

BAIL SLIP

CRL.RC.NO. 1382 OF 2012:

The Petitioner/Accused .9, viz., Madanus Ravi, S/o.Selvam was directed to be released on bail as per order of this Court dated 06/06/2012 and made in Crl.M.P.No.1 of 2012 in Crl.RC.No. 1382 of 2012.

CRL.RC.NO. 23 OF 2013:

The Petitioner/Accused .7, viz., Sakthi, was directed to be released on bail as per order of this Court dated 12/06/2013 and made in Crl.M.P.No.3 of 2013 in Crl.RC.No. 23 of 2013.

CRL.RC.NO. 195 OF 2013:

The Petitioner/Accused .10 & A12, viz., 1) Vasanth Kumar, (A-10), S/o.S/o.Sugumar, and 2.Kutty (A.12) S/o.Perumal respectively were released on bail as per order of this Court dated 07/06/2013 and made in Crl.M.P.No.3 of 2013 in Crl.RC.No. 190 and 195 of 2013.

CRL.RC.NO. 562 OF 2013:

The Petitioner/Accused .1, viz., Vetri @ Vetrivel S/o.Palai, was directed to be released on bail as per order of this Court dated 06/06/2013 and made in Crl.M.P.No.1 of 2013 in Crl.RC.No. 562 of 2013.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 20.12.2019
DELIVERED ON: 09.01.2020

CORAM:

THE HON'BLE MR. JUSTICE P.N. PRAKASH

Crl.R.C. Nos.1382 of 2012 and 23, 194, 195 and 562 of 2013

Madanur Ravi Petitioner in Crl.R.C. No.1382 of 2012/A.9

Sakthi @ Sakthivel Petitioner in Crl.R.C. No.23 of 2013/A.7

Seenu @ Srinivasan Petitioner in Crl.R.C. No.194 of 2013/A.8

1. Vasanth Kumar

1st Petitioner in Crl.R.C. No.195 of 2013/A.10

2. Kutty

2nd Petitioner in Crl.R.C. No.195 of 2013/A.12

Vetri @ Vetrivel Petitioner in Crl.R.C. No.562 of 2013/A.1

vs.

State represented by
the Sub-Inspector of Police
Veppanapalli Police Station
Krishnagiri District
(Cr. No.110 of 2006)

Respondent/Complainant in all the Crl.R.Cs.

Prayer in Crl.R.C. No.1382 of 2012:Criminal Revision filed under Section 397 (i) 401 Cr.P.C. seeking to set aside the judgment and order dated 27.03.2012 passed by the Additional Sessions Judge, Krishnagiri in Crl.A. No.3 of 2011 confirming the judgment and order dated 14.12.2010 passed by the Principal Assistant Sessions Judge, Krishnagiri in S.C. No.120 of 2008.

Prayer in Crl.R.C. No.23 of 2013:Criminal Revision filed under Section 397 (ii) 401 Cr.P.C. seeking to set aside the judgment and order dated 27.03.2012 passed by the Additional Sessions Judge, Krishnagiri in Crl.A. No.74 of 2010 confirming the judgment and order dated 14.12.2010 passed by the Principal Assistant Sessions Judge, Krishnagiri in S.C. No.120 of 2008.

Prayer in Crl.R.C. No.194 of 2013:Criminal Revision filed under Section 397 r/w 401 Cr.P.C. seeking to set aside the judgment and order dated 27.03.2012 passed by the Additional Sessions Judge, Krishnagiri in Crl.A. No.76 of 2010 confirming the judgment and order dated 14.12.2010 passed by the Principal Assistant Sessions Judge, Krishnagiri in S.C. No.120 of 2008.

Prayer in Crl.R.C. No.195 of 2013: Criminal Revision filed under Section 397 r/w 401 Cr.P.C. seeking to set aside the judgment and order dated 27.03.2012 passed by the Additional Sessions Judge, Krishnagiri in Crl.A. No.74 of 2010 confirming the judgment and order dated 14.12.2010 passed by the Principal Assistant Sessions Judge, Krishnagiri in S.C. No.120 of 2008.

Prayer in Crl.R.C. No.562 of 2013: Criminal Revision filed under Section 397 r/w 401 Cr.P.C. seeking to set aside the judgment and order dated 27.03.2012 passed by the Additional Sessions Judge, Krishnagiri in Crl.A. No.74 of 2010 confirming the judgment and order dated 14.12.2010 passed by the Principal Assistant Sessions Judge, Krishnagiri in S.C. No.120 of 2008.

