

Bail Slip

Crl RC.No.964 of 2016

The Appellant herein/Accused namely Vignesh aged 25 years, S/o.Kasinathan, was directed to be released on bail as per order of this Court dated 26/08/2016, in Crl.MP.No.7662/2016 in Crl RC.No.964 of 2016.

Crl RC.No.980 of 2016

The Appellant herein/Accused namely Praveen Kumar, aged about 22, S/o.Elangovan, was directed to be released on bail as per order of this Court dated 11/08/2016, in Crl.MP.No.7810 of 2016 in Crl.RC.No.980 of 2016.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 23.04.2019

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.Nos.964 & 980 of 2016 and

Crl.M.P.Nos.7662 & 7663 of 2016

Vignesh ... Petitioner in Crl.R.C.964/2016

Praveen Kumar ... Petitioner in Crl.R.C.980/2016

-Vs-

State represented by

The Inspector of Police

Neyveli Township Police Station,

Cuddalore District.

...Respondent in all the RCs

Prayer in Crl.R.C.No.964 of 2016: Criminal Revision Case filed under Sections 397 read with Section 401 of Cr.P.C. to call for records pertaining to the judgment dated 16.06.2016 passed in C.A.No.72 of 2015 on the file of the learned Additional District and Sessions Judge, Cuddalore at Vridhachalam confirming the judgment dated 07.10.2015 passed in S.C.No.151 of 2013 on the file of the Assistant Sessions Judge, Neyveli and set aside the same.

Prayer in Crl.R.C.No.980 of 2016: Criminal Revision Case filed under Sections 397 read with Section 401 of Cr.P.C. to set aside the judgment dated 16.06.2016 passed in C.A.No.72 of 2015 on the file of the learned Additional District and Sessions Judge, Cuddalore at Vridhachalam confirming the judgment dated 07.10.2015 passed in S.C.No.151 of 2013 on the file of the Assistant Sessions Judge, Neyveli, and direction to refund find amount.

For Petitioners : M/s.Om Sai Ram in Crl.R.C.964/2016
Mr.K.Veeraraghavan in R.C.980/2016

For Respondent : Mr.R.Ravichandran
Govt. Advocate (Crl.Side)
in both the Revisions

COMMON ORDER

The respondent police registered a case against the revision petitioners in Cr.No.101 of 2013 for the offence under Sections 392 r/w 397 and 506(ii) of IPC and after investigation filed charge sheet before the jurisdictional Magistrate stating that when P.W.2 riding Two Wheeler and P.W.1 as pillion rider, the accused dashed against their Two Wheeler and robbed 7 sovereign of gold chain from P.W.1 and caused simple injuries. The charge sheet was taken on file in S.C.No.151 of 2013 by the learned Assistant Sessions Judge, Neyveli. In the above case the petitioner in Crl.R.C.No.964/2016 was arrayed as A2 and petitioner in Crl.R.C.No.980/2016 was arrayed as A1. The learned Assistant Sessions Judge, after trial found the accused guilty of offence punishable under Section 394 of IPC and by judgment dated 07.10.2015, convicted them and sentenced to undergo rigorous imprisonment for seven years with fine of Rs.10,000/-, in default, to undergo rigorous imprisonment for further period of one year. Aggrieved against the judgment of conviction, both the accused had preferred separate appeals before the learned Principal District and Sessions Judge, Cuddalore at Vridhachalam, in C.A.Nos.72 and 75 of 2015 respectively and the same were made over to the learned III Additional District and Sessions Judge, Cuddalore for disposal in accordance with law. The lower appellate Court, after hearing both the parties, by a common judgment dated 16.06.2016 dismissed both the appeals and confirmed the judgment of conviction made by the trial Court. Assailing the judgment of the lower appellate Court, both the accused had preferred these criminal revisions before this Court.

2 According to the learned counsel appearing for both the petitioners, the trial Court has disbelieved the evidence of prosecution witness in regard to offence under Section 397 and it ought to have disbelieved the evidence of the prosecution for the offence under Section 394 also. Further recovery has not been proved in the manner known to law and ingredients of Section 394 of IPC is not made out. Both the Courts below had erroneously convicted the petitioners, which warrants interference.

3 Learned Government Advocate (Crl.Side) appearing for the respondent police would submit that P.W.1 and P.W.2 had clearly deposed entire occurrence and the same has been corroborated with each other. Since the injuries sustained by P.W.1 and P.W.2 was simple in nature, the trial Court has acquitted from the offence under Section 397 and by appreciating the evidence of prosecution witnesses, has convicted the petitioners/accused 1 & 2 for the offence under Section 394 of IPC, which does not call for any interference.

4 Heard the learned counsel appearing on either side and perused the materials available on record.

5 It is seen that both the revision cases are filed against the concurrent judgment of conviction of both the Courts below. On entire reading of evidence of prosecution witnesses, it is clear that the petitioners had committed offence under Section 394 of IPC and the trial Court has given cogent reason for the conviction. The appellate Court, being a final Court of fact finding, after re-appreciating entire evidence, had dismissed the appeal and confirmed the conviction of the trial Court.

6 It is pertinent to refer the judgment of the Hon'ble Supreme Court in the case of State of Kerala Vs. Putthumana Illath Jathavedan Namboodri, reported in AIR 1999 SC 981 held as follows:

"... In its revisional jurisdiction, the High Court can call for and examine the record of any proceedings for the purpose of satisfying itself as to the correctness, legality or propriety of any finding, sentence or order. In other words, the jurisdiction is one of Supervisory jurisdiction exercised by the High Court for correcting miscarriage of justice. But the said revisional power cannot be equated with the power of an Appellate Court nor can it be treated even as a second Appellate jurisdiction. Ordinarily, therefore, it would not be appropriate for the High Court to re-appreciate the evidence and come to its own conclusion on the same when the evidence has already been appreciated by the Magistrate as well as the Sessions Judge in appeal, unless any glaring feature is brought to the notice of the High Court which would otherwise tantamount to gross miscarriage of justice..."

7 This Court does not find any perversity in the judgment of conviction of both the Courts below and there is no merit and substance in these revision cases. Therefore, the criminal revision cases are dismissed. Consequently connected miscellaneous petitions are closed. The trial Court is directed to secure the custody of the petitioners/accused to undergo the remaining period of sentence, if any.

Sd/-
Assistant Registrar

// True Copy//

Sub Assistant Registrar

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To

- 1.The Assistant Sessions Judge, Neyveli.
- 2.The Additional District and Sessions Judge,
Cuddalore at Vrindhachalam.
- 3.The Inspector of Police,
Neyveli Township Police Station,
Cuddalore District.
- 4.The Superintendent, Central Prison, Cuddalore.
- 5.The Station House Officer,
Neyveli Township Police Station, Cuddalore District,
- 6.The Public Prosecutor, High Court of Madras.
- 7.The Section Officer, Criminal Section,
High Court, Madras.

+1CC to Mr.K.Veeraraghavan, Advocate, SR.No.38769.

+1CC to Mr.Om Sai Ram, Advocate, SR.No.38892.

CrI.R.C.Nos.964 & 980 of 2016 and
CrI.M.P.Nos.7662 & 7663 of 2016

EV(CO)

CSR: 20/12/2019