

Bail Slip in CrI.RC.No.38/2017

The Petitioners in CrI.RC.No.38/2017 viz., G.Sampath, Aged 51 years S/o.Govindraj, 2.R.Munusamy, aged 58 years S/o.Ramasamy were directed to be released on bail as per order dated 08/02/2017 and made in CrI.MP.no.405/2017 in CrI.RC.no.38/2017.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 08.03.2019

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

CrI.R.C.No.38 of 2017

1.G.Sampath
2.R.Munusamy

... Petitioners

Vs

State rep.by
The Forest Range Officer,
Sandavasal Range,
Vellore District
(Crime No. STOR.No.74/98)

... Respondent

PRAYER: Criminal Revision Petition filed under Article 397 r/w 401 of Criminal Procedure Code to set aside the Judgment dated 13.04.2010 in C.A.No.104 of 2009, on the file of the Principal Sessions Judge, Vellore, by partly confirming the judgment of conviction dated 02.12.2009 made in Orl.Misc.Case.No.13 of 2000, on the file of the Special Judicial Magistrate, Tirupattur.

For Petitioners

: Mr.R.Thanjan

For Respondent

: Mr.R.Ravichandran

Government Advocate (Criminal Side)

O R D E R

The respondent police registered a case against the revision petitioners for the offence under Sections 21(d) (e) and (f) and section 36 (A) r/w (E) of Tamilnadu Forest Act. Thereafter, the learned Special Judicial Magistrate, Thirupattur, taken the cognizance in C.C.No.13 of 2000 for the offence and framed charges and also after an elaborate enquiry, the learned Special Judicial Magistrate found guilt of the accused and convicted for the offence under Section 21(d) (e) and (f) to undergo two (2) years Rigorous imprisonment and imposed a fine amount Rs.7,500/- in default to undergo two (2) months simple imprisonment for offence under Section 36 (A) r/w (E) of Tamilnadu Forest Act. As against the above said order, the revision petitioner filed a Criminal Appeal before the learned Principal Sessions Judge, Vellore, in CrI.A.No.104 of

2009. After hearing of the appeal, the learned Principal Sessions Judge, partly allowed the appeal by reducing the sentence to undergo Rigorous imprisonment for a period of one year for offence under Section 21(d) (e) and (f) and also to pay a fine of Rs.3000/- each in default to undergo two(2) months rigorous imprisonment for offence under Section 36 (A) r/w (E) of Tamilnadu Forest Act. As against the said Criminal Appeal, the revision petitioner filed a revision case before this Court.

2. The main contention of the respondent department is that, the accused trespassed into the reserve forest area and damaged the trees and also removed the sandal wood and cut into pieces weighing out of 246.00 kgms., while the Forest Range Officer went for a raid along with the foresters on 24.12.1998 when they found the accused was in possession of 246.00 kgms, of sandal wood sticks. Subsequently, they have also recorded the confession statement from both the revision petitioners and also seized the sandal woods from the accused, then prepared a recovery mahazar, Form 95 and produced before the Court, during the trial.

3. The learned counsel for the petitioners would submit that the revision petitioners are innocents and they have foisted with the false case against them and they have no record or any material object that they have recovered the materials from them and they have not stated that where they cut the trees and also they have not identified the place.

4. The learned Government Advocate (Criminal Side) would submit that the revision petitioners themselves admitted that they were in possession of the sandal wood weighing out of 246.00kgms, and they made a confession statement and the confession statement itself admissible under Indian Evidence Act. Therefore the confession statement and also the recovery mahazar have been recovered and produced before the Court under form 95. The Forest Range Officer went for raid and found these revision petitioners were in possession of the sandal wood in the reserve forest area and they could not find out the witness for recovering the materials and also for the confession statement.

5. Heard both sides, perused the materials available on record.

6. Considering the facts and circumstances of the case, that there is no evidence to show that these revision petitioners have directly cut the sandal woods from the reserve forest area, and the respondent police did not produce any material objects before the trial Court, and also there is no evidence to prove that whether the accused have trespassed into the reserve

forest and where they cut the trees and the prosecution has failed to prove its case beyond all reasonable doubts.

7. Therefore, this Court is inclined to set aside the judgment passed by the Courts below. Accordingly, this Criminal Revision Case is allowed.

Sd/-
Assistant Registrar

// True Copy//

Sub Assistant Registrar

sbn
To

- 1.The Principal Sessions Judge,
Vellore.
- 2.The Special Judicial Magistrate,
Tirupattur.
- 3.The Forest Range Officer,
Sandavasal Range,
Vellore District.
- 4.The Superintendent,
Cetral Prison, Vellore.
- 5.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.R.Thanjan, Advocate, SR.No.22386.

Cr1.R.C.No.38 of 2017

VD(CO)
CSR(30/12/2019)

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