Bail Slip

The Petitioner/Accused namely Mr.Deenadayalan S/o.Pichandi aged 32 years was directed to be released on bail in Crl.MP.No.1911/2016 in Crl.RC.No.276/2016 order dated 26/02/2016 by this Hon'ble Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.09.2019

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.RC.No.276 of 2016

Deenayadayalan ... Petitioner/A2

Vs

State Represented by Inspector of Police,
Thimiri Police Station, Vellore District.
(Crime No.283/2002) ... Respondent/Respondent

Prayer: This Criminal Revision Petition has been filed under Section 397 read with 401 of Cr.PC, against the judgement, dated 07.08.2019, made in C.A.No.76 of 2014 by the II Additional District and Sessions Judge, Vellore at Ranipet dated 07.08.2015, confirming the judgement of conviction and sentence, dated 28.08.2014, made in CC.No.185 of 2005, by the District Munsif Cum Judicial Magistrate No.I, Walajapet, Vellore District.

For Petitioner : Mr.S.Sairaman
For Respondent : Mr.M.Mohamed Riyaz, APP

ORDER

1. This Criminal Revision Petition has been filed, against the judgement, dated 07.08.2015, made in C.A.No.76 of 2014 by the II Additional District and Sessions Judge, Vellore at Ranipet, confirming the judgement of conviction and sentence, dated 28.08.2014, made in CC.No.185 of 2005, by the Judicial Magistrate, Walajapet, convicting and sentencing the Petitioner/A2 for the offence under Section 420 of IPC, to undergo Simple Imprisonment for one year and to pay a fine of Rs.3,000/-, in default to undergo Simple Imprisonment for two months and for the offence under Section 468 of IPC to undergo

Simple Imprisonment for one year and to pay a fine of Rs.3000/-, in default, to undergo Simple Imprisonment for two months and for the offence under Section 471 of IPC to pay a fine of Rs.5,000/-, in default to undergo Simple Imprisonment for two months and ordering the sentences to run concurrently.

2. The case of the Prosecution is that there are two accused persons, namely, the Petitioner/A2 and one Deenadayalan/A1 and that prior to 14.07.2001, they have conspired together in Vilapakkam Village, to cheat the Indian Bank, Thimiri Branch, by forging the lower value deposit receipts into higher value deposit receipts and to use the forged deposits as genuine and to dishonestly induce the Indian Bank, Thimiri Branch, to pay money to them. Pursuant to such conspiracy, on 04.07.2001, A2 went to the Indian Bank, Thimiri and dishonestly deposited a sum of Rs.1,000/- in a term deposit in his name and got a deposit receipt No.474161 for face value amount of Rs.1,000/- and maturity value amount of Rs.1,335/-, with maturity due date as 14.07.2014. In the course of same transaction, on 16.08.2001, A1 along with the Petitioner/A2 went to the said Bank and dishonestly deposited a sum of Rs.1,000/- in an another term deposit in A2's name and another sum of Rs.1,000/- and maturity value amount of Rs.1,335/-, with the maturity date as on 16.08.2004. In pursuance of the said conspiracy, on 16.08.2001 in Vilapakkam Village, the Petitioner/A2 forged in the name of A1 by mechanically erasing the face value amount and maturity value amount and dates in the said deposit receipt and forged by writing the face value as Rs.1,00,000/- and maturity value as Rs.1,32,000/- and deposit date as 14.08.2001 and maturity date as 14.08.2004 and thereby A2 on 16.08.2001 at Vilapakkam Village, forged the said deposit receipt intending that it shall be used for the purpose of cheating. After a month from 16.08.2001, the Petitioner/A2 had forged the deposit receipt No.474161, which is in his name by mechanically erasing the face value amount, maturity amount and dates in the said deposit receipt and forged by writing the face value as Rs.5,00,000/- and maturity value as Rs.6,68,351/- and deposit date as 04.07.2001. In pursuance of the abetment of A1, on 16.08.2002 in Thimiri, A1 and A2 attempted to cheat the Indian Bank Officials by dishonestly including them to pay a sum of Rs.50,000/- as a loan on the said two forged deposit receipts, one stands in the name of A1 and another stands in the name of A2 and for that A1 and A2 fraudulently used the said forged deposit receipts as genuine, knowing the same to be forged at the time of using it. For such acts, the Prosecution has filed the charge sheet against the Petitioner/A2 and A1 for the offences under Sections 420 of IPC read with 511 of IPC and Sections 417 and 468 of IPC read with 120B of IPC.

