

Bail Slip

The petitioner herein/Accused, namely Karthikeyan @ Karthi, was directed to be released on bail, vide order made in MP.No.1 of 2013 in Crl.Rc.No.830 of 2013 dated 19.08.2013.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 17.09.2018

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.830 of 2013

Karthikeyan @ Karthi ...Petitioner/Accused

Vs.

The State Rep. by its,
The Sub Inspector of Police,
Thiruvarur Town Police Station,
Cr.No.624/2008 u/s 379 of IPC.Respondent/Complainant

Prayer:The Criminal Revision Case filed under Section 397 and 401 of Code of Criminal Procedure to call for the records pertaining to the order of dismissal in Crl.A.No.6/2011 dated 15-11-2012 passed by the learned District Sessions Court at Tiruvarur confirming the trial court conviction and sentence made in C.C.No.41/2009 dated 10-01-2011 on the file of the learned Judicial Magistrate, Tiruvarur set-aside the same and allow the Criminal Revision Petition.

For Petitioner : Mr.K.M.Subrahmaniam
For Respondent :Mr.R.Ravichandran,
Government Advocate (Crl. Side)

ORDER

The present Criminal Revision Case has been filed to set aside the Judgment in Crl.A.No.6/2011 dated 15-11-2012 passed by the learned District and Sessions Court at Tiruvarur, and confirming the conviction and sentence made in C.C.No.41/2009 dated 10-01-2011 on the file of the learned Judicial Magistrate, Tiruvarur.

2. The case of the prosecution is that, the respondent police filed a case against the revision petitioner before the learned Judicial Magistrate Court, Tiruvarur in C.C.No.41/2009 dated 10.01.2011. After completion of trial, the learned

District and Sessions Court at Tiruvarur, awarded the punishment to the petitioner/accused to undergo one year Simple Imprisonment for an offence under Section 379 of I.P.C.

3. Aggrieved against the order of the learned District and Sessions Court at Tiruvarur, in C.C.No.41/2009 dated 10.01.2011, the revision petitioner filed a Criminal Appeal in CrI.A.No.6/2011 before the learned District and Sessions Court, Tiruvarur, and also filed an application under Section 389(1) of Cr.P.C to suspend the sentence of one year Simple Imprisonment imposed by the Trial Court. Unfortunately the learned District and Sessions Judge dismissed the appeal, for non prosecution. Against which the revision petitioner has filed the present Criminal Revision Case before this Court.

4. The learned counsel for the revision petitioner would submit that the petitioner/accused herein entrusted the entire case with the advocate, who was appearing before Sessions Court. Due to the lack of communication by the counsel on record, who is appearing before the Sessions Court, he could not appear before the Court of District and Sessions on the day of hearing. Thereafter alone he came to know that his counsel was also not present before the concern Court, hence the Criminal Appeal No.6/2011 was dismissed for non prosecution. The learned counsel for the petitioner also submit that in order to establish the case, one more opportunity may be given to proceed the case further.

5. Heard the learned counsel appearing on either side and perused the materials available on record.

6. On a perusal of the entire records it reveals that the learned District and Sessions Judge, Tiruvarur, dismissed the appeal for non appearance of the petitioner/accused, based only on the technical ground. Therefore, the appeal was dismissed for non prosecution. In the appeal, appellant cannot be expected to appear for each hearing, and further due to fault of the counsel the party should not suffer. In the interest of justice in order to give one more opportunity to the revision petitioner to enable him to proceed the appeal on merit, this court is inclined to set aside the order passed by the learned District Session Judge, in C.A.No.6/2011.

7. Accordingly, the order passed by the learned District and Sessions Judge, Tiruvarur, in C.A.No.6/2011 dated 15.11.2012 is set aside, further it is remitted back to the learned District and Sessions Judge, Tiruvarur. The District and Sessions Judge, Tiruvarur, is directed to dispose of the case within one month from the date of receipt of copy of this order and both the

parties are directed to appear before the learned District and Sessions Judge on 11.10.2018. Hence the Learned District and Sessions Judge is directed to dispose of the appeal within one month i.e., on or before 12.11.2018. Registry is directed to communicate the order of this court to the learned District and Sessions Judge, Tiruvarur, immediately, and also the Registry is directed to send all the papers along with this order.

8. With the above directions the Criminal Revision Case is disposed of.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

1. The District and Sessions Court, Tiruvarur.
2. The Sub Inspector of Police,
Thiruvarur Town Police Station, Tiruvarur.
3. The Public Prosecutor, High Court of Madras.

Copy to: The Section Officer
Criminal Section
High Court, Madras

+1cc to Mr.K.M.Subramanian, Advocate SR.NO.64907

sm:4.10.2018

Cr1.R.C.No.830 of 2013

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