CRL.RC.NO. 1382 OF 2012:The Petitioner/Accused .9, viz., Madanus Ravi, S/o.Selvam was directed to be released on bail as per order of this Court dated 06/06/2012 and made in Crl.M.P.No.1 of 2012 in Crl.RC.No. 1382 of 2012.

For petitioners in
Crl.R.C. Nos.1382/2012 & Mr. S. Xavier Felix
562/2013 & 561 of 2013

For petitioner in
Crl.R.C. No.23/2013

Mr. C.D. Johnson
for Mr. S. Vijay

For petitioners in
Crl.R.C.Nos.194 & 195/2013

Mr. K. Gandhikumar

For respondent in
all Crl.R.Cs.

Mrs. P. Kritika Kamal
Govt. Advocate (Crl. Side)

COMMON ORDER

Since these criminal revisions emanate from the same judgments and orders and FIR, they are considered and decided by this common order.

2 The prosecution story, as distilled from the evidence on record, is crystallised as under:

2.1 Manimaran (P.W.1) is a native of Trichy District and is a dealer in iron scrap materials. In the course of his business, he got acquainted with Madanur Ravi (A.9).

2.2 On 05.03.2006 (Sunday), Madanur Ravi (A.9) contacted Manimaran (P.W.1) and told him that 40 tonnes of iron scrap materials are available in a place and asked him (P.W.1) to come to Veppanapalli bus stand. Accordingly, Manimaran (P.W.1) went to Veppanapalli bus stand and was waiting there for Madanur Ravi (A.9) to come.

2.3 Around 8.00 p.m., Madanur Ravi (A.9) came by a Tata Sumo car bearing Regn. No. TN 24 2596 (M.O.5) to pick up Manimaran (P.W.1). Manimaran (P.W.1) got into the Tata Sumo car (M.O.5) and found that there were already six or seven persons in it. The Tata Sumo car (M.O.5) proceeded towards Ariyampalli for 2 kms. and then stopped. When Manimaran (P.W.1) asked Madanur Ravi (A.9) as to why the car had stopped, Madanur Ravi (A.9) replied that the godown is near that place. All of them alighted from the car and at that time, Madanur Ravi (A.9) asked Manimaran (P.W.1) as to how much money he has. Manimaran (P.W.1) smelled a rat.

2.4 At that time, a stout man (later identified in the Court as Sakthi @ Sakthivel - A7) slapped Manimaran (P.W.1). Madanur Ravi (A.9) protested. Immediately, another person (later identified in the Court as Rajendran - absconding accused) asked everyone to calm down. Thereafter, four others (later identified in the Court as Vetri @ Vetrivel (A.1), Seenu @ Srinivasan (A.8), Vasanth Kumar (A.10) and Kutty (A.12) made Manimaran (P.W.1) sit in a hut nearby and Rajendran (absconding accused) asked Kutty (A.12) to search Manimaran (P.W.1).

2.5 Accordingly, Kutty (A.12) searched Manimaran (P.W.1)

and found a cash of Rs.25,000/-. On seeing this, Vasanth

Kumar (A.10) intervened. Once again, Madanur Ravi (A.9) protested. Vetri @ Vetrivel (A.1) removed the gold ring (M.O.1), gold chain (M.O.2) and watch (M.O.3) that were worn by Manimaran (P.W.1). When Manimaran (P.W.1) resisted, Vetri @ Vetrivel (A.1) Vasanth Kumar (A.10) and Kutty (A.12) assaulted him. Rajendran (absconding accused) took away the Nokia mobile phone (M.O.4) from Manimaran (P.W.1) and asked Manimaran (P.W.1) to make a call to his house and ask them to bring Rs.1.50 lakhs. However, Manimaran (P.W.1) did not budge. Therefore, he was once again beaten by Rajendran (absconding accused), Vetri @ Vetrivel (A.1), Sakthi @ Sakthivel (A.7), Seenu @ Srinivasan (A.8) and Kutty (A.12) by hands and stick. Manimaran (P.W.1) was detained in the hut and was kept in guard.

2.6 While Manimaran (P.W.1) was under detention in the hut, the accused herein, brought four Kannada-speaking persons and kept them also under detention in the same hut.

2.7 For about six days, Manimaran (P.W.1) was under detention by the accused. On the seventh day, i.e., 12.03.2006, Manimaran (P.W.1) requested the accused, who was guarding him, to permit him to have bath. Pitying his plight, Manimaran (P.W.1) was permitted to go to have bath and at that time, Manimaran (P.W.1) fled from there and reached Veppanapalli Police Station and took asylum.

