

Bail Slip

The Petitioner/Accused viz Syed Ibrahim @ Puthilu was directed to be released on bail as per the order of this court dated 27.02.2012 and made in M.P. No. 2/2012 in CrI.R.C.No.38 of 2012.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.06.2019

CORAM:

THE HON'BLE MR.JUSTICE P.VELMURUGAN

CrI.R.C.No.38 of 2012

Syed Ibahim @ Puthilu

.. Petitioner

Vs.

State by
Inspector of Police,
B1-Big Bazaar Street Police Station,
Coimbatore.

.. Respondent

Criminal Revision filed under Sections 397 and 401 Cr.P.C., praying to call for the records pertaining to the judgment dated 10.06.2011 passed in C.A.No.42 of 2011 by the Additional District Sessions Judge, Fast Track Court No.1, Coimbatore confirming the judgment dated 15.12.2008 passed in C.C.No.54 of 2008 by the Assistant Sessions Judge-cum-Chief Judicial Magistrate, Coimbatore, set aside the same.

For Petitioner : No Appearance

For respondent : Mr.T.Shanmugarajeswaran

Government Advocate (CrI. Side)

WEB COPY
O R D E R

This Criminal Revision Case has been filed to set aside the judgment dated 10.06.2011 made in CrI.A.No.42 of 2011 passed by the learned Additional District and Sessions Judge, Fast Track Court No.1, Coimbatore, confirming the judgment dated 15.12.2008 made in C.C.No.54 of 2008 passed by the learned Assistant Sessions Judge-cum-Chief Judicial Magistrate, Coimbatore.

2. The case of the prosecution is that on 09.07.2007 at 12.30.p.m, while the defacto complainant carrying provisions in his vehicle at Raja Chettiar Street, Coimbatore, the revision petitioner/accused waylaid him and demanded money for consuming alcohol. When he refused to give money, the revision petitioner/accused showed knife and threatened him that if he refused to give money, he would kill him and take away Rs.500/- from the pocket of the defacto complainant and ran away. When the witnesses, who were near the place, tried to chase him, the revision petitioner/accused threatened them also. Hence, the defacto complainant preferred a complaint before the respondent police. A case in Crime No.737 of 2007 was registered against the revision petitioner/accused for the offence under section 397 r/w 392 and 506(ii) IPC. After completing the investigation, the respondent police laid a charge sheet before the learned Judicial Magistrate, Coimbatore. After taking charge sheet on file in PRC.No.5 of 2008, the learned Magistrate committed the case to the learned Sessions Judge, Coimbatore since the offence is triable by the Sessions Court and the same was taken on file in S.C.No.54 of 2008. In turn, the learned Sessions Judge, Coimbatore made over the case to the learned Assistant Sessions Judge-cum-Chief Judicial Magistrate, Coimbatore for disposal. After completing trial and hearing the arguments, the learned Chief Judicial Magistrate convicted the revision petitioner/accused for the offence under Sections 397 r/w 392 and 506 (ii) IPC and sentenced him to undergo 7 years Rigorous Imprisonment and fine of Rs.1,000/-, in default, one year Rigorous Imprisonment for the offence under Section 397 r/w 392 IPC and 2 years Rigorous Imprisonment for the offence under Section 506(ii) IPC by judgment dated 15.12.2008. Challenging the said judgment, the accused preferred an appeal in CrI.A.No.42 of 2011 before the learned Sessions Judge, Coimbatore and the same was made over to the learned Additional District and Sessions Judge, Fast Track Court No.1, Coimbatore for disposal. The learned Additional District and Sessions Judge, after hearing the arguments and considering the fact that the accused was professional offender, dismissed the appeal on 10.06.2011 and confirmed the judgment of the trial Court. There against, the accused has preferred the present revision before this Court.

3. This revision is pending from the year 2012. Despite several opportunities given by this Court, none appeared on behalf of the revision petitioner. On earlier occasion, this Court has passed the following order:-

"Since the learned counsel appearing for the appellant absent on two occasions, hence the matter is posted 'for dismissal' today. Even today also there is

no representation for the appellant. In the above circumstances, the Public Prosecutor is directed to serve notice on the appellant through jurisdictional police.

Post the matter on 17.11.2017."

4. When the matter came up before this Court on 17.06.2019, the learned counsel for the revision petitioner sought adjournment and hence, the case is listed today. Today also there is no representation for the revision petitioner. Though sufficient opportunities have been given to the revision petitioner, he has not come forward to co-operate for the disposal of this revision. Hence, this Court is inclined to dispose of the revision, based on the materials available on record.

5. Heard the learned Government Advocate (Crl. Side) appearing for the respondent.

6. It is the case of the prosecution that the petitioner showed knife against the defacto complainant and took Rs.500/- from him and ran away. When the witnesses surrounded the petitioner, he also threatened them.

7. On reading of the evidence of PW-1/defacto complainant, it is seen that he has clearly narrated the occurrence. PW-2/eye-witness also corroborated the same. Therefore, the prosecution has proved its case beyond reasonable doubts. Further, the records show that the revision petitioner/accused was also involved in other cases in Crime Nos.1857/2002, 130/2005 and 263/2007. Considering the antecedent of the revision petitioner/accused, the trial Court convicted him for the offence under Sections 397 r/w 392 and 506(ii) IPC and sentenced him aforestated. The revision petitioner/accused had preferred an appeal before the Sessions Court/the Appellate Court, which is the final Court of fact finding, dismissed the appeal and confirmed the judgment of the trial Court. Both the Courts below have rightly appreciated the entire evidence and convicted the revision petitioner/accused. This Court, as the Revisional Court, cannot sit in the arm chair of the Appellate Court and cannot reassess or re-appreciate all the evidence. This Court has to see whether any perversity in the appreciation of the evidence. However, this Court does not find any perversity in the judgments of the Courts below.

8. Considering the nature of the offence and also the money involved in this case, this Court is inclined to reduce the sentence imposed on the revision petitioner/accused, which will meet the ends of justice. Accordingly, this Criminal Revision Case is partly allowed by reducing the sentence

imposed on the petitioner to 5 years Rigorous Imprisonment for the offence under Section 397 r/w 392 IPC. The other conditions imposed by the trial Court remains unaltered.

s/d-
Assistant Registrar (CS V)

True Copy

Sub-Assistant Registrar

KMI

To

1. The Additional District and Sessions Judge,
Fast Track Court No.1,
Coimbatore.
2. The Assistant Sessions Judge-cum-Chief Judicial Magistrate,
Coimbatore.
3. The Inspector of Police,
B1-Big Bazaar Street Police Station,
Coimbatore.
4. The Public Prosecutor,
High Court, Madras-104.
5. The Superintendent
Central Prison
Coimbatore.

Copy to

The Section officer
Criminal Section
High Court, Madras 104.

सत्यमेव जयते

Cr1.R.C.No.38 of 2012

MP (CO)
SP (13/08/2019)

WEB COPY