

**BAIL SLIP****Crl.R.C. (MD) No.807 of 2011**

The Appellant/Accused namely M.Subbiah, S/o.Muthu Udayar was directed to be released on bail as per order of this Court dated 11.10.2011 made in MP.No.3/2011 in Crl.R.C. (MD) No.807 of 2011 on the file of this Court.

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**DATED: 03.07.2019****CORAM****THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN****Crl.R.C. (MD) No.807 of 2011**

M.Subbiah

... Petitioner/2nd Accused

Vs.

The State by
The Inspector of Police,
Perumalpuram Police Station,
Tirunelveli District.

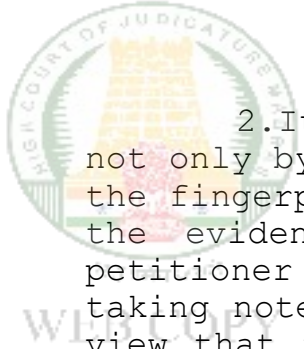
... Respondent/Complainant

Prayer: Criminal Revision Case is filed under Section 397 r/w. 401 of Cr.P.C, to set aside the judgment made in C.A.No.45 of 2009 by the learned I Additional Sessions Judge, Tirunelveli, dated 10.12.2009, confirming the judgment of conviction made in S.C.No.60 of 2007 by the learned Additional Assistant Sessions Judge, Tirunelveli, dated 17.07.2009.

For Petitioner : Mr.D.Venkatesh
For Respondent : Mrs.S.Bharathi
Govt. Advocate (Crl. Side)

O R D E R

The petitioner along with six others faced trial in S.C.No.60 of 2007, on the file of the learned Additional Assistant Sessions Court, Tirunelveli, for the offence under Sections 397 r/w 120(B), 427 and 397 of I.P.C. By judgment dated 17.07.2009, the learned Additional Assistant Sessions Judge, Tirunelveli convicted the petitioner and the fourth accused for the offence with which they were charged and sentenced them to undergo five years rigorous imprisonment. A fine of Rs.1,000/- was also levied. The other accused were acquitted. Aggrieved by the same, the petitioner and the said Kannan filed C.A.No.45 of 2009 before the learned I Additional Sessions Court, Tirunelveli. By judgment dated 10.12.2009, the Appellate Court dismissed the appeal and confirmed the judgment passed by the Court below. Challenging the same, this criminal revision case has been filed.



2. It is seen that the guilt of the petitioner was established not only by identification of the witnesses but also by matching all the fingerprints found on the scene of occurrence. Having regard to the evidence on record, the learned counsel appearing for the petitioner rightly did not press on the point of guilt. However, taking note of the facts and circumstances of the case, I am of the view that the petitioner ought to have been convicted only for the offence under Section 392 of I.P.C. The conviction imposed on the petitioner is thus modified. The petitioner's counsel submitted that the petitioner had committed the crime way back in the year 2001. It is true that he is having previous case also. But then, for the last 15 years, the petitioner has not come under any adverse notice. He is now running a fruit stall. He is taking care of not only his family but also that of his cousin. As many as six children are depending on him. Taking into account all these mitigating circumstances, this Court reduces the period of rigorous imprisonment from five years to nine months rigorous imprisonment. It is seen that the petitioner was in custody for about six months during investigation. The same shall be adjusted and set off in terms of Section 428 of Cr.P.C. With this modification in the matter of both conviction and sentence, this criminal revision case is partly allowed. The petitioner shall surrender before the learned Trial Court on or before 30.08.2019.

Sd/-

Assistant Registrar (CS-II)

/ True Copy /

Sub Assistant Registrar (CS-)

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To:

1. The I Additional Sessions Judge, Tirunelveli.

2. The Additional Assistant Sessions Judge, Tirunelveli.

3. The Principal Sessions Judge, Tirunelveli.

4. The Judicial Magistrate No.I, Tirunelveli.

5. The Inspector of Police,
Perumalpuram Police Station, Tirunelveli District.

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

+1 CC to M/s.D.VENKATESH, Advocate (SR-73090[F] dated 03/07/2019)

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03.07.2019