Bail Slip

The Appellants/Accused 1,2 and 3 namely 1.M.Arulraj, S/O Mookaiah @Savarimuthu, 2.Rajalingam, S/O Manickam, 3.Ashok Kumar S/O Marimuthu, were directed to be released on bail as per the order of this Court dated 28/10/2013 in Crl.M.P.No.1 of 2013 in Crl.A No.699 of 2013 on the file of this Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.09.2018

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.A.No.699 of 2013

1. M.Arulraj
2. Rajalingam
3. Ashok Kumar ...Appellants/Accused 1,2 & 3

Vs.

State represented by
The Inspector of Police,
Crime Branch CID,
Counterfeit Currency Wing,
Chennai.

...Respondent/Complainant

The Criminal Appeal is filed under Section 374(2) of Code of Criminal Procedure against the judgment of conviction dated 09.10.2013 passed in S.C.No.314 of 2008 by the learned V Additional Sessions Judge i/c of I Additional Sessions Court, Chennai.

For Appellants : Mr.N.R.Elango, Senior Counsel for Mr.S.T.Arulraj

For Respondent : Mr.R.Ravichandran Government Advocate (Crl.Side)

JUDGMENT

This criminal appeal has been filed against the judgment of conviction dated 09.10.2013 passed in S.C.No.314 of 2008 by the learned V Additional Sessions Judge i/c of I Additional Sessions Court, Chennai.

2 The Sub-Inspector of Police/P.W.1, on instructions from his superiors, he along with S.I.Kothandaraman, Head Constable Gr.I had gone to the place of occurrence. While, they watching the offenders near S.M.Lodge, Triplicane, Chennai, apprehended one Chinnappan and A1 Arulraj, who were standing in from the said Lodge. On interrogation, the accused Chinnappan admitted that he had counterfeit currency notes and produced the balance 28 counterfeit currency notes of from his underwear pocket in Rs.500 denomination have the same serial no.9 FH 285779. On interrogation with the first appellant/A1, he stated that he came to Chennai to circulate counterfeit currency notes and produced the counterfeit notes, which were kept in his shirt pocket. On verification all the accused were in possession of counterfeit currency notes. They further stated that they are friends and conspired themselves to earn money on shortcut method. All the accused had taken the counterfeit notes from one Kaladharan, who had printed the same at Namakkal. P.W.1 recorded confession statement from all the accused.

3 Hence a case had been registered in Crime No.5 of 2002 and FIR. After investigation, P.W.1 had forwarded all the recovered counterfeit currency notes, accused along with Form 95/Ex.P18 to the learned Additional Metropolitan Magistrate, Egmore, Chennai. Since the offences under Section 489 (B) (C) are triable by the Court of Sessions only, the learned Magistrate had committed the above case to the I Additional Court of Sessions, Chennai.

4 Before the trial Court, in order to prove the case of the prosecution, P.W.1 to P.W.9 were examined and Ex.P1 to Ex.P18 were marked and MOs 1 to 9 were produced. On the side of the accused D.W.1 to D.W.3 were examined and Ex.D1 was marked.

5 The trial Court after elaborate trial, found the accused guilty under Section 489 (C) r/w 120 (b) IPC and convicted them and sentenced to undergo five years rigorous imprisonment with fine of Rs.10,000/- each, in default, to undergo rigorous imprisonment for a further period of six months and they were acquitted as against the other charges levelled against them by judgment dated 09.10.2013.

6 Aggrieved against the judgment of conviction dated 09.10.2013, the convicts have preferred the present criminal appeal before this Court.

7 The learned Senior Counsel appearing for the appellants/accused would submit that there are contradictions in the evidences of prosecution witnesses P.W.1, 2, 3 and 7. P.W.1 stated that he recovered the counterfeit notes, whereas, P.W.2 & P.W.3, who were witnesses to the recovery, stated that P.W.7 only recovered and the above contradictions will go to the root of the case. In fact P.W.7 only made search and recovered counterfeit notes. Seizure of counterfeit currency notes had not been proved by the prosecution, since Mahazar for the same was not produced. Even assuming that possession has been proved, possession alone would not sufficient to convict under Section 489 IPC, the appellants/accused should have knowledge about the counterfeit currency notes and the they intend to use the same as genuine, are all facts to be proved by the prosecution by cogent evidences. In this case, there is no evidence to show that the appellants had knowledge about the counterfeit notes. Under this circumstances, prosecution had failed to establish its case beyond reasonable doubts. Further, confession statement recorded by the Police Officer, is not admissible evidence and it is hit by Section 25 of the Evidence Act. In support of his contentions, the learned Senior Counsel has relied on the decisions rendered by the Hon'ble Supreme Court reported in (2001) 9 Supreme Court Cases 642. Hence considering all the foregoing reasons, the appellants/accused are entitled for acquittal.

