

Bail Slip

The Petitioners namely The Nandhini Priya Textile rep by its Executive share holder, 2.S.Vetrivel (Accused 1 and 2 on the file of Principal District and Sessions Judge) Coimbatore in C.A.No.197 of 2011 were released on bail and further ordered the accused need not surrender and undergo confinement for seeking the relief of suspensions of sentence vide order of this Court dated 10/8/2012 and made in M.P.1 and 3 of 2012 in CrI.R.C.No.681 of 2012.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 11.03.2019

CORAM:

THE HONOURABLE MR. JUSTICE DR.G.JAYACHANDRAN

Criminal Revision No.681 of 2012

1. Nandhini Priya Textile
Rep by its Executive Shareholder
186, Syrasil Vayal
Sundakkapalayam Post
Udumalpet
Coimbatore District
2. S. Vetrivel ... Petitioners

Vs

The State by
Inspector of Police
Economic Offence Wing -2
Coimbatore
Cr.No.20 of 2003 ... Respondent

Prayer: Criminal Revision Petition filed under Sections 397 and 401 of Cr.P.C. to set aside the order of conviction by the Special Court (TNPID Act), Coimbatore in CC No.36 of 2008 by Judgment dated 31.07.2009 and confirmed by the Principal District and Sessions Court, Coimbatore dated 30.03.2012 made in C.A. No.197 of 2011.

For Petitioners : Mr. Karthik Raja
for Mr. G. Karthikeyan

For Respondent : Mr. T. Shunmugarajeswaran
Government Advocate

O R D E R

This Revision Petition is directed against the concurrent finding of the Courts below holding the accused persons guilty for offence under Section 5 of TNPID Act. While the trial Court has convicted the 1st accused Nandhini Priya Textile imposed a fine of Rs.20,000/-, sentenced the 2nd and 3rd accused to undergo 2 years Rigorous Imprisonment and to pay a fine of Rs.20,000/- each, in default to undergo 6 months rigorous imprisonment. Aggrieved by that, the appeal was filed before the Principal District and Sessions Court, Coimbatore. On appeal, the conviction and sentence was partly modified. While confirming the conviction and sentence passed by the trial Court as against the 1st and 2nd accused, the conviction and sentence against the 3rd accused was set aside as she was found not guilty.

2. While modifying the sentence, the lower Appellate Court has observed that the revision petitioner Firm has collected deposits and failed to repay the same to 26 depositors including one Rakkimuthu (PW-5). While the complaint was pending, all other 25 depositors were repaid through negotiation except Rakkimuthu (PW-5), who has deposited a sum of Rs.9,900/- under Ex.P.20, Rs.15,000/- under Ex.P.21, Rs.40,000/- under Ex.P.22. Whereas the Revision Petitioner has repaid only Rs.40,000/- to PW-5, which has been admitted by PW 5 in his deposition. In such circumstances, for non-payment of the balance amount, the trial Court has held him guilty. In the revision petition, the accused would contend that three receipts which were marked as Ex.P.20 to Ex.P.22 admittedly, for Rs.9,900/- Rs.15,000/- and Rs.24,000/- only. The 3rd receipt was issued in the name of Maheshwari. Even according to PW 5 in his chief examination, it was only for Rs.24,000/-. Later on, he has embellished his plea claiming that the 3rd receipt was for the deposit of Rs.40,000/-. Having paid Rs.40,000/- as full quit, there is no criminality and therefore the lower Appellate Court ought to have acquitted him.

3. Heard the learned Counsel for the Revision petitioners and the learned Government Advocate representing the State.

4. On perusal of the records, this Court finds that when the trial was pending, the 2nd Revision Petitioner has settled the money to the other depositors, who have lost their money in the 1st Revision Petitioner Firm, except Rakkimuthu (PW-5). It is revealed that even to PW-5, they have settled Rs.40,000/-. It is further revealed from Ex.P.20 to Ex.P.22, the Revision petitioner is liable to pay to Rs.69,900/- with accrued rate of interest to PW-5 and his wife. Whereas, they have paid only Rs.40,000/-. When this was pointed out to the Counsel for the

Revision Petitioner, he submitted that he is ready to settle the balance sum of Rs.24,900/- with nominal interest from the date of complaint.