2.8 On the complaint (Ex.P.1) given by Manimaran (P.W.1), the police registered a case in Veppanapalli P.S. Cr. No.110 of 2006, prepared the printed FIR which was marked as Ex.P.19 and took up investigation of the case. In the complaint (Ex.P.1) itself, Manimaran (P.W.1) has named Rajendran (absconding accused), Vetri (A.1), Siva @ Sivakumar (A.2), Sakthi @ Sakthivel (A.7), Seenu @ Srinivasan (A.8), Madanur Ravi (A.9), Vasanth Kumar (A.10), Vadivel (A.11) and Kutty (A.12) and has also narrated their overt acts. Though Manimaran (P.W.1) had named only the aforesaid 9 persons in the complaint (Ex.P.1), he has stated in it that he can identify six others whose names he does not know. The police sent Manimaran (P.W.1) to the Government Hospital for treatment, where, Dr. Gunasekaran (P.W.5) examined him on 4.15 p.m. on 12.03.2006 and found the following injuries on his body:

- 1 x ½ cm. abrasion below left eye
- pain on both chests
- 5 cm. x 4 cm. abrasion on the left shoulder
- pain in the neck; and
- pain in both soles and feet

The wound certificate was marked as Ex.P.18. The FIR in Cr.No.110 of 2006 (Ex.P.19) reached the jurisdictional Magistrate on the same day i.e., on 12.03.2006 at 8.00 p.m.

2.9 At this juncture, it may be relevant to state here that in the commotion that occurred in the hut after the escape of Manimaran (P.W.1), the four Kannadigas, who were detained in that hut, also escaped. They went to Bengaluru from where they were re-directed to Tamil Nadu. On the complaint lodged by one of them, viz., Ganesh, Veppanapalli Police Station registered a case in Cr.No.113 of 2006 on 13.03.2006 and took up investigation of the case.

2.10 The breakthrough in the case, i.e., Cr. No.110 of 2006, came with the arrest of Vetri @ Vetrivel (A.1) on 14.03.2006, from whom, the police learnt about the names of all the other persons involved in the two cases and went about hunting for them inter-State.

2.11 Inasmuch as the accused were involved in two cases of abduction and robbery, their arrest had led to recovery of robbed items involved in both the cases and the panchanamas were common to both, though marked separately.

2.12 The tabular column below will throw light on the particulars of the persons arrested and the items recovered from their possession:

Name of the Accused & rank	Date of arrest	Mahazar / Panchanama	M.O. recovered	Witness
Vetri @ Vetrivel (A1)	14.03.2006	Ex.P7	1. Cash Rs. 250 2. Nokia Cell Phone (MO 4)	P.W. 2 Subramani along with Kalyanaraman (not examined)
Siva @ Sivakumar (A2)	15.03.2006	Ex.P9	Cash Rs. 540	-Do-
Rajkumar @ Rasukutty (A3)	15.03.2006	Ex.P-11	Cash Rs. 300	-Do-
Ravi (A4)	14.03.2006	Ex.P8	Cash Rs. 275	-Do-
Suresh (A5)	15.03.2006	Ex.P-10	Cash Rs. 250	-Do-
Saravanan (A6)	03.04.2006	Ex.P-17	Tata Sumo Car TN 24 2596 M.O. 5	P.W. 4 K.K. Ramanujam along with Thimmaraj (not examined)
Sakthi @Sakthivel (A7)	21.03.2006	Ex.P-15	1. Cash 1500 2. Manimaran (P.W.1's Ring (MO 1)	P.W. 3 Anbalagan along with one Subru

Seenu @ Srinivasan (A8)	20.04.2006	No Recover y	Identified Scene of Occurrence	Kalyanaraman and Thimappan
Madanur Ravi (A9)	Abscondi ng C/s	N/A	N/A	N/A
Vasanthakumar (A10)	11.07.06	N/A	N/A	N/A
Vadivel (A11)	Abscondi ng C/s	N/A	N/A	N/A
Kutty (A12)	Abscondi ng C/s	N/A	N/A	N/A
Rajendran (Split up accused)	21.03.2006	Ex.P-13	1. Gold chain (M.O.2) 2. Gold colour Titan Watch (M.O.3)	P.W. 3 Anbalagan along with one Subru

2.13 Rajendran (absconding accused) and Sakthi @ Sakthivel (A.7) were arrested by the police on 16.03.2006 in connection with a case of robbery in Cr. No.186 of 2006 and were in judicial custody. This robbery had taken place on 16.03.2006. Therefore, the police effected notional arrest of Rajendran (absconding accused) and Sakthi @ Sakthivel (A.7) in this case on 21.03.2006 and took them into police custody.

