

**Bail Slip**

The Revision petitioner/Accused Karuppusamy S/o.Krishnasamy was released on bail as per the order of this Court dated 29.04.2011 passed in MP(MD).No.1/2011 in CrI.RC(MD).No.361/2011.

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.06.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**CrI.R.C(MD)No.361 of 2011**

Karuppasamy

... Petitioner/Appellant/Accused No.1

Vs

State represented by
Sub Inspector of Police,
C.C.I.W., Tuticorin,
Tuticorin District.

... Respondent/Respondent/Complainant

PRAYER: Petition filed under Section 397 r/w 401 of Criminal Procedure Code, to call for the records in Criminal Appeal No.48 of 2006 on the file of the Learned Additional Session judge/Fast Track Court No.I, Tuticorin and allow this revision petition by setting aside the order passed by the learned Additional Session Judge/Fast Track Court No.I, Tuticorin in Criminal Appeal No.48 of 2006, order dated 07.07.2009 confirming the order dated 31.03.2006 passed in C.C.No.48 of 2005 on the file of the learned Judicial Magistrate No.II, Tirunelveli.

For Petitioner : Mr.K.Gokul

For Respondent : Mr.A.Robinson

Government Advocate (CrI.side)

ORDER

Heard the learned counsel on either side.

2.The convicted accused is the revision petitioner herein. He has filed this revision case to set aside the Judgment made in Criminal Appeal No.48 of 2006 on the file of the Additional Sessions/Fast Track Court No.1, Tuticorin, confirmed the Judgment and sentence made in C.C.No.48 of 2005 on the file Judicial Magistrate No.II, Tirunelveli.

3.The case of the prosecution is that the petitioner herein was the salesman of P.Jegaverapuram Fair Price Shop run by the L.Venkateshpuram Primary Agricultural and Co-operative Bank during the period from 01.04.1998 till 31.03.1999. The second accused R.Subash Chandrabosh was working as the Secretary. The petitioner along with the said Secretary who was shown as A2 had made false entries and by forging the documents, had misappropriated a sum of Rs.1,02,826/-.In this regard, Crime No.9 of 2004 was registered on the file of the Sub Inspector of Police, C.C.I.W., Tuticorin, Tuticorin District. Investigation was undertaken and final report was filed. Cognizance of the offences under Sections 408 and 477(a)

of IPC was taken. The prosecution examined as many as 12 witnesses and marked 30 documents to prove its case.

3. On consideration of both oral and documentary evidence, the learned trial Judge found both the accused guilty of the offences, with which, they were charged and sentenced them to undergo one year simple imprisonment and a fine of Rs.1000/- was also levied. On appeal, the First Appellate Court confirmed the same. Aggrieved by the said Judgment, the revision petitioner has filed this revision case.

4. The learned counsel appearing for the revision petitioner contended that the prosecution has failed to establish the necessary ingredients to constitute the offences under Sections 408 and 477(a) of IPC.

5. Per contra, the learned Government Advocate (Crl.side) would submit that the Judgments passed by the Courts below do not deserve any interference.

6. It is seen from the evidence that the prosecution has examined the Deputy Registrar as P.W.1. While the Clerk of the Society was examined as P.W.2. It is further seen that the Secretary and the Salesman were not entitled to retain any amount above Rs.10,000/- as cash balance. They were obliged to remit the excess amount in the account of the Society in the Bank concerned. But they did not do so. When audit of the accounts of the society was undertaken, the misappropriation committed by the petitioner came to light.

7. When both the Courts below have concurrently found the petitioner guilty of the offences, with which, he was charged, in the exercise of revisional jurisdiction, I am not in a position to interfere with the same, since no case for re-appreciation has been made out. It is well settled that there is no scope for re-appreciating the evidence in the revisional Jurisdiction, unless it is shown that the Judgments of the Courts below are vitiated by irregularity or perversity. No such ground has been made out. Therefore, the conviction imposed by the Courts below is confirmed. However, taking note of the lapse of time, this Court is of the view that the sentence of imprisonment imposed on the petitioner can be reduced from 12 months simple imprisonment to six months simple imprisonment. Except modifying the sentence of imprisonment by reducing to six months simple imprisonment, in all other aspects, the Judgements of the Courts below are confirmed. This criminal revision petition is partly allowed.

Sd/-

Assistant Registrar ()

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To

- 1.The Additional Session Judge/
Fast Track Court No.I, Tuticorin.
- 2.The Judicial Magistrate No.II,
Tirunelveli.
- 3.Do thro The Principal Sessions Judge,
Tirunelveli.
- 4.Do thro The Chief Judicial Magistrate,
Tirunelveli.
- 5.The Siperintendent, Central Prison,
Palayamkottai.
- 6.The Sub Inspector of Police,
C.C.I.W., Tuticorin,Tuticorin District.
- 7.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Copy to : The Section Officer, Criminal Records Section,
Madurai Bench of Madras High Court,Madurai.
(2 Copies)

+1 CC to M/s.K.GOKUL, Advocate in SR-71433

Cr1.R.C (MD) No.361 of 2011
26.06.2019

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PK/10.07.2019 : 3P/11C