



BAIL SLIP

The Appellant/Accused namely C.Thangathurai, aged about 65 years, S/o.Chinna Nadar was directed to be released on bail as per order of this Court dated 28.09.2011 and made in MP(MD)No.1 of 2011 in Crl.R.C.(MD)No.829 of 2011 on the file of this Court.

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.R.C.(MD)No.829 of 2011

C.Thangathurai

.. Petitioner/Appellant/
Accused(Single)

Vs.

State represented by,
The Inspector of Police,
District Crime Branch,
Tirunelveli,
Tirunelveli District.
(Crime No.7 of 2003)

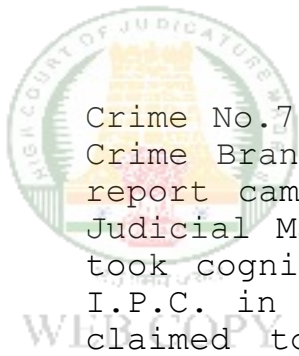
.. Respondent/Respondent/
Complainant

Prayer : This Criminal Revision petition is filed under Sections 397 and 401 of Cr.P.C., to call for the records from the lower Courts and to duly set aside the Judgment passed by the learned Additional District Sessions Judge/Fast Track Court No.I, Tirunelveli, Tirunelveli District in C.A.No.137 of 2010, dated 03.08.2011 confirming the Judgment of the Judicial Magistrate No.I, Tirunelveli, Tirunelveli District in C.C.No.68 of 2006.

For Petitioner : Mr.K.Prabhu
For Respondent : M/s.S.Bharathi,
Government Advocate(Crl.Side).

ORDER

The petitioner had availed loan from P.W.1 and P.W.2 and mortgaged his property in their favour. The mortgage was also duly registered. The petitioner had promised to P.W.1 and P.W.2 that he would re-mortgage the property and clear the loan and by holding such an assurance, got back the original documents from them. But instead of doing so, he committed impersonation and had the earlier registration cancelled. When this came to the knowledge of P.W.1 and P.W.2, P.W.1 lodged Ex.P.3 complaint. The same was registered as



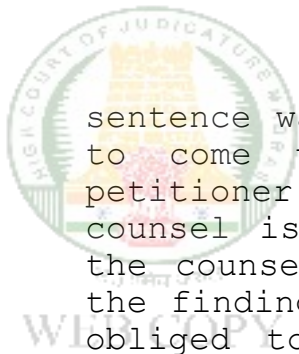
Crime No.7 of 2003 on the file of the Inspector of Police, District Crime Branch, Tirunelveli. Investigation was undertaken and final report came to be filed against the petitioner before the learned Judicial Magistrate No.I, Tirunelveli. The learned trial Magistrate took cognizance of the offence under Sections 465, 468 and 471 of I.P.C. in C.C.No.68 of 2006. The petitioner denied the charges and claimed to be tried. The prosecution examined as many as 9 witnesses and marked Ex.P.1 to Ex.P.13. M.O.1 was also marked. On the side of the accused, no evidence was adduced. The learned trial Magistrate by Judgment dated 04.08.2010 found the petitioner guilty and sentenced him to undergo imprisonment as follows:-

Accused	Penal Provisions	Punishment
Sole Accused	465 of I.P.C.	To undergo 1 year S.I. with fine of Rs.5,000/-, in default, to undergo 3 months S.I.
	468 of I.P.C.	To undergo 1 year S.I. with fine of Rs.5,000/-, in default, to undergo 3 months S.I.
	471 of I.P.C.	To undergo 1 year S.I. with fine of Rs.3,000/-, in default, to undergo 3 months S.I.

2. The aforesaid Judgment passed by the learned trial Magistrate was challenged by filing C.A.No.137 of 2010 before the learned Additional District Sessions Judge, Tirunelveli. The appellate Court by Judgment dated 03.08.2011 confirmed the Judgment of the learned trial Magistrate. Challenging the same, this Criminal Revision has been filed.

3. When the matter was taken up for hearing, the learned counsel appearing for the petitioner pointed out that the appellate Court was duty bound to appreciate the entire facts once again. In this case, the appellate Court had abdicated its duty and passed a cryptic and summary Judgment confirming the Judgment of the trial Court. The petitioner's counsel seriously faulted the approach of the appellate Court.

4. But then, I am unable to agree with the submissions of the petitioner's counsel. In paragraph No.9, it has been categorically stated that the petitioner did not challenge the finding of guilt and that the only request was for modification of the sentence imposed on him. Medical grounds were pleaded. But the appellate Court chose to reject the request for modification of sentence. When the petitioner's counsel had decided not to challenge the finding of guilt, the appellate Court cannot be faulted for confirming the conviction passed on him. The issue regarding the



sentence was independently considered and the appellate Court chose to come to the conclusion that the sentence imposed on the petitioner also did not warrant any interference. The petitioner's counsel is not justified in criticizing the appellate Court. When the counsel submitted before the Court that they do not challenge the finding of guilt, I fail to understand, why the Court should be obliged to re-appreciate the evidence, as to whether guilt was actually established by the prosecution beyond reasonable doubt or not. There is no merit in the criticism mounted by the petitioner's counsel.

5. The petitioner had borrowed a sum of Rs.4,99,000/- from P.W.1 and P.W.2. He had not repaid the said amount. Instead he chose to cleverly get the registered mortgage cancelled by committing impersonation. The trial Court found the petitioner guilty of the offence with which he was charged. Before the trial Court, P.W.5 Forensic expert was examined. Ex.P.1 is the deed of mortgage originally executed by the petitioner in favour of P.W.1 and P.W.2. Ex.P.2 is the document of cancellation. P.W.1 as well as P.W.2 have deposed that they were not parties to the cancellation. The forensic expert had also deposed in support of the prosecution case. Ex.P.7 is the enlarged thumb impression of the Revision petitioner herein. The trial Court, after a detailed consideration of the entire evidence on record including the forensic evidence come to the conclusion that impersonation was committed by the petitioner herein. This finding of guilt arrived at by the trial Court was not challenged before the appellate Court.

6. I am only exercising revisional jurisdiction. This Court in fact called upon the petitioner's counsel to consider if the petitioner can repay the amount borrowed by him so that the imprisonment imposed on him can be set aside. The petitioner's counsel stated that the petitioner is not in a position to repay the amount of Rs.4,99,000/- which he borrowed from P.W.1 and P.W.2 some 20 years ago. In these circumstances, I find no ground to interfere with the Judgments passed by the Courts below. There is no merit in this Criminal Revision.

7. Therefore, the Judgments of the Courts below are confirmed. The Criminal Revision stands dismissed, accordingly. The learned trial Magistrate is directed to secure the petitioner to undergo the remaining period of sentence. The bail bond, if any, executed shall stand cancelled. No costs.

Sd/-

Assistant Registrar (CO)

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/ /2020

Sub Assistant Registrar(CS)



1. The Additional District Sessions Judge/
Fast Track Court No.I,
Tirunelveli, Tirunelveli District.
2. The Judicial Magistrate No.I, Tirunelveli,
Tirunelveli District.
3. The Inspector of Police,
District Crime Branch,
Tirunelveli, Tirunelveli District.
4. The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

+1 CC to M/s.K.PRABHU, Advocate (SR-72698[F] dated 02/07/2019)

PMU

TE : 07/01/2020 : 4P/7C

Crl. R.C.(MD)No.829 of 2011
01.07.2019