2.14 The police were unable to arrest Vasanth Kumar (A.10), but, he surrendered before the Court on 11.07.2006 and he was taken into judicial custody in this case.

2.15 From the above, it is discernible that out of the twelve accused involved in this case, nine of them were taken into judicial custody and three of them, viz., Madanur Ravi (A.9), Vadivel (A.11) and Kutty (A.12) were in abscondence.

2.16 After examining witnesses and obtaining various reports, the police completed the investigation and filed a final report in P.R.C. No.54 of 2006 before the Judicial Magistrate, Krishnagiri under Sections 343, 347, 365, 368 and 395 IPC against 13 accused, viz., Rajendran, Vetri @ Vetrivel Siva @ Sivakumar, Ravikumar @ Rasukutty, Ravi, Suresh, Saravanan @ Saravana Kumar, Sakthi @ Sakthivel, Seenu @ Srinivasan, Madanur Ravi, Vasanth Kumar, Vadivel and Kutty. In the final report, Madanur Ravi (A.9), Vadivel (A.11) and Kutty (A.12) were shown as absconding accused.

2.17 During the committal proceedings, Rajendran absconded and Madanur Ravi (A.9), Vadivel (A.11) and Kutty (A.12) surrendered before the Court. Therefore, the case against Rajendran was split up as S.C. No.95 of 2013 (P.R.C. No.14 of 2008) and the case in respect of available 12 accused was committed to the Court of Session in S.C. No.120 of 2008

and was made over to the Assistant Sessions Court, Krishnagiri, for trial.

2.18 The trial Court framed charges under Sections 343, 347, 365, 368 and 395 IPC. When questioned, the accused pleaded not guilty.

2.19 For the occurrence that took place on 05.03.2006, the trial effectively commenced only in January 2010, with the examination of Manimaran (P.W.1). The prosecution examined 8 witnesses and marked 22 exhibits and 5 material objects.

2.20 When the accused were questioned under Section 313 Cr.P.C. on the incriminating circumstances appearing against them, they denied the same. On their side, 4 defence witnesses were examined and six exhibits were marked.

2.21 After considering the evidence on record and hearing either side, the trial Court, by judgment and order dated 14.12.2010 in S.C. No.120 of 2008, acquitted Siva @ Sivakumar (A.2), Rajkumar @ Rasukutti (A.3), Ravi (A.4), Suresh (A.5) and Saravanan (A.6) since the charges were not proved beyond reasonable doubt, but, convicted Vetri @ Vetrivel (A.1), Sakthi @ Sakthivel (A.7), Seenu @ Srinivasan (A.8), Madanur Ravi (A.9), Vasanth Kumar (A.10), Vadivel (A.11) and Kutty (A.12), based on the identification of them by Manimaran (P.W.1) in the dock and sentenced them as under:

Name of accused & Rank	Provisions under which convicted	Sentence
Vetri @ Vetrivel (A.1)	S.395 IPC	7 years R.I. and fine of Rs.3,000/- each, in default to undergo 3 months S.I.
Sakthi @ Sakthivel (A.7)		
Seenu @ Srinivasan (A.8)	S.368 IPC	3 years R.I. and fine of Rs.1,000/- each, in default to undergo 3 months S.I.
Madanur Ravi (A.9)		
Vasanth Kumar (A.10)	S.347 IPC	2 years R.I. and fine of Rs.1,000/- each, in default to undergo 3 months S.I.
Vadivel (A.11)		
Kutty (A.12)		

The aforesaid sentences were ordered to run concurrently.

2.22 The appeals in CrI.A. No.74 of 2010 preferred by Vetri @ Vetrivel (A.1), Sakthi @ Sakthivel (A.7), Vasanth Kumar (A.10), Vadivel (A.11) and Kutty (A.12), CrI.A. No.76 of

2010 preferred by Seenu @ Srinivasan (A.8) and Crl.A.No.3 of 2011 preferred by the Madanur Ravi (A.9) before the Additional Sessions Court, Krishnagiri, were dismissed vide a common judgment and order dated 27.03.2012, confirming the judgment and order dated 14.12.2010 passed by the trial Court.