3.The case was taken on file in SC.No.185 of 2006, by the District Munsif Cum Judicial Magistrate, Walajapet, Vellore District and necessary charges were framed. The accused had denied the charges and sought for trial. In order to bring home the charges against the accused, the prosecution examined PW.1 to PW.8 and also marked Exs.P1 to P18. On completion of the evidence on the side of the prosecution, the accused were questioned under Section 313 Cr.PC as to the incriminating circumstances found in the evidence of prosecution witnesses and the accused have come with the version of total denial and stated that they have has been falsely implicated in this case.

4.The Trial Court, after hearing the arguments advanced on either side and also looking into the materials available on record, while acquitting A1 from the charges levelled against him, found the Petitioner/A2-Appellant guilty and awarded punishments, as referred to above, which is challenged before the lower appellate court, by way of an Appeal, wherein, the judgement of conviction and sentence of the Trial Court was confirmed. As against the same, this Criminal Revision Case has been filed by the Petitioner/A2.

5.This court heard the submissions of the learned counsel on either side.

6.Though this Criminal Revision Case has been filed, seeking to set aside the impugned judgement of conviction and sentence, the learned counsel for the Petitioner/A2 has confined his argument only regarding the question of sentence. He would submit that the Petitioner was aged about 19 years, at the time of committing of the offence and he is an illiterate and he does not know to read and write. He would further submit that the Trial Court, at the time of passing the judgement of conviction and sentence, had failed to invoke the provisions of the Probation of Offenders Act and for such an exercise, the matter may be remitted back to the Trial Court. He would further submit that the Petitioner/A2 was born on 01.07.1983 and he was aged 19 years at the time of offence, in support of the claim, he had enclosed the birth certificate of the Petitioner.

7.On the other hand, the learned Additional Public Prosecutor for the Respondent, while supporting the impugned judgement of conviction and sentence of both the court below, would submit that that the Prosecution has proved its case by adducing clear and cogent evidence and that there are no infirmities or discrepancies or inconsistencies in the evidence adduced by the Prosecution.

8.Considering oral and documentary evidence, both the Courts below had found the accused guilty and convicted him and I find no illegality or perversity in the impugned judgement of conviction and sentence, passed the Court and thereby the conviction and sentence of the Petitioner/A2 is confirmed.

9. However, in so far as the quantum of sentence is concerned, it is submitted by the learned counsel for the Petitioner/A2 that the offence was committed during the year 2001 and that 19 years have lapsed and that the Petitioner/A2 was aged about 19 years at the time of offence and that he has no previous bad antecedents and he is also an illiterate and that the Trial Court had failed to invoke the provisions of the Probation of Offenders Act. This Court is of the opinion that the Trial Court taking into consideration the age of social status of the Petitioner who comes from a lower strata of the society without much educational background ought to have invoked and extended the benefits under the Probation of Offenders Act and further it would not be appropriate to remit the case after 18 years.

10. In the result, this Criminal Revision Case is partly allowed. The conviction of the Petitioner/A2 for the offence under Sections 420, 468 and 471 of IPC is confirmed. The Petitioner/A2 is entitled to the benefit given under Section 4 of the Probation of Offenders Act, the sentence imposed on the Petitioner for the above offences is set aside and the Petitioner/A2 is released on probation of good conduct for a period of one year, on his executing a bond for a sum of Rs.5,000/- (Rupees Five Thousand only), with one surety for like sum to the satisfaction of the District Munsif Cum Judicial Magistrate, Walajapet, Vellore District and in the mean time, he shall maintain peace and good behaviour and shall bear and receive sentence when he called upon during the said period.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

1.The II Additional District and Sessions Judge,
Ranipet, Vellore.

2.The District Munsif-Cum Judicial Magistrate No-I,
Walajapet, Vellore.

3.The Inspector of Police,
Thimiri Police Station, Vellore District.

4.The Additional Public Prosecutor,
High Court, Madras.

5.The Chief Judicial Magistrate,
Vellore(for Information)

6.The Judicial Magistrate No.I,
Walajapet, Vellore.

Crl.R.C.No.276 of 2016

sj(co)
nr 14/11/2019