Criminal Revision filed under Section 397 and 401 of Code of Criminal Procedure to set aside the Judgment made in C.A. No.12 of 2009 on the file of the District and Sessions Judge, Krishnagiri dated 18.01.2012 confirming the Judgment made in C.C.No.32 of 1999 on the file of the Judicial Magistrate No.1, Hosur dated 31.03.2009 and acquit the accused.

For Petitioners : M/s. M.Easan

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

O R D E R

The Criminal Revision Case has been filed by the revision petitioners to set aside the judgment made in C.A.No.12 of 2009 on the file of the learned District and Sessions Judge, Krishnagiri dated 18.01.2012 confirming the judgment made in C.C.No.32 of 1999 on the file of the learned Judicial Magistrate No.I, Hozur dated 31.03.2009.

2. The case of the prosecution is that the defacto complainant - P.W.4 made a complaint before the respondent police, against the revision petitioners and 2 other persons, that they cheated the defacto complainant and received a sum of Rs.5,000/- from him. For which the respondent police registered the complaint in Crime No.244 of 1998 and conducted investigation. After completion of investigation the respondent police laid final report and the same was taken on file of the learned Judicial Magistrate No.I, Hosur in C.C.No.32 of 1999.

3. During the trial, as many as 5 witnesses, P.W's.1 to 5 were examined; 11 documents Ex's.P.1 to 11 were marked; 3 material objects M.O's.1 to 3 were marked.

4. After giving due opportunity to both sides, convicted the petitioners for the offence under Section 420 of IPC and each of them are sentenced to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.500/- in default to undergo rigorous imprisonment for one month.

5. Further the conviction and sentence of the trial Court is confirmed by the Appellate Court - Principal District and Sessions Judge, Krishnagiri in C.A.No.12 of 2009 on 18.01.2012. Hence, the revision petitioners are before this Court with the Criminal Revision Case.

6. The learned counsel appearing for the revision petitioners would submit that the defacto complainant - P.W.4, in his evidence, he has clearly stated that A1 alone committed the offence, who is the absconding accused and also the defacto complainant never knew even the name of the revision petitioners. The same was elicited during cross examination. The material objects recovered during investigation were not marked through the Investigating Officer. Further, there are several infirmities and inconsistencies found in the prosecution evidence. It is contended that there are material contradictions between the evidence of the prosecution witnesses. Further the prosecution has not proved its case beyond all reasonable doubt. The learned Judicial Magistrate No.I, Hozur, recorded the conviction based only on the confession statement recorded by the police. Further, the mahazar witnesses have not supported the confession statement. Therefore, the confession statement is not proved in the manner known to law and it is not admissible. Based on the confession statement, the conviction recorded is against law. Which warrants interference of this Court.

7. The learned Government Advocate (Criminal Side) appearing for the respondent would submit that the defacto complainant - P.W.4 has clearly narrated the occurrence before the trial Court. FIR was registered on 28.06.1998. The respondent police conducted investigation and arrested the accused - Rajappa on the same day. Further they recovered money from the accused. Though the mahazar and recovery witnesses have not supported the case of the prosecution, they have admitted the signatures found in the observation mahazar and recovery mahazar. It is a well settled proposition of law that FIR is not an encyclopedia. It is only a mode of information recording the offence. Mere non mentioning of particulars in the F.I.R., may not vitiate the case of the prosecution. Which is not going into the root of the case and it is not at all fatal to the prosecution. Therefore there is no reason to interfere in the conviction recorded by both the Courts below. Which do not warrant interference of this Court.

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

9. 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 District and Sessions Judge, Krishnagiri, in C.A.No.12 of 2009 dated 18.01.2012. 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 District and Sessions Judge, Krishnagiri. 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.

10. Accordingly, the Criminal Revision Case is dismissed.

Sd/-
Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

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To

1. The District and Sessions Judge, Krishnagiri
2. The Judicial Magistrate No.I, Hosur.
3. The Chief Judicial Magistrate, Krishnagiri (for information)
4. The Public Prosecutor,
High Court of Madras.
5. The Sub Inspector of Police,
Bagalur Police Station,
Krishnagiri District.

copy to: The Section Officer,
Criminal Section, High Court, Madras.

Crl.R.C.No.976 of 2013

SJ(CO)
SSM(13/09/2019).



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