5. The learned Government Advocate has also furnished a letter signed by PW-5 Rakkimuthu and his wife Maheshwari in whose name the receipt stands along with the fixed deposit receipts. In the said letter, PW-5 and his wife Maheshwari have stated that they will be satisfied, if the balance sum of Rs.24,900/- is returned back with bank interest till the date of payment.

6. Taking note of this letter and Ex.P.20 to Ex.P.22, this Court is of the view that instead of penalizing the Revision Petitioner at this stage, who had satisfied all other depositors except Rakkimuthu (PW-5), the conviction and sentence of the Courts below shall be modified to the effect that PW-5 is to be duly compensated the loss. Accordingly, the 2nd Revision petitioner herein is directed to pay a sum of Rs.1,00,000/- as compensation to PW-5 Rakkimuthu, within a period of three weeks from today, in default the 2nd revision petitioner shall undergo simple imprisonment for a period of one month.

7. The Criminal Revision Petition is disposed of with the above directions.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

vrn/ari

To

- 1.The Special Court (TNPID Act)
Coimbatore.
- 2.The Principal District and Sessions Judge,
Coimbatore.
- 3.The Inspector of Police,
Economic offense Wing-2,
Coimbatore.
- 4.The Public Prosecutor,
High Court, Madras.

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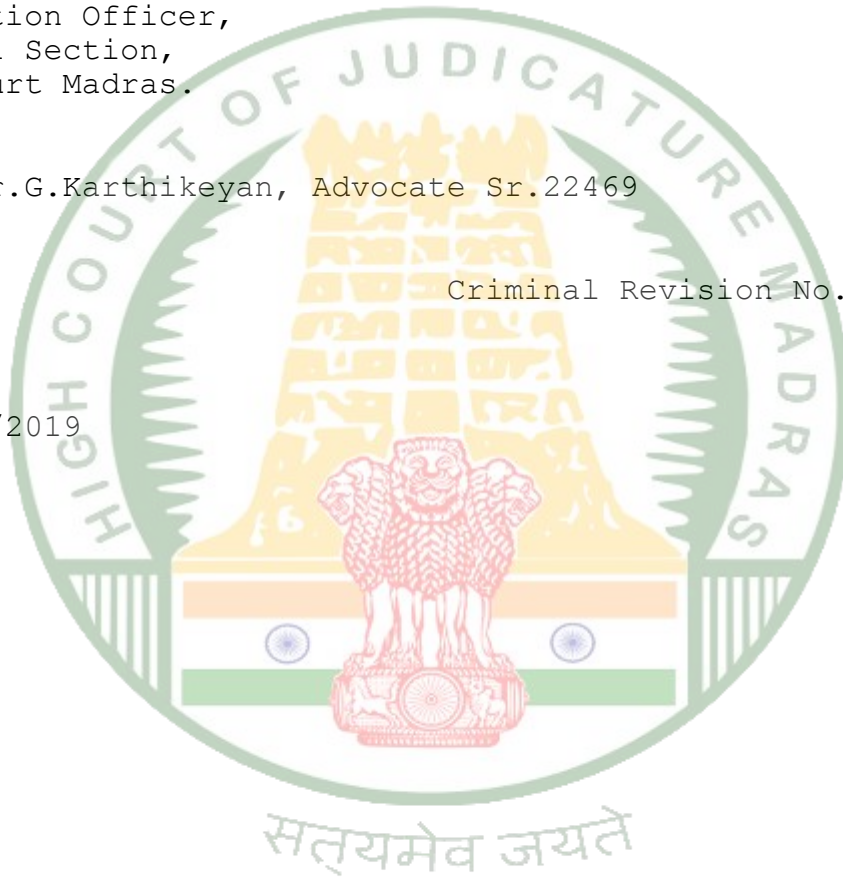
1.S.Vetrivel,
S/O Chellappagounder,
186, Syrasil Vayal,
Sundakkapalayam Post,
Udumalpet,
Coimbatore District.

2.The Section Officer,
Criminal Section,
High Court Madras.

+lcc to Mr.G.Karthikeyan, Advocate Sr.22469

Criminal Revision No.681 of 2012

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srg 12/03/2019



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