

Bail Slip

The Appellant/Petitioner viz Subramani, aged 58 years S/o. Kuppusamy was directed to be released on bail as per order dated 14/03/2014 made in CrI.M.P. 1/2015 and relaxed the condition by order dated 23.01.2015.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.03.2020

CORAM

THE HONOURABLE MR. JUSTICE T.RAVINDRAN

CrI.RC.No.216 of 2014

and

M.P.No.2 of 2014

Subramani ... Petitioner/Appellant/Accused No.1

Vs.

The Sub Inspector of Police,
Chengam Police Station,
Thiruvannamalai District,
Crime No.721 /1999) ...Respondent/Respondent/Complainant

Prayer: Criminal Revision has been filed under section 397 & 401 CrI.P.C. to call for the records on the file of the Learned Sessions Judge, Thiruvannamalai, Thiruvannamalai District in CrI.A.No.9 of 2008 dated 22.11.2013 against the judgment and sentence passed in C.C.No.31 of 2000 on the file of the learned Judicial Magistrate, Chengam dated 24.01.2008 and set aside the judgment dated 22.11.2013.

For Petitioner : Mr.E.Kannadasan

For Respondent : Ms.S.Thankira
Government Advocate
(Criminal Side)

O R D E R

The Revision petitioner/accused has been convicted under Section 323 IPC and sentenced to pay a fine of Rs.1000/- in default to undergo simple imprisonment for one month; under Section 324 IPC and sentenced to pay a fine of 2000/- in default to undergo simple imprisonment for one month and under Section 325 IPC and sentenced to undergo Rigorous imprisonment for one year and to pay a fine of

Rs.1000/- in default to undergo simple imprisonment for one month by the Judicial Magistrate Court, Chengam, in C.C.No.31 of 2000 by judgment dated 24.01.2008. Challenging the conviction and sentence imposed on him, the revision petitioner/accused had preferred Criminal Appeal No.9 of 2008 on the file of the Sessions Court, Tiruvannamalai.

2.It is found that the abovesaid appeal preferred by the revision petitioner/accused had been dismissed and consequently, the appellate Court had directed the trial Court to secure the revision petitioner and send him to Jail. Challenging the same, the criminal revision has been preferred.

3.According to the accused counsel, the appellate Court had erred in dismissing the appeal without hearing him and therefore, prayed that the impugned order is liable to be set aside and the appeal should be remitted back to the appellate Court for a fresh disposal of the same in accordance with law.

4.The learned Government Advocate contended that the accused had been given ample opportunities to present his arguments in the appeal since the date of filing of the same and according to her, several adjournments had been granted by the appellate Court and despite the indulgence shown by the appellate Court, the accused had not endeavoured to prosecute the appeal in the manner known to law and also contended that at one stage, he had remained absent and NBW had also been issued against the accused and kept pending for a long time and therefore, according to her, as a last resort, the appellate Court had proceeded to dismiss the appeal and thereby, put forth that no valid reason or ground has been made out by the accused to interfere with the dismissal of the appeal by the appellate Court and sought for the dismissal of the criminal revision petition.

5.On a perusal of the records of the appellate Court, it is found that the appellate Court had granted several adjournments to the accused to put forth his arguments in support of his contentions and despite the same, the accused had not been ready to prosecute the appeal one way or the other. In such view of the matter, the accused having preferred the appeal against the conviction and sentence imposed on him, he should be ready to prosecute the appeal either in person or through his counsel. When the accused had not endeavoured to prosecute the appeal in the manner known to law and on the other hand, he is found to have been seeking adjournments on several occasions and also found to have remained absent, at one stage of the matter, as rightly contended by the learned Government Advocate, adequate indulgence has been shown by the

appellate Court in enabling the accused to prosecute the appeal as per law and despite the same, the accused having not been anxious to prosecute the appeal in accordance with law, it is found that the appeal had come to be dismissed by the appellate Court.

6. In addition to that, in the criminal revision petition, no ground has been put forth by the accused as to why he had not been ready to prosecute the appeal from 2008 till the disposal of the same on 22.11.2013. No ground has been put forth by the accused as to the reason for non prosecuting the appeal before the appellate Court and in such view of the matter, it is found that the accused is not interested and anxious in prosecuting the appeal preferred by him and only anxious to see that the conviction and sentence imposed on him by the trial Court is not executed as per law. In such view of the matter, when the accused has not given any cause or ground whatsoever for failing to prosecute the appeal before the appellate Court in the criminal revision petition, in my considered view, no indulgence should be extended in favour of the accused and therefore, it is evident that the true aim of the accused is only to avoid the sentence imposed on him by the trial Court one way or the other and accordingly not endeavoured to proceed with the appeal so as to avoid the incarceration inflicted upon him by the trial Court. The abovesaid attitude of the accused is liable to be strongly deprecated.

7. In the light of the abovesaid reasons, I do not find any valid reason for interfering with the order of the appellate Court dismissing the appeal preferred by the revision petitioner/accused.

8. In conclusion, the criminal revision fails and is accordingly dismissed. The trial Court is directed to secure the presence of the revision petitioner /accused and commit him to prison to serve the sentence imposed on him as per law. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

sms

To:

1. The Sessions Judge,
Thiruvannamalai, Thiruvannamalai District.
2. The Judicial Magistrate, Chengam.
3. Do Thro The Chief Judicial Magistrate
Thiruvannamalai District
4. The Sub Inspector of Police,
Chengam Police Station,
Thiruvannamalai District,
Crime No.721 /1999)
5. The Public Prosecutor,
High Court, Madras.

Copy to
The Section officer
Criminal Section
High Court, Madras 104.

+1cc to Mr.E.Kannadasan, Advocate, S.R.No.20322

Cr1.RC.No.216 of 2014
and
M.P.No.2 of 2014

VG1 (CO)
Maya (28/05/2020)
SP(16/07/2020)

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