2.23 Aggrieved by the concurrent findings of fact arrived at by the two Courts below, the instant criminal revisions have been preferred. Seemingly, Vadivel (A.11), son of Muniraj, has not preferred revision questioning the legality and validity of the concurrent finding of facts arrived at by the two Courts below, as per the records available before this Court.

3 Heard Mr. Xavier Felix, learned counsel for the petitioners in Crl.R.C. Nos.1382 of 2012 and 562 of 2013, Mr. C.D. Johnson, learned counsel representing Mr. S. Vijay, learned counsel on record for the petitioner in Crl.R.C. No.23 of 2013, Mr. K. Gandhikumar, learned counsel for the petitioners in Crl.R.C. Nos.194 and 195 of 2013 and Mrs. P. Kritika Kamal, learned Government Advocate (Crl. Side) appearing for the respondent/State.

4 It is trite that while exercising revisional jurisdiction in a case involving concurrent findings of fact arrived at by two Courts below, the High Court cannot act as a second appellate Court [See State of Maharashtra vs. Jagmohan Singh Kuldip Singh Anand and Others, etc.¹]. Very recently, in Bir Singh vs. Mukesh Kumar², the Supreme Court has held as under:

"17. As held by this Court in Southern Sales & Services v. Sauermilch Design and Handels GmbH [Southern Sales & Services v. Sauermilch Design and Handels GmbH, (2008) 14 SCC 457] , it is a well-established principle of law that the Revisional Court will not interfere even if a wrong order is passed by a court having jurisdiction, in the absence of a jurisdictional error. "

(emphasis supplied)

5 Coming to the cases at hand, it may be necessary to allude to the evidence of the defence witnesses, viz., D.W.1 to D.W.4 and defence exhibits, viz., Exs.D.1 to D.5, at the outset.

6 Vidyasagar (D.W.1), Ammasi (D.W.2), Rajkumari (D.W.3) and Palaniammal (D.W.4) have stated in their evidence that Rajkumar @ Rasukutti (A.3), Ravi (A.4) and Suresh (A.5)

1 (2004) 7 SCC 659

<https://hcservices.ecourts.gov.in/hcservices/>

2 (2019) 4 SCC 197

were picked up by the police on 11.03.2006 itself and therefore, they had sent telegrams to the higher police officials vide Exs.D.1 to D.5. The trial Court has disbelieved their evidence on the ground that the telegrams, viz., Exs.D.1 to D.5, were sent only on 15.03.2006, whereas, the police had arrested them earlier. The trial Court has rightly held that the telegrams have been contrived subsequent to the arrest of the accused by their relatives.

7 Be that as it may, since Siva @ Sivakumar (A.2), Rajkumar @ Rasukutti (A.3), Ravi (A.4) and Suresh (A.5) have been acquitted by the trial Court, on the ground that they were not identified by Manimaran (P.W.1) in the dock, this Court need not detain itself in discussing the evidence of D.Ws.1 to 4 any further.

8 Manimaran (P.W.1), in his evidence has stated that he is a dealer in iron scrap materials; in the course of his business dealings, he got acquainted with Madanur Ravi (A.9); on 05.03.2006, Madanur Ravi (A.9) rang up to him and told him that around 40 tonnes of iron scrap materials are available and asked him to come to Veppanapalli bus stand; he (P.W.1) went to Veppanapalli bus stand at 8.00 p.m.; on 05.03.2006; Madanur Ravi (A.9) came there by a Tata Sumo car bearing Regn. No. TN 24 2596 (M.O.5); when he got into the Tata Sumo car (M.O.5), he found six or seven persons already there; the car went towards Ariyapalli and stopped 2 kms. thereafter; he (P.W.1) was asked to get down; when Madanur Ravi (A.9) asked him (P.W.1) as to how much cash he has got, he told him that he had come only to assess the scrap materials; at that time, Sakthi @ Sakthivel (A.7) slapped him; Madanur Ravi (A.9) told him that he will go away if he continues like this; then, Rajendran (absconding accused) asked everyone to be patient; at the instance of Rajendran (absconding accused), Vetri @ Vetrivel (A.1), Seenu @ Srinivasan (A.8), Vasanth Kumar (A.10) and Kutty (A.12) made him (P.W.1) sit down; when he (P.W.1) resisted, Kutty (A.12) beat him and made him sit down; Kutty (A.12) removed cash of Rs.25,000/- from his (P.W.1's) pant pocket; while Kutty (A.12) was removing the cash, Vasanth Kumar (A.10) intervened; once again, Madanur Ravi (A.9) protested; Vetri @ Vetrivel (A.1) relieved him of his gold ring (M.O.1), gold chain (M.O.2) and watch (M.O.3); when he (P.W.1) resisted, Vetri @ Vetrivel (A.1), Vasanth Kumar (A.10) and Kutty (A.12) started beating him by sticks and hand. Thereafter, Manimaran (P.W.1) identified the material objects in the Court and they were marked as M.Os. 1 to 3. He also identified the Nokia mobile phone and the Tata Sumo car in which he was taken and they were marked as M.Os.4 and 5, respectively.

