



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.06.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

Cr1.R.C. (MD) No. 606 of 2011

Govindarajulu

.. Petitioner/Appellant/  
Accused

Vs.

State through,  
The Inspector of Police,  
Commercial Crime Investigation Wing,  
C.C.I.W.,  
Trichy.  
(Crime No.18 of 1994)

.. Respondent/Respondent/  
Complainant

**Prayer :** This Criminal Revision petition is filed under Section 397 r/w 401 of Cr.P.C., to call for the records in C.A. No.184 of 2006 dated 16.05.2011 on the file of the Additional District Sessions Court, Trichy(Fast Track Court No.II) which is confirmed in the Judgment passed in C.C.No.626 of 1997 dated 30.10.2006 on the file of the learned Judicial Magistrate No.1, Trichy, set aside the same and allow this Revision.

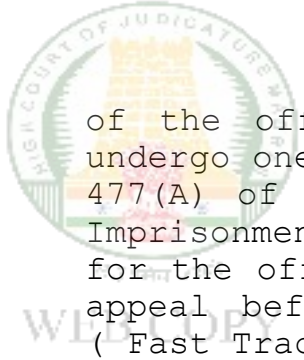
For Petitioners : Mr.G.S.Ashok Adhithyan,  
for Mr.M.Subash Babu.

For Respondent : Mr.A.Robinson,  
Government Advocate(Cr1.Side).

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**ORDER**

The petitioner was working as Assistant Pharmacist in Trichy Chinthamani Consumer Co-operative Wholesale Stores Ltd., in the Drugs section. He was accused of having misappropriated the funds belonging to the society. In this regard Crime No.18 of 1994 was registered on the file of the Inspector of Police, C.C.I.W., Trichy. Final report was laid against the petitioner and two other persons. The learned Judicial Magistrate No.I, Trichy, took cognizance of the case for the offence under Sections 477(A) and 408 of I.P.C. The petitioner denied the charges and claimed to be tried. The prosecution examined as many as 30 witnesses and marked Ex.P.1 to Ex.P.79. The accused did not adduce any evidence. The learned trial Magistrate by Judgment dated 30.10.2006 found the petitioner guilty



of the offences with which he was charged and sentenced him to undergo one year Rigorous Imprisonment for the offence under Section 477(A) of I.P.C. and he was sentenced to undergo one year Rigorous Imprisonment and he was also levied with a fine of Rs.1,000/- for the offence under Section 408 of I.P.C. The petitioner filed an appeal before the learned Additional District and Sessions Judge ( Fast Track ), Trichy by filing C.A.No.184 of 2006. The appeal was dismissed on 16.05.2011. Challenging the same, the Criminal Revision has been filed.

2. The learned counsel appearing for the petitioner after arguing in extenso, finally submitted that he would not press the contentions regarding the guilt of the petitioner herein and he would be satisfied, if the sentence of imprisonment is modified. He drew my attention to the testimony of P.W.7 in which it has been stated that there was a short fall in the stock value to Rs.33,429/-. The petitioner undertakes to deposit a sum of Rs.35,000/- to the credit of C.C.No.626 of 1997 on the file of the learned Judicial Magistrate No.I, Trichy, as compensation so that the defacto complainant society can withdraw the same. The petitioner's age is now said to be 85 years. The occurrence had taken place almost 30 years ago.

3. Taking note of the mitigating aspects, even while sustaining the conviction imposed on the petitioner, this Court sets aside the sentence of imprisonment and fine levied on the petitioner and instead directs the petitioner to deposit a sum of Rs.35,000/- (Rupees Thirty Five Thousand only) as compensation to the credit of C.C.No.626 of 1997 on the file of the learned Judicial Magistrate No.I, Trichy. The petitioner's counsel states that even though the fine amount has been set aside, the petitioner would not apply for refund of the fine amount. If the petitioner fails to deposit the said sum within a period of three months from the date of receipt of a copy of this order, he will undergo the default sentence of three months Simple Imprisonment.

4. With this modification, the Criminal Revision stands partly allowed. No costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS )

pmu



To

1. The Additional District Sessions Judge,  
(Fast Track Court No.II), Trichy.

2. The Judicial Magistrate No.1, Trichy.

3. The Inspector of Police,  
Commercial Crime Investigation Wing,  
C.C.I.W., Trichy.

4. The Section Officer,  
Criminal Section,  
Madurai Bench of Madras High Court,  
Madurai.(2)

+1 CC to Mr.M.SUBASH BABU, Advocate SR-71771.

**Crl. R.C. (MD) No.606 of 2011**  
**26.06.2019**

CS(22.08.2019) 3P 7C