



**Bail Slip**

The Crl.Revision Petitioner/Accused namely Rajapandian was directed to be released on bail vide order in Crl MP(MD)No.1/2013 in Crl.R.C(MD)No.373 of 2013 dated 18.04.2013 on the file of the Madurai Bench of Madras High Court.

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.07.2019

CORAM:

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

Crl.R.C(MD)No.373 of 2013

Rajapandian

... Petitioner

Vs

State represented by,  
The Sub Inspector of Police,  
Usilampatti Town Police Station,  
Madurai District.

In Crime No.387 of 2002

... Respondent

**PRAYER:** Petition filed under Section 397 r/w 401 of Criminal Procedure Code, to call for the records in C.A.No.32 of 2011, dated 08.10.2012 passed by the fourth Additional District and Sessions Judge, Madurai by confirming the Judgment in C.C.No.560 of 2002, dated 11.04.2011 passed by the learned District Munsif Cum Judicial Magistrate No.1, Usilampatti and to set aside the Judgment of the conviction on the appellant/accused.

For Petitioner : Mr.V.Muthumani

For Respondents : Mr.A.Robinson  
Government Advocate (Crl.side)

**ORDER**

The revision petitioner was convicted for the offence under Section 420 of IPC and sentenced to undergo rigorous imprisonment for one year, vide Judgment dated 11.04.2011 in C.C.No.560 of 2002 on the file of the Judicial Magistrate No.1, Usilampatti. Questioning the same, he filed Criminal Appeal No.32 of 2011 before the Fourth Additional District and Sessions Judge, Madurai. But the same was dismissed, vide Judgment dated 08.10.2012. Questioning the same, this revision has been filed.

2.Since the counsel through whom the revision petition was filed, did not appear, this Court appointed a Legal Aid Counsel to represent the revision petitioner.



3.Today, when the matter was taken up for hearing, the learned Legal Aid Counsel reiterated all the contentions set out in the memorandum of grounds and wanted this Court to reverse the Judgments of the Courts below.

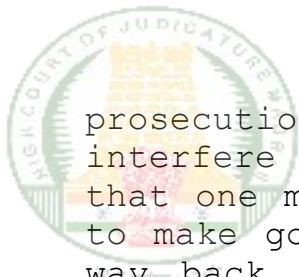
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4.Per contra, the learned Government Advocate (Crl.side) submitted that the impugned Judgments do not warrant any interference.

5.I carefully considered the rival contentions and perused the evidence on record.

6.The case of the prosecution is that P.W.1-Baskaran gave a sum of Rs.2,00,000/- to the revision petitioner Raja Pandian on 03.01.2011 in order to secure a seat for P.W.2-daughter of P.W.1 at Gananodhaya Teacher Training Institute, Chennai. But the seat could not be secured for P.W.2. When P.W.1 wanted the money back, the accused executed an agreement(Ex.P1) undertaking to return the money. Since the accused did not honour his undertaking, P.W.1 lodged Ex.P2 complaint before the Usilampatti Town Police Station, leading to registration of Crime No.387 of 2002 (Ex.P5). Investigation was undertaken and final report was filed before the Judicial Magistrate No.1, Usilampatti for the offence under Section 420 of IPC against the revision petitioner herein. The petitioner denied the charges and claimed to be tried. The prosecution examined as many as nine witnesses and marked Ex.P1 to Ex.P6. On the side of the accused, no evidence was adduced. The learned trial Judge, on a careful consideration of the evidence on record, found the revision petition guilty of the offence under Section 420 of IPC and sentenced him to one year rigorous imprisonment. It is relevant to note here that in the very same trial, the revision petitioner wife Indra and one Otchandevar were also shown as accused. The learned trial Judge rightly acquitted the other two accused and found the revision petitioner alone guilty of the offence. The Appellate Court also confirmed the finding of guilt and sentence passed by the trial Magistrate. The Courts below have concurrently found the revision petitioner guilty. No case has been made out for interference.

7.The fact that the revision petitioner received a sum of Rs.2,00,000/- has been established beyond reasonable doubt by the prosecution not only through the testimony of P.W.1 but also by marking Ex.P1. When the revision petitioner had induced P.W.1 to part with a sum of Rs.2,00,000/- with an assurance that he would secure the seat in the Training Institute and that he has not been able to fulfil his promise, the offence of cheating is clearly made out. This is because, the presence or dishonest intention from the inception has been established by the testimony of the



prosecution witnesses, particularly, P.W.1. I see no ground to interfere with the finding of guilt. However, I am of the view that one more opportunity can be given to the revision petitioner to make good the loss caused to P.W.1. The occurrence had taken way back in the year 2001. Therefore, this Court directs the revision petitioner to deposit a sum of Rs.2,00,000/- to the credit of C.C.No.560 of 2002 on the file of the Judicial Magistrate No.I, Usilampatti, within a period of eight weeks from the date of receipt of a copy of this order. In the event of failure on the part of the petitioner to do so, the revision petitioner will undergo the default sentence of one year simple imprisonment. If the petitioner deposits the compensation amount, the same shall be handed over by the trial Magistrate to P.W.1-Baskaran.

8.With this modification in the matter of sentence, this criminal revision case is partly allowed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

Sub Assistant Registrar(CS)

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To

- 1.The Principal District and Sessions Judge, Madurai
- 2.The IV Additional District and Sessions Judge, Madurai.
- 3.The District Munsif Cum Judicial Magistrate No.1,  
Usilampatti.
- 4.The Judicial Magistrate I, Usilampatti
- 5.The Chief Judicial Magistrate, Madurai
- 6.The Superintendent, Central Prison, Madurai
- 7 The Sub Inspector of Police,  
Usilampatti Town Police Station,  
Madurai District.



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

9.The Section Officer,-2 copies  
Criminal Section,  
Madurai Bench of Madras High Court,  
Madurai

+1 CC to M/s.V.MUTHUMANI, Advocate ( SR-78308[F] dated  
29/07/2019 )

Crl.R.C (MD)No.373 of 2013  
29.07.2019

KM/(10.10.2019) 4P 12C