

**Bail Slip**

Mani @ Selvamani, petitioner / Accused No.2 is released on Bail vide Court order dated 16.04.2013 made in MP(MD)No.1 of 2013 in Crl.RC (MD)No.314 of 2013.

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

CRL RC (MD)No.314 of 2013

Mani @ Selvamani

... Petitioner / Accused No.2

Vs.

State, rep.by
The Inspector of Police,
Tiruchendur Temple Police Station,
Tiruchendur.
(Cr.No.275 of 2002)

... Respondent / Complainant

Prayer : This Criminal Revision Case is filed under Section 397 r/w. Section 401 of the Criminal Procedure Code, to call for the records pertaining to Crl.A No.2 of 2013 on the file of the Additional Sessions Judge/FTC No.II, Tuticorin confirming the conviction made by the Judicial Magistrate, Tiruchendur in C.C No.276 of 2002 dated 20.12.2012 and set aside the order in Crl.A No.2 of 2013 dated 18.2.2013 and acquit the petitioner.

For Petitioner : Mr.Antony S.Prabhakar

For Respondent : Mrs.S.Bharathi,

Government Advocate (crl.side)

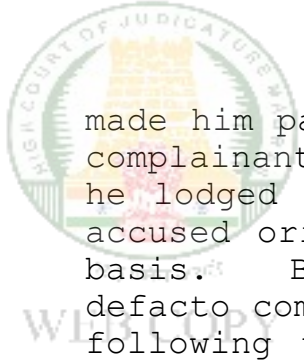
ORDER

The revision petitioner was convicted for the offence under Section 420 IPC and sentenced to one year rigorous imprisonment vide judgment dated 20.12.2012 in C.C No.276 of 2002 on the file of the Judicial Magistrate, Tiruchendur. Questioning the same, she filed Criminal Appeal No.2 of 2013. By judgment dated 18.02.2013, the Additional Sessions Judge/FTC No.II, Tuticorin sustained the conviction imposed on the revision petitioner and reduced the sentence of imprisonment from one year rigorous imprisonment to six months rigorous imprisonment. The same is under challenge in this criminal revision case.

2.Heard the learned counsel on either side.

3.It is seen that the revision petitioner was tried along with her husband Babu before the trial court. But, the learned Trial Judge acquitted the revision petitioner's husband and convicted the petitioner alone. Challenging the acquittal of the petitioner's husband, no appeal has been filed by the State or the defacto complainant. It has become final.

4.The case of the prosecution is that the revision petitioner and her husband assured the defacto complainant/PW.1 that they would secure an Electrician job for him in the Government Hospital and



made him part with a sum of Rs.1,16,000/-. The case of the defacto complainant is that the promised job was not obtained. Therefore, he lodged a complaint before the police. According to PW.1, the accused originally agreed to clear their liability on installment basis. But they did not honour the undertaking. Therefore, the defacto complainant filed a complaint under Section 153 of Cr.PC and following the direction issued by the court, Crime No.275 of 2002 was registered on the file of the Inspector of Police, Tiruchendur Temple Police Station. Investigation was taken up and final report was filed before the learned Judicial Magistrate, Tiruchendur. Cognizance of the offence under Section 420 IPC was taken. Since the accused denied the charges, the prosecution examined PW.1 to PW.5 and marked Exs.P1 and P2. On the side of the accused, the first accused examined himself as DW.1. One other witness was examined as DW.2. A photo copy of the earlier complaint given by PW.1 was marked as Ex.D1. But then, the learned trial magistrate found the petitioner guilty and the same was also confirmed by the appellate court.

5.The learned counsel for the petitioner submitted that having regard to the evidence on record, he would not challenge the concurrent findings of the guilt rendered by the courts below and that he would be satisfied if some leniency is shown in the matter of punishment. The revision petitioner has come forward to deposit a sum of Rs.30,000/- as token compensation to the defacto complainant. The revision petitioner is aged 60 years and she is a lady. I carefully went through the testimony of PW.1. In fact, PW.1 does not directly implicate the revision petitioner. More than anything else, the conduct of PW.1 cannot be condoned. He attempted to procure public employment by illegal means. Therefore, even while sustaining the conviction imposed on the petitioner, this Court sets aside the sentence of imprisonment imposed on her. Instead, the revision petitioner is directed to deposit a sum of Rs.30,000/- as token compensation to the credit of C.C No.276 of 2002 on the file of the Judicial Magistrate, Tiruchendur within a period of six weeks from the date of receipt of a copy of this order. The trial magistrate shall hand over the same to the defacto complainant immediately after it is deposited. If the petitioner fails to do so, she will have to undergo default sentence of six months simple imprisonment.

6.With this modification in the matter of sentence and a direction to pay token compensation, this criminal revision case is partly allowed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS)



To

1.The Additional Sessions Judge/FTC No.II, Tuticorin.

2.The Judicial Magistrate, Tiruchendur.

3.The Principal Sessions Judge,
Thoothukudi.

4.The Chief Judicial Magistrate,
Thoothukudi.

5.The Inspector of Police,
Tiruchendur Temple Police Station,
Tiruchendur.

6.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.ANTONY S.PRABAHAR, Advocate (SR-78932[F]
dated 31/07/2019)

CRL RC (MD) No.314 of 2013

30.07.2019

SMA/17/12/19/3P/8C