9 Manimaran (P.W.1) has further stated that he knows the name of A.1, A.2, A.7, A.8, A.9, A.10, A.11 and A.12, but, does not know the names of the other persons standing in the dock, however, the other persons were also there in the hut

while he was kept in confinement. He has further stated that Rajendran (absconding accused) is not there in the Court; he was beaten by Vetri @ Vetrivel (A.1), Sakthi @ Sakthivel (A.7), Seenu @ Srinivasan (A.8), Kutty (A.12) and Rajendran (absconding accused); one or the other accused will remain guard round the clock and the other accused will keep going and coming while he was in the hut; two days later, four Kannada-speaking persons were brought by the accused and they were also kept in the hut; from the conversation the accused had amongst themselves, he knew the names of A.1, A.2, A.7, A.8, A.9, A.10, A.11 and A.12; he does not know the names of others, but, they were also there at the time of the incident; 4 days later, he requested Rajendran (absconding accused) and Sakthi @ Sakthivel (A.7) to permit him to have bath in the nearby well and they obliged; he (P.W.1) went to the nearby well and fled from there, reached Veppanapalli Police Station and lodged the complaint (Ex.P.1); the police sent him to the hospital for treatment; later, the police asked him to come to the police station to identify his captors and his belongings. He was not cross-examined on the same day, but, was recalled on 01.03.2010 and was subjected to grilling cross-examination. In the cross-examination, he has clearly stated the description of the hut in which he was kept in confinement and has also given certain details which were destructive of the defence case. When questioned, he stated that the accused gave him food from time to time and also permitted him to attend the nature's call. He has further stated that the well was about 500 metres from the hut and apart from external injuries, he was having pain in some parts of his body as well. When he was asked as to whether his family members searched for him, he explained that his family members did not entertain any suspicion as to his whereabouts, because, he used to be away from home for more than a week whenever he used to go on business work. Ultimately, it was suggested to him that he owed money to Madanur Ravi (A.9) and Madanur Ravi (A.9) came with his friends to collect the money and in order to avoid making payment, he has lodged a false complaint, which suggestion, he denied.

10 Subramani (P.W.2), V.A.O., Sigaramaranapalli, has spoken to about the recovery of articles by Rajkumar (P.W.8), Investigating Officer, from A.1 to A.5. Anbazhagan (P.W.3), V.A.O., Manavarapalli, has spoken to about the recovery of articles from Sakthi @ Sakthivel (A.7) and Rajendran (absconding accused). Ramanujam (P.W.4), V.A.O., Guruparapalli, has spoken to about the recovery of articles from Saravanan (A.6). Thus, these three witnesses, viz., Subramani (P.W.2), Anbazhagan (P.W.3) and Ramanujam (P.W.4), have corroborated the evidence of Rajkumar (P.W.8), Investigating Officer, qua recoveries made pursuant to the disclosure statement of the arrested accused.

11 The contentions put forth by the learned defence counsel and this Court's finding therefor are as under:

i. Since no test identification parade was conducted by the police, the dock identification deserves to be brushed aside.

This Court's finding:

As rightly held by both the Courts below, Manimaran (P.W.1) had spent seven long days with his captors. Initially, Manimaran (P.W.1) knew only Madanur Ravi (A.9), because, it was the latter who had rung up to the former saying that 40 tonnes of iron scrap materials are available in a place. While in confinement, Manimaran (P.W.1) heard each accused calling the other by name and thus, learnt their names also. Thus, in a case of this nature, where, the witness had spent a considerable period of time with the accused, test identification parade is not at all necessary and even had it been conducted, it would have only been an empty formality. Even in the complaint (Ex.P.1), Manimaran (P.W.1) has named nine accused and not stopping with that, he has further stated that he can identify others as well. In the Court also, he has stated that apart from the persons named by him, the others standing in the dock were also available, to which, strangely, the trial Court did not give any credence. Further, be it noted that non-conduct of Test Identification Parade will not vitiate dock identification in all cases (See Mahabir vs. State of Delhi³).

ii. In the examination-in-chief, Manimaran (P.W.1) touched and identified only Madanur Ravi (A.9) and did not touch and identify the other accused and therefore, the dock identification should be wished away.

