

BAIL SLIP

The Appellants/Accused 1 & 2 namely 1.Sekar,S/o.Soundarajan
2. Durairaj, S/o.Godandapani were directed to be released on
bail as per the Order of this Court dated 13.07.2012 made in
M.P.No.1/12 in Crl.R.C No.698/2012 on the file of this Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.06.2019

CORAM:

THE HON'BLE MR.JUSTICE P.VELMURUGAN

Crl.R.C.No.698 of 2012

1. Sekar
2. Durairaj

... Petitioners

Vs.

State of Tamil Nadu
rep. by The Sub-Inspector of Police,
District Crime Branch,
Nagapattinam.
(Cr.No.10 of 2006)

... Respondent

Criminal Revision filed under Sections 397 and 401
Cr.P.C., praying to set aside the judgment dated 25.01.2012
awarded in Crl.A.No.39 of 2010 on the file of the District &
Sessions Judge, Nagapattinam, confirming the trial Court
judgment dated 31.03.2010 in C.C.No.87 of 2009 passed by the
learned Judicial Magistrate No.1, Nagapattinam.

For Petitioners: Mr.S.Giritharan

For Respondent : Mr.T.Shanmugarajeswaran
Government Advocate (Crl. Side)

ORDER

This Criminal Revision has been filed to set aside the
judgment dated 25.01.2012 made in Crl.A.No.39 of 2009 passed by
the learned District and Sessions Judge, Nagapattinam,
confirming the judgment dated 31.03.2010 made in C.C.No.87 of
2009 passed by the learned Judicial Magistrate No.1,
Nagapattinam.

2. The case of the prosecution is that A1 has created a

power of attorney by forging the signature of original land owners viz., V.Krishnaveni, V.Amirthalingam and P.Kalyani in respect of the land measuring 1 acre 1306 cents in T.S.No.599/2 situated in the Nagore Sub Registrar Jurisdiction by giving false address and sold the above property to the Government for rehabilitation in Tsunami attack for a sum of Rs.11,24,880/- and obtained Rs.10,01,143/- after deducting tax of Rs.1,23,737/-. A2 and A3 were cited as attesting witnesses in the said power of attorney. A4 and A5 have signed as attesting witnesses in sale deed and A6 has been charged for conspiracy. A case in Crime No.10 of 2006 was registered by the respondent for the offence under Sections 419, 420, 465, 468, 471 r/w 120(b) IPC against the accused persons. After completing the investigation, the respondent police laid a charge sheet before the learned Judicial Magistrate No.1, Nagapattinam and the same was taken on file in C.C.No.87 of 2009. After framing of charge, all the accused pleaded guilty. Considering the nature of the offence and the involvement of the accused persons, the learned Magistrate, by judgment dated 31.03.2010 acquitted A3 to A6 by invoking the Probation of Offenders Act and convicted A1 and A2 and sentenced them as follows:-

Accused	Offences	Sentence
A1	419 IPC	One year Simple Imprisonment and to pay a fine of Rs.1,000/- in default to undergo 3 months Simple Imprisonment
	420 IPC	3 Years Simple Imprisonment and to pay a fine of Rs.3,000/- in default 3 months Simple Imprisonment
	465 IPC	2 Years Simple Imprisonment and to pay a fine Rs.2,000/- in default 3 months Simple Imprisonment
	468 IPC	3 Years Simple Imprisonment and to pay a fine Rs.3,000/- in default 3 months Simple Imprisonment
	471 IPC	2 Years Simple Imprisonment and to pay a fine Rs.2,000/- in default 3 months Simple Imprisonment
	120(b) IPC	3 Years Simple Imprisonment and to pay a fine of Rs.3,000/- in default 3 months Simple Imprisonment

Accused	Offences	Sentence
A2	465 IPC	2 Years Simple Imprisonment and to pay a fine Rs.2,000/- in default 3 months Simple Imprisonment
	468 IPC	3 Years Simple Imprisonment and to pay a fine Rs.3,000/- in default 3 months Simple Imprisonment
	471 IPC	2 Years Simple Imprisonment and to pay a fine Rs.2,000/- in default 3 months Simple Imprisonment
	120(b) IPC	2 Years Simple Imprisonment and to pay a fine of Rs.2,000/- in default 3 months Simple Imprisonment

Challenging the said judgment, the accused preferred an appeal before the Sessions Court, Nagapattinam in CrI.A.No.39 of 2009. The learned Sessions Judge, after considering the entire materials and also the plea of guilty made by the accused, confirmed the conviction as against the first accused for the offence under Sections 419, 465, 471 IPC and as against the second accused for the offence under Sections 465, 471 & 120(B) IPC and reduced the sentence from 3 years Simple Imprisonment to 2 years Simple Imprisonment for the offence under Sections 420, 468 & 120B IPC as against the first accused and also reduced the sentence from 3 years Simple Imprisonment to 2 years Simple Imprisonment for the offence under Section 468 IPC as against the second accused. There against, the accused persons preferred the present revision before this Court.

