

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.06.2019

CORAM:

THE HON'BLE MR.JUSTICE P.VELMURUGAN

Crl.R.C.No.129 of 2012

Mohan @ Mohana Sundaram

.. Petitioner

Vs.

The State represented by
The Inspector of Police,
Perundurai Police Station
(Crime No.693 of 2007)

.. Respondent

Criminal Revision filed under Sections 397 and 401 Cr.P.C., praying to call for the records in C.A.No.120 of 2010 dated 27.10.2010 on the file of the learned Additional District Sessions Judge, Fast Track Court No.1, Erode, modifying the conviction and sentence imposed in S.C.No.157 of 2008 dated 17.08.2009 on the file of the learned Principal Assistant Sessions Judge at Erode and set aside the same.

For Petitioner : Mr.S.Manoharan

For respondent : Mr.T.Shanmugarajeswaran

Government Advocate (Crl. Side)

O R D E R

This Criminal Revision Case has been filed to set aside the judgment dated 27.10.2010 made in Crl.A.No.120 of 2010 passed by the learned Additional District Sessions Judge, Fast Track Court No.1, Erode modifying the conviction and sentence imposed in S.C.No.157 of 2008 dated 17.08.2009 by the learned Principal Assistant Sessions Judge, Erode.

2. The revision petitioner is the sixth accused in S.C.No.157 of 2008 on the file of the learned Principal Assistant Sessions Judge, Erode. The respondent police registered a case in Crime No.693/2007 for the offences under Sections 120B, 364, 394, 395 r/w 397 and 414 IPC. After completing the investigation, the respondent police laid a charge sheet before the learned District Munsif-cum-Judicial Magistrate, Erode and the same was taken on file in PRC.No.5 of 2008. Since the offence is triable by Court of Sessions, the case was committed to the Sessions Court, Erode. After trial,

the learned Sessions Judge found that the revision petitioner/A6 is guilty for the offence under Sections 120B, 395 IPC and sentenced him to undergo 7 years Rigorous Imprisonment for each offence and to pay a fine of Rs.300/- in each offence, in default, 3 months Rigorous Imprisonment for each offence, by judgment dated 17.08.2009. There against, the revision petitioner herein/A6 preferred an appeal in CrI.A.No.120 of 2010 before the learned Additional District Sessions Judge, Fast Track Court No.1, Erode. After hearing the arguments, the learned Sessions Judge, by judgment dated 27.10.2010, found that the revision petitioner/A6 is not guilty for the offence alleged to have committed under Section 120B IPC and hence, acquitted the revision petitioner/A6, however, confirmed the conviction and sentence imposed on the revision petitioner/A6 for the offence under Section 395 IPC. As against the said judgment, A6 has preferred the present revision before this Court.

3. The learned counsel for the petitioner would submit that A1 to A4 in this case have already preferred the revision in CrI.R.C.No.42 of 2011 before this Court, in which, this Court, by an order dated 15.10.2012, confirmed the conviction as against A1 to A4 and modified the sentence to 4 years Rigorous Imprisonment instead of 7 years. A5 in this case also preferred the revision in CrI.R.C.No.1395 of 2011 before this Court and this Court by an order dated 25.04.2018, confirmed the conviction imposed by the trial Court and modified the sentence to 3 years Rigorous Imprisonment instead of 7 years. The present revision is filed by A6.

4. The Appellate Court acquitted all the accused including the present revision petitioner for the offence under Section 120B IPC against which, either the defacto complainant or the prosecution has filed any appeal or revision. This Court, as the Revisional Court, cannot go beyond the scope of the revision. On a reading of the entire records, it is seen that charge for the offence under section 395 IPC was framed against all the accused.

5. Since the sentence imposed on the other accused were reduced, this Court is inclined to modify the sentence of imprisonment of the petitioner as four years and fine as fixed by the trial Court. Accordingly, the conviction passed by the Courts below are confirmed and the sentence imposed by the learned Principal Assistant Sessions Judge, Erode, in S.C.No.157 of 2008 is modified to the effect that the petitioner/A6 shall undergo four years Rigorous Imprisonment instead of seven years and no change in the fine fixed by the Trial Court.

6. In the result, this Criminal Revision Case is allowed in part and the conviction imposed on the petitioner for the offence punishable under Section 395 IPC in S.C.No.157 of 2008 is confirmed and the sentence imposed on the petitioner alone is modified. The trial Court is directed to secure the petitioner/A6 to undergo the remaining period of sentence, if any.

s/d-
Assistant Registrar(CS VI)

True Copy

Sub-Assistant Registrar

KMI

To

1. The Additional District Sessions Judge,
Fast Track Court No.1, Erode.
2. The Principal Assistant Sessions Judge,
Erode.
3. The Superintendent, Central Prison
Coimbatore.
4. The Inspector of Police,
Perundurai Police Station.
5. The Public Prosecutor,
High Court, Madras-104.

Copy to

The Section officer
Criminal Section
High Court, Madras 104.

+1 CC to Mr.S.Manoharan, Advocate sr 52637.

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Cr1.R.C.No.129 of 2012

GJII(CO)
SP(23/07/2019)