8 The learned Government Advocate (Crl.Side) appearing for the respondent Police would submit that P.W.2 and P.W.3 are independent witnesses for search and arrest of the accused. The evidence of the above independent witnesses corroborates the evidence of P.W.1, 5 and 6. P.W.5, who examined the counterfeit currency notes, had given report Ex.P6, which reveals that the recovered notes from the accused are fake. Ex.P2 is the seizure Mahazar, where the independent witnesses P.W.2 and P.W.3 were signed. Hence recovery has been clearly proved by the prosecution.

9 Further from the evidence of P.W.1 to P.W.7 and the documents along with material objects produced by the prosecution, it is very clear that prosecution had proved its case. Hence the learned Sessions Judge, had rightly appreciated the oral and documentary evidences produced by the prosecution and convicted the appellants, which does not warrants any interference of this Court.

10 It is the main contention raised by the learned Senior Counsel appearing for the appellants the all the counterfeit currency notes seized by the prosecution had not produced by the prosecution before the learned Magistrate and Mahazar was not produced. On a perusal of the evidences produced by the prosecution, it is very clear that soon after recovery before the independent witnesses P.W.2 and P.W.3, the Police had prepared Ex.P2/seizure mahazar and after investigation, all the recovered counterfeit notes and the accused had produced before the Magistrate and Magistrate also affixed his signature in Ex.P18 / Form 95.

11 Further it was stated by the learned Senior Counsel possession alone would not suffice to convict the appellants under Section 489 of IPC, the appellants should have knowledge about the counterfeit currency notes and they intend to use the same as genuine. On a perusal of the Admissible Portion of confession statement of the appellants/accused, Ex.P15, Ex.P16, it reveal that they themselves admitted that they were in possession of the counterfeit currency notes with clear knowledge and further they stated that they came to Chennai, to circulate the counterfeit notes in order to earn money in shortcut method.

12 The appellants, now where stated that they had no knowledge about the counterfeit notes and at the time of questioning under Section 313, they had clearly stated that they had clear knowledge of the counterfeit currency notes and further they stated that they came to Chennai, to circulate the counterfeit notes in order to earn money in shortcut method. From the above, it is very clear that the stand taken by the learned Senior Counsel appearing for the appellants, is after thought. If at all, the appellants had no knowledge about the counterfeit currency notes, they should have established the same before the trial Court, but, they failed to do for the reasons best known to them. Hence the authority cited by the learned Senior Counsel appearing for the appellants/accused would not applicable to the facts of the present case.

13 Further, the learned Senior Counsel argued that confession statement is not permissible evidence in law. No doubt, confession statement alone is not enough to punish the appellants, whereas in the present case on hand, recovery had been proved from the evidences of P.W.2 and P.W.3, independent witnesses. Seizure Mahazar/Ex.P2 also prepared and all the recovered counterfeit currency notes had been produced before

the Magistrate and Magistrate also affixed his signature, which acknowledge the production of all the relevant materials.

14 Though the learned Senior Counsel taken a stand that there are contradictions in the prosecution side evidences regarding recovery, P.W.1 in his evidence had clearly stated that he only recovered the counterfeit notes and P.W.7 also stated that he had not made any recovery. From the above it is clear that P.W.1 only recovered the counterfeit currency notes. The minor contradictions will not go to the root of the case, since recovery had been proved from the evidences of P.W.1 to P.W.3.

15 In the result, the criminal appeal stands dismissed. The judgment of conviction dated 09.10.2013 passed in S.C.No.314 of 2008, is hereby confirmed. The trial Court is directed to secure the accused to undergo remaining period of imprisonment, if any.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

1.The V Additional Sessions Judge,
I/C of the I Additional Sessions Court, Chennai.

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

3.The Chief Metropolitan Magistrate,
Egmore, Chennai.(For Information)

4.The Superintendent of Central Prison,
Puzhal, Chennai.

5.The Inspector of Police,
Crime Branch, CID,
Counterfeit Currency wing,
Chennai.

6.The Public Prosecutor,
High Court of Madras.

7.The Section Officer,
Criminal Records
High Court, Madras. (+2 Copies)

+1cc to Mr.T.Arulraj, Advocate Sr.61008

br[co]
srg 12/11/2018.