

Bail Slip

The Appellants/Petitioners/Accused 1 and 2 namely K.Anandan S/o.Kannan and B.Mohan S/o.Babu were directed to be released on bail as per the court order dated 11.10.2013 in Mp.No.1 of 2013 in Crl.A.NO.658 of 2013 on the file of this Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date of Reserving Judgment 20.09.2018	Date of Pronouncing Judgment 16.10.2019
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THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.A.No.658 of 2013

1. K. Anandan
2. B. Mohan .. Appellants/Accused 1 & 2

Versus

State represented by
The Inspector of Police
Crime Branch CID,
Counterfeit Currency Wing
Chennai.

.. Respondent/Complainant

Appeal filed under Section 374 of Cr.P.C., against the Judgment of conviction and sentence passed by the learned VI Additional Sessions Judge, Chennai, in S.C.No.90 of 2009 dated 24.09.2013.

For Appellants : Mr.V.Krishnamoorthy

For Respondent : Mr.R.Ravichandran
Government Advocate (Crl. Side)

Judgment

The respondent police registered a case in Crime No.8 of 2003 against the appellants for the offence under Sections 489 (B) & (C) r/w. 120(B) of IPC and after investigation, laid a charge sheet before the learned II Metropolitan Magistrate, Chennai. The learned Magistrate taken the charge sheet on file

in PRC No.117 of 2004 and after completing the formalities, since the offence is triable by the Court of Sessions, committed the case to the Principal Sessions Judge, City Civil Court, Chennai. The learned Principal Sessions Judge, in turn made over the case to the VI Additional Sessions Judge, Chennai, for disposal.

2. The learned VI Additional Sessions Judge, after completing the formalities, framed charges against the appellants for the offence under Sections 489(B) & (C) r/w. 120 (B) IPC. In order to prove the case of prosecution, during the trial, before the trial Court, the prosecution has examined as many as seven witnesses, viz., PW.1 to PW.7 and marked as many as ten documents, viz., Exs.P1 to P10, besides marking M.Os.1 to 10. After completing the prosecution witnesses, when incriminating circumstances culled out from the prosecution witnesses were put before the appellants, the appellants denied as false. On the side of the defence, no oral and documentary evidence was produced.

3. The learned VI Additional Sessions Judge, after completing the trial and hearing the arguments advanced on either side and on perusing the oral and documentary evidence produced by the prosecution, found both the accused guilty of the offence under Sections 489(B) & (C) r/w. 120(B) IPC and convicted and sentenced to undergo Rigorous Imprisonment for 5 years and to pay a fine of Rs.5,000/- each, in default to undergo Simple Imprisonment for three months for the offence under Sections 489(B) r/w. 120(B) IPC and also sentenced to undergo Rigorous Imprisonment for 5 years for the offence under Sections 489(C) r/w. 120(B) IPC and also ordered that the above sentences shall run concurrently.

4. Challenging the said judgment of conviction, both the accused have filed the present appeal before this Court.

5. The learned counsel for the appellants would submit that no independent witnesses have been secured in this case, except PW.2, who is the stock witness to the police and his testimony for seizure of currencies should not be believed and the seizure of currencies from A1 has not been effected in the presence of any independent witnesses. Further he would submit that since PW.1 violated Police Standing Orders and failed to record the confession of A1 near Casino Theatre, it is not admissible in evidence and it cannot be believed and the evidence of PW.6 is of no value, since he has improved his entire version in the Chief Examination, which he failed to

state in the statement recorded by the Investigating Officer under Section 161 of Cr.P.C. The opinion of expert PW.5 is of no value to the prosecution as he did not say the reasons to distinguish between fake notes and original currency notes. The Seizure Mahazar - Ex.P5 would not be believable, since it is a cooked up document prepared for the purpose of this case. The prosecution has not investigated the matter in proper perspective and false case has been foisted against the appellants. There is no evidence to show that fake currencies are kept for sale to attract the offence under Sections 489(C) IPC. The prosecution has failed to prove its case beyond reasonable doubt. The learned trial Judge failed to consider the legal as well as factual position and wrongly convicted the appellants for the charges alleged against them, which warrants interference of this Court.

6. The learned counsel for the respondent/State would submit that PW.1 received secret information from the informer and when they are surveilling Egmore Area, as identified by the informant, apprehended the first appellant, Anandan, at 15 hrs on the same day, near Casino Theatre, Egmore, Chennai, in the presence of PW.1, searched first appellant and found on his shirt pocket, six numbers of 100 denomination of counterfeit currency notes and PW.1 seized the above counterfeit currency notes under Mahazar, in the presence of witnesses. PW.1 arrested the first appellant and handed over him along with counterfeit currency notes to PW.7 - then Inspector of Police, Crime Branch. PW.1, made complaint to PW.7 and PW.7 registered a case in Crime No.8 of 2003 against the appellants and sent the original complaint and First Information Report to the concerned Magistrate. The first appellant gave voluntary confession statement to PW.7 - Investigating Officer. Based on his confession statement, PW.7 took A1 and his party to Natesan Park, T.Nagar and on his identification, PW.7 arrested A2 - Mohan. The second appellant also gave voluntary confession statement in the presence of PW.2 and handed over the Matiz Car bearing Registration No.TN-04-F-8033, one rexin suit case, 100 Rupees counterfeit currency notes, white paper bundle. PW.7 recovered the same under Ex.P5-Mahazar. The appellants and the seized properties were sent to the jurisdictional Magistrate's custody. PW.7 sent a requisition to the Magistrate to send all seized properties and counterfeit currency notes and genuine notes for examination. Based on the requisition given by the Investigating Officer, the jurisdictional Magistrate sent the counterfeit currency notes to the Forensic Department, Nasik and PW.5, Assistant Works Manager, Nasik Currency Press, examined the currency notes (49 in numbers) and found that out of 49 notes, 44 notes are 100 Rupees counterfeit currency notes and