This Court's finding:

In this case, there are two Ravis, viz., Ravi (A.4) hailing from Omalur and Madanur Ravi (A.9). In the introductory stage of the chief-examination, Manimaran (P.W.1) stated that he knows Madanur Ravi (A.9) as he got acquainted with him in the course of his business. He has further stated that he (A.9) is standing as the ninth person in the row. For better clarity, the trial Court had directed him to come near the accused and identify and therefore, he has walked upto the dock, identified Madanur Ravi (A.9) and returned to the witness box, to continue his evidence. Thereafter, from the witness box itself, he has identified Vetri @ Vetrivel (A.1), Sakthi @ Sakthivel (A.7), Seenu @ Srinivasan (A.8), Vasanth Kumar (A.10), Vadivel (A.11) and Kutty (A.12). Hence, this Court does not find any substance in the submission of the defence that the failure of Manimaran (P.W.1) to touch and identify the other accused has vitiated his dock identification. In fact, Manimaran (P.W.1) has named these

persons in his complaint itself. Ergo, in the opinion of this Court, a witness can identify those standing in the dock from the witness stand itself and law does not mandate that he should touch and identify every accused.

iii. Vasanth Kumar (A.10) surrendered before the Magistrate only on 11.07.2006, whereas, Ganesh (P.W.1 in S.C. No.121 of 2008) has stated that he saw Vasanth Kumar (A.10) in the police station on 15.03.2006; hence, he was wrongfully implicated.

This Court's finding:

In the opinion of this Court, the evidence of Ganesh (P.W.1 in S.C. No.121 of 2008) cannot be used to impugn or set at naught the evidence of Manimaran (P.W.1) in this case without affording an opportunity to Manimaran (P.W.1) to explain the contradictions, if any. In other words, Manimaran (P.W.1) has not stated that he saw Vasanth Kumar (A.10) in the police station on 15.03.2006. Therefore, the stray reference of Ganesh (P.W.1 in S.C. No.121 of 2008) in his evidence that he saw Vasanth Kumar (A.10) on 15.03.2006 in the police station cannot be a reason to discard the evidence of Manimaran (P.W.1) in this case. Manimaran (P.W.1), in his evidence, has categorically stated that Vasanth Kumar (A.10), along with Vetri @ Vetrivel (A.1), Seenu @ Srinivasan (A.8) and Kutty (A.12), made him sit on the floor and when Kutty (A.12) removed the money from him (P.W.1), Vasanth Kumar (A.10) interjected. He has further stated that Vasanth Kumar (A.10) had beaten him along with Vetri @ Vetrivel (A.1) and Kutty (A.12).

iv. Manimaran (P.W.1) had not given the physical features of the accused in his complaint (Ex.P.1).

This Court's finding:

When Manimaran (P.W.1) has given the names of 9 persons in the complaint (Ex.P.1) and has stated therein that there were others also, whom he can identify, but, whose names he does not know, non-mentioning of the physical features of the named accused in the complaint (Ex.P.1) cannot be said to be fatal to the prosecution case.

v. When the trial Court has acquitted some accused, the same parameters should have been applied to the petitioners herein as well and they should also have been acquitted.

This Court's finding:

In the opinion of this Court, the other accused have been wrongly acquitted by the trial Court, which, the State has not chosen to appeal against. In this context, it is worth alluding to the sagely observation of the Supreme Court in

Gangadhar Behera and others vs. State of Orissa⁴, wherein, it was held that merely because some of the accused persons have been acquitted, though evidence against all of them, so far as direct testimony went, was the same, does not lead, as a natural corollary that, those who have been convicted must also be acquitted.

vi. As per the evidence of Selvarajan (P.W.6), Sub Inspector of Police, the serial number in the printed form of the FIR in Cr. Nos.110 of 2006 and 113 of 2006 is A723054 which only shows that the second case was a trumped up case in order to bolster the first case.

