

BAIL SLIP

That the Petitioner/Accused Namely M.Manga W/o.Muniyandi was released on bail as per order of this court dated 27.04.2012 in MP.NO.1/12 in CRL.RC.No.471 of 2012.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 15.02.2019

Coram::

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Criminal Revision Case No.471 of 2012

M.Manga,
W/o.Muniyandi,
Ramji Nagar,
Thiruchirapalli.

... Petitioner/Accused

/versus/

State by:

The Inspector of Police,
Salavakkam Police Station,
Kancheepuram District.

... Respondent/Complainant

Prayer:- Criminal Revision Case is filed under Section 397 read with 401 of Criminal Procedure Code, against the judgment of the Learned District Munsif and Magistrate, Uthiramerur, Kancheepuram in C.C.No.18 of 2012 dated 19.04.2012 convicting the petitioner under Section 379 of I.P.C convicting the petitioner herein to undergo three months R.I.

For Appellant : No appearance

For Respondent : Mr.T.Shanmuga Rajeswaran
Government Advocate

: Mr.A.S.Baalaji
Amicus Curiae

O R D E R

No representation for the Revision Petitioner. On perusing the records, this Court found that there is some patent illegality in the order passed by the Learned District Munsif

and Magistrate, Uthiramerur, Kancheepuram. Hence, sought the Assistance of Learned Advocate Mr.A.S.Baalaji to assist the Court as Amicus Curie, who readily accepted and Assisted this Court.

2. The facts of the case is that Manga/the revision petitioner herein was arrested by the respondent police for stealing Rs.200/- from the bag of one Kasthuri, while travelling in the Government Bus. The petitioner was arrested and remanded to the judicial custody on 12.03.2012. She was granted bail by the Magistrate on 30.04.2012. After furnishing security, she was released on bail. On 28.03.2012, when she was questioned about the charges, she denied her guilt but later she filed a memo admitting her guilt on 11.04.2012. Recording the same, the trial Court has convicted her to undergo three months R.I for offence under Section 379 of I.P.C vide its judgment dated 19.04.2012.

3. Challenging the said order of conviction, the present revision petition is filed on the ground that the judgment of the Court below is unjust and has led to miscarriage of justice. The accused/revision petitioner pleaded guilty when she was in Vellore Prison, as a remand prisoner. In the guilt memo, she has specifically pleaded to the Magistrate that she is in Vellore prison along with her child. So, she wants to plead guilty. The period of her imprisonment shall be treated as period of sentence. The Learned Magistrate, after considering the memo admitting the guilt had passed the impugned judgment holding the accused guilty. Sentenced and convicted her to undergo three months S.I.

4. The learned Government Advocate appearing for the State would submit that though at the time of admitting the Criminal Revision, this Court has suspended the sentence, the petitioner herein has meanwhile completed the period of sentence and nothing survives in the Revision Petition.

5. Mr.A.S.Baalaji, Amicus Curiae first drew the attention of this Court to Section 375 of Cr.P.C which reads as below:

"Section 375. No appeal in certain cases when accused pleads guilty:-

Notwithstanding anything contained in section 374, where an accused person has pleaded guilty and has been convicted on such plea, there shall be no appeal.

(a). if the conviction is by a High Court; or

(b). if the conviction is by a Court of Session, Metropolitan Magistrate or Magistrate of the first or second class, except as to the extent or legality of the sentence. (Emphasis added)

6. Then, the Learned Amicus Curie, would submit that the aggrieved accused who have pleaded guilty shall have restricted right to approach the high Court under certain special circumstances. Firstly, if the extent of sentence is shockingly excessive. Secondly, if the sentence imposed is not legally permissible. If the Court is of the opinion that there is any excess or illegality in the order passed by the Magistrate while convicting the accused who has pleaded guilty, same can be interfered.

7. Since, there is no appeal remedy, the alternate remedy can only be revision before this Court.

8. It is clear from the reading of Section 375 of Cr.P.C., if the High Court is of the view that the impugned order is excessive or erroneous, perverse or per se illegal, it has power to interfere the finding of the Court below even in cases where the accused has pleaded guilty.

9. The records forwarded by the Court below, on perusal show that the guilt memo was filed by the accused on 11.04.2008 pursuant to the dismissal of her bail petition. The accused has pleaded guilty quoting specific reason and further pleaded to the Court that the period of her Imprisonment may be treated as period of Sentence. In the impugned order, the learned Magistrate though has accepted the guilty plea, had not whispered whether he offered time for reflection to the accused before passing the judgment based on her guilty memo. Further, the guilty memo of the accused does not bear the seal of the Prison Authority. Under what circumstances and when this guilty memo reached the Court is also not been recorded by the learned Magistrate. Under the said circumstances, this Court holds that the judgment of the trial Court is erroneous and perverse and Hence, liable to be set aside.

10. While holding the impugned order as perverse, considering the facts of the case, in the interest of justice, this Court also record that the revision petitioner herein need not put to any further incarceration for the said offence. Having already been in prison from 11.03.2008 till 27.04.2012, (the date of which this Court has suspended the sentence while admitting the revision petition) the said period of imprisonment shall be the period of sentence.

11. It is necessary to record as a future guidance to the Learned Magistrates who accept the guilty plea that before acting upon such guilty memo, the Presiding Officer should ensure that the said memo is a voluntary one and it has emanated from the proper source. Before acting upon the guilty memo, adequate time to the accused should be offered to reflect upon the guilty plea. While imposing sentence, based on the guilt plea, the Presiding Officer should always consider the previous conduct of the party, nature of offence and the possibility of indulging in similar offence in future. After considering all these three facts, appropriate sentence should be imposed.

12. With these above observation, the Criminal Revision Petition is disposed of. This Court records its appreciation to Mr.A.S.Balaji, Amicus Curie for his valuable assistance to arrive at appropriate decision. No costs.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

bsm

To

1. The District Munsif and Magistrate, Uthiramerur, Kancheepuram
2. Do- Thro The Chief Judicial Magistrate, Chengalpattu.
3. The Superintendent, Central Prison(Women), Vellore.
4. The Inspector of Police, Salavakkam Police Station, Kancheepuram District.
5. The Public Prosecutor, High Court, Madras.
6. The District Collector, Kancheepuram.
7. Director General of Police, Mylapore, Chennai-4.
8. The Section Officer, Criminal Section, High Court, Madras

Criminal Revision Case No.471 of 2012

MG(CO)
CS/04/04/2019