balance 5 notes are original notes and gave his opinion Ex.P9 and based on the said report and also investigation, PW.7 laid charge sheet before the learned Magistrate and the learned Magistrate after completing the formalities, committed the case to the Sessions Judge. From the evidence of prosecution, the trial Court found that the appellants have committed offence under Sections 489(B) and (C) r/w. 120(B) IPC. The learned counsel for the respondent would further submit that the trial Court meticulously scrutinized all the oral and documentary evidences placed before it and found that the accused are guilty of the offence under Sections 489(B) and (C) r/w. 120(B) IPC and therefore, there is no reason to interfere with the judgment of the trial Court.

7. Heard both sides and perused the records.

8. The case of prosecution is that on 22.08.2003, both the appellants came to Chennai in Matiz car bearing Registration No.TN-04-F-8033 with counterfeit currency notes containing white paper bundles on both sides each of counterfeit currency notes and the first appellant got down near LIC and instructed the second appellant to wait near Natesan Park, T.Nagar, along with car and when Thiru.G.Venkatesan, Sub-Inspector, CBCID, Counterfeit Currency Wing, Chennai, and his party while watching the offenders of counterfeit currency notes at Egmore area, Chennai, as identified by the informant, apprehended the first appellant near Casino Theatre, Egmore, Chennai, for possession of six numbers of Rs.100/- denomination on counterfeit currency notes bearing Serial Nos. 2QR 842377 (3 Nos.), 7LW947914 (2 Nos.) and 9DA919479 (1 No.) in his pocket. Based on the Confession Statement and identification of first appellant, the second appellant was arrested on 22.08.2003 at 17.30 hrs opposite to Natesan Park, T.Nagar, Chennai, for possession of Rs.100/- denomination of 38 counterfeit currency notes bearing Serial Nos. 2QR 842377 (12 Nos.), 7LW947914 (12 Nos.) and 9DA919479 (14 Nos.) and Rs.100/- denomination of 5 numbers of genuine notes with white paper bundles covered by Rs.100/- denomination notes on the either side. The appellants have cheated many people by giving white paper bundle prefixed and suffixed by Rs.100/- denomination notes resembling like Rs.100/- denomination bundle. Hence, the appellants/accused, knowingly and having reason to believe that the same are to be counterfeit currency notes and intending to use the same as genuine and thereby, both the appellants are liable to be punished under Sections 489(B) and (C) r/w. 120(B) IPC.

9. In order to prove the case of prosecution, 7 witnesses were examined and 10 documents and 10 Material Objects were

marked. Out of which, PW.1 - then Sub-Inspector of Police, Counterfeit Currency Wings, Chennai, received secret information and therefore, he along with his party, watching the offenders of counterfeit currency notes at Egmore area on 22.08.2003, at about 15.00 hrs, as identified by the informant, he apprehended the first appellant, near Casino Theatre, Egmore, Chennai, and in the presence of PW.2, PW.1 searched the first appellant and found on his shirt pocket six numbers of Rs.100/- denomination of counterfeit currency notes as mentioned above. PW.1 seized the above counterfeit currency notes under Mahazar in the presence of PW.2 and other witnesses. PW.1 also arrested the first appellant and handed over him along with currency notes to PW.7, then Inspector of Police, Egmore. The evidence of PW.1 shows that based on the confession statement given by the first appellant, he took the first appellant to Natesan Park and arrested A2 and the second appellant also gave confession statement and gave Matiz Car bearing Registration No.TN-04-F-8033 and PW.7 recovered the cash with all fake currency notes along with original notes of Rs.100/- in 5 numbers and therefore, he registered a case and after investigation, laid the charge sheet and sent it to the Court and made request to Court to send the counterfeit currency notes to Nasik for expert opinion. PW.2 has also deposed that PW.1 intercepted the first appellant and he recovered the currency notes near Casino Theatre, Egmore from the first appellant, through Mahazar and he is the witness to the same. Though PW.5, who is the Assistant Works Manager, Nasik Currency Press, has also deposed that he received fake notes through Court with requisition to send the report and his report is marked as Ex.P9 during his examination. Therefore, from the evidences of P.Ws.1, 2, 5 and 7, the prosecution has proved its case beyond reasonable doubt that the appellants have committed the offence under Sections 489(B) and (C) r/w. 120(B) IPC.