This Court's finding:

This Court is unable to subscribe to the aforesaid submission because Selvarajan (P.W.6) has explained in the chief-examination itself that in the FIR book, six consecutive forms will contain the same number and in this case, the police had used the first four forms for Cr. No.110 of 2006 and the remaining two forms for Cr. No.113 of 2006. This explanation by Selvaraj (P.W.6) merits acceptance, because, the original complaint (Ex.P.1) given by Manimaran (P.W.1) has reached the hands of the Magistrate at 8.00 p.m. on 12.03.2006. Likewise, the original complaint given by Ganesh (P.W.1 in S.C. No.121 of 2008) has reached the Magistrate on 13.03.2006 at 6.30 p.m. Just because the police had not used the FIR forms properly while scribing, the evidence of the victims cannot be outrightly rejected. Immediately after Manimaran (P.W.1) escaped and came to the police station, he was referred to the Government Hospital for treatment and Dr. Gunasekaran (P.W.5) has spoken to about the injuries that were found on the body of Manimaran (P.W.1), which corroborate his (P.W.1's) version that he was beaten by the accused by hands and stick.

vii The call detail records (CDRs) of the mobile phones of Manimaran (P.W.1) and Madanur Ravi (A.9) were not obtained by the police and hence, the prosecution case suffers from infirmity.

This Court's finding:

Be it noted that this is a case of physical abduction and wrongful confinement of Manimaran (P.W.1) by the accused and this is not a case based on CDRs for the police to obtain them and mark the same as exhibits to fortify the prosecution case.

viii. The place where the captives were confined was not established by the prosecution.

This Court's finding:

In this case, after the arrest of the accused, the place where the captives were kept in illegal confinement, was located by the police and the observation mahazar and rough sketch were marked as Exs.P.20 and 21 respectively. In fact, Manimaran (P.W.1) has given a graphic description of the inner arrangement in the hut in the cross-examination by the defence.

ix. Manimaran (P.W.1), in his evidence, has stated that Madanur Ravi (A.9) had protested when the other accused assaulted him (P.W.1) and therefore, Madanur Ravi (A.9) was himself a victim of the machinations of the other accused and hence, the case of Madanur Ravi (A.9) deserves to be considered sympathetically and some leniency shown in the sentence.

This Court's finding: The role of Madanur Ravi (A.9) in this whole sordid episode is not minimal. He knew the financial affluence of Manimaran (P.W.1). In fact, it was he who laid the trap and set the crime in motion by saying that 40 tonnes of iron scrap materials are available in a place and asked Manimaran (P.W.1) to come to Veppanapalli bus stand at 8.00 p.m. Taking him into confidence, Manimaran (P.W.1) took cash of Rs.25,000/- with him and went to the appointed place innocently, only to be abducted, beaten, relieved of his possessions and confined for seven days. In the opinion of this Court, Madanur Ravi (A.9) has played a pivotal role in this case by enacting a drama as if he was a good Samaritan and was protecting the victim from the evil doers. If really he had been one, he would not have laid the snare or would have, at least, alerted the police and rescued his friend Manimaran (P.W.1). In fact, Madanur Ravi (A.9) absconded and surrendered before the committal Court only after the charge sheet was laid wherein he was shown as an absconding accused.

12 In view of the foregoing discussion rejecting all the submissions made by the defence, this Court does not find any infirmity in the findings of the two Courts below warranting interference.

In the result, all the criminal revisions fail and are accordingly dismissed. The trial Court is directed to secure Vetri @ Vetrivel (A.1), Sakthi @ Sakthivel (A.7), Seenu @ Srinivasan (A.8), Madanur Ravi (A.9), Vasanth Kumar (A.10) and Kutty (A.12) and commit them to prison for serving out the remaining period of sentence.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

To

1 The Additional Sessions Judge
Krishnagiri

2 The Principal Assistant Sessions Judge
Krishnagiri

3.The Chief Judicial Magistrate,
Krishnagiri.

4.The Judicial Magistrate No.2,
Krishnagiri.

5.The Director General of Police,
Mylapore, Chennai.

6 The Public Prosecutor
Madras High Court
Chennai

7 The Deputy Registrar (Crl. Side)
Madras High Court
Chennai

with a direction to transmit
the original records to
the trial Court

8.The Sub-Inspector of Police
Veppanapalli Police Station
Krishnagiri District.

+4cc to Mr.S.Xavier Felix, Advocate, S.R.No. 2101 & 2103
+1cc to Mr.K.Gandhi Kumar, Advocate, S.R.No. 2402
+1cc to Mr.S.Vijay, Advocate, S.R.No. 2542

सत्यमेव जयते Crl.R.C. Nos.1382 of 2012
and 23, 194, 195 and 562 of 2013

RJI (CO)

GN(18/02/2020)

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