3. The learned counsel for the petitioner would submit that the benefits of the Probation of Offenders Act has been extended to A3-A6. The learned Magistrate has not extended the same benefit to these revision petitioners/A1 & A2. Though the revision petitioners filed an appeal before the Sessions Court, the learned Sessions Judge also failed to consider the same and modified the sentence only, which warrants interference.

4. The learned Government Advocate (CrI. Side) appearing for the respondent would submit that A1 has created the documents and A2 was the person, who induced A1 to do the same. Both the revision petitioners are the main accused in this case and the A3 to A6 are only witnesses to the said documents. Considering the antecedent and good conduct of A3 to A6, the learned Magistrate extended the benefit to them. The learned Magistrate

has not extended the said benefit to the present revision petitioners/A1 & A2 by considering the serious nature of the offence and the involvement of the revision petitioners in this case. The learned Sessions Judge was of the same view that the petitioners/A1 & A2 are not entitled under the benefit of the Probation of Offenders Act and confirmed the conviction and modified the sentence alone, which warrants no interference.

5. In this case, after filing of charge sheet before commencement of trial, all the accused pleaded guilty. Considering the nature of the offence, the antecedent and also the good conduct of A3 to A6, both the Courts rightly extended the benefits of the Probation of Offenders Act to A3 to A6 and not inclined to exercise its discretionary power for the present revision petitioners. In this case based on the admission made by the revision petitioners, the Court below imposed the sentence. It is the discretionary power of the trial Court to impose quantum of sentence not exceeding maximum period of sentence. Normally the Revision Court can not interfere with the sentence imposed by both the Courts below unless it feels the sentence imposed is proportionately high.

6. This Court does not find any perversity in the judgments passed by the Courts below. Since there is no merit in this revision, the same is liable to be dismissed. Accordingly, this Criminal Revision Case is dismissed.

KMI

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Judicial Magistrate No.1,
Nagapattinam.
2. -Do- Thro' The Chief Judicial Magistrate
Nagapattinam.
3. The District & Sessions Judge,
Nagapattinam.
4. The Sub-Inspector of Police,
District Crime Branch,
Nagapattinam.

5.The Public Prosecutor
High Court, Madras-104.

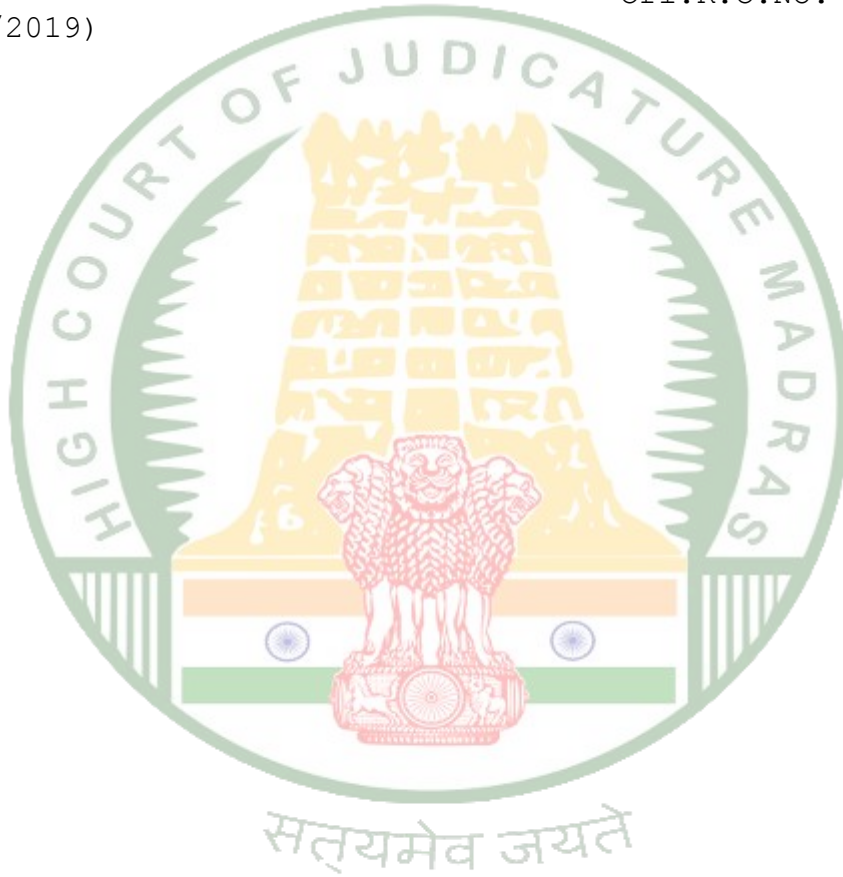
Copy to:-

The Section Officer,
Criminal Section,
High Court, Madras - 104.

+1cc to Mr.S.Giritharan, Advocate, SR.No.50703

Crl.R.C.No. 698 of 2012

Kak (29/08/2019)



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