10. Though the learned counsel for the appellants would vehemently contend that since PW.2 is the stock witness, his evidence cannot be believed, on reading of the entire materials, PW.1 has clearly stated that after receiving secret information, he, along with his party, was also watching the place where the informant informed and at that time, the first appellant was apprehended and also caught hold and examined and the first appellant admitted that he was having fake currencies and he recovered the fake notes and the said notes were also sent to the Forensic Laboratory through Court. Therefore, PW.5 has categorically stated that M.Os. received from the Court are only fake notes. Even though the learned counsel for the appellants would submit that PW.2 is the stock witness, but PW.1 is the official witness and he has no enmity with the appellants and

further the appellants have given confession statements before PW.1 and PW.7 in the presence of PW.2 and the currency notes were also recovered and they have not denied the signatures found in the confession statements and also the recovery of currency notes and the currency notes sent to the laboratory for getting expert opinion and the expert's opinion that the Material Objects sent for getting expert opinion are fake notes. Therefore, though in this case, the learned counsel for the appellants would submit that the Investigating Officer violated the Standing Order, but on reading of the entire materials, this Court found that there is no violation of the Standing Order of the police officials. On reading of the entire evidence, especially the evidence of P.Ws.1, 2, 5 and 7, this Court found that the appellants have committed the offence under Sections 489(B) & (C) r/w. 120(B) IPC. The learned trial Court elaborately discussed all the materials and appreciated the evidence and found guilty of the appellants for the offence under Sections 489(B) & (C) r/w. 120(B) IPC and this Court does not find any specific reason to discard the evidence of P.Ws.1, 2, 5 and 7. Therefore, under these circumstances, there is no merit in the Appeal and the Appeal is liable to be dismissed.

11. In the result, the Criminal Appeal stands dismissed and the conviction and sentence passed by the learned VI Additional Sessions Judge, Chennai, in S.C.No.90 of 2009 dated 24.09.2013 is hereby confirmed. The period of sentence already undergone, if any, by the appellants / accused shall be set off under Section 428 Cr.P.C. The trial Court is directed to secure the accused to undergo the remaining period of the sentence.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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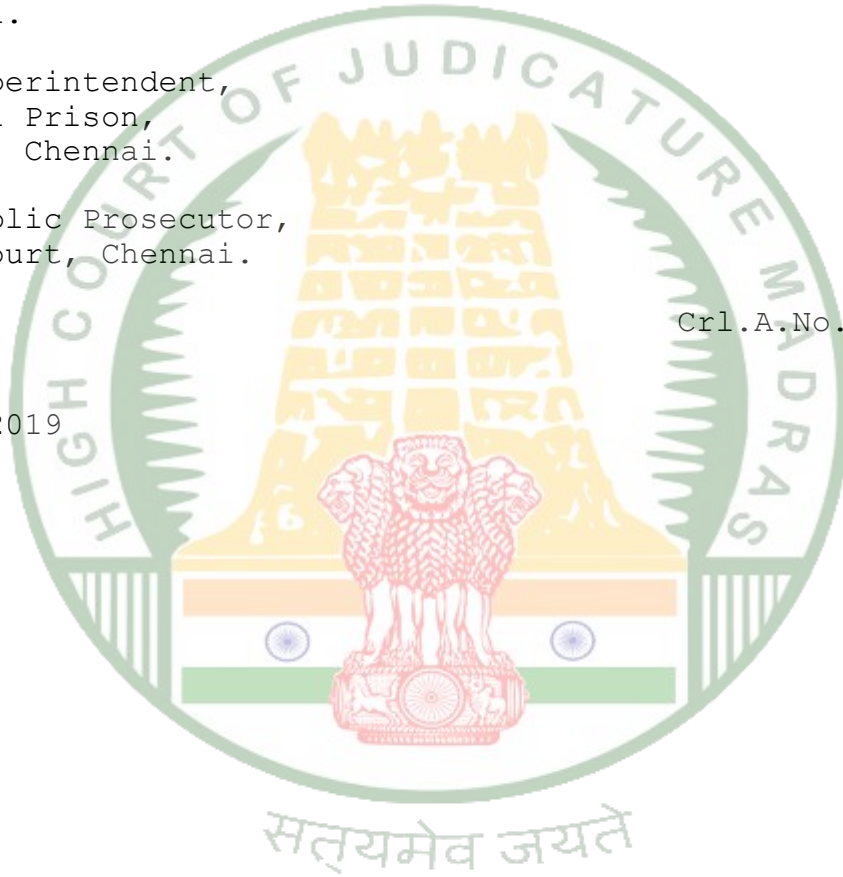
To

1.The Metropolitan Magistrate No.II,
Egmore, Chennai.

2. The Chief Metropolitan Magistrate,
Egmore, Chennai(for Information)
3. The VI Additional Sessions Judge,
Chennai.
- 4.Do Through The Principal Sessions Judge
Chennai
4. The Inspector of Police
Crime Branch CID,
Counterfeit Currency Wing
Chennai.
5. The Superintendent,
Central Prison,
Puzhal, Chennai.
6. The Public Prosecutor,
High Court, Chennai.

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