



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.12.2020

CORAM:

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

Crl.R.C (MD)Nos.52 and 67 of 2016

WEB COPY

Robert Singh ... Petitioner in Crl.R.C.(MD)No.52 of 2016/A1

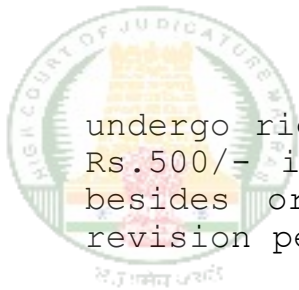
1.Jaisankar

2.P.Rajendran ... Petitioners in Crl.R.C.(MD)No.67 of 2016/A3 & A4  
Vs

The State Rep. by  
The Inspector of Police,  
Susinthiram Police Station, Kanyakumari District.  
(Crime No.407 of 2002) ... Respondent in both Crl.R.Cs.

Prayer in Crl.RC.(MD) No.52 of 2016.: Petition filed under Section 397 r/w 401 of Criminal Procedure Code, to revise the Judgment of the Mahila Court, Nagercoil, Kanyakumari District made in Crl.Appeal No.24 of 2006, dated 09.12.2015 modifying the order of conviction and sentence imposed on the petitioner by means of Judgment dated 05.01.2006 made in S.C.No.99 of 2004, passed by the learned Assistant Sessions Judge / Chief Judicial Magistrate, Nagercoil, directing him to undergo an imprisonment for a period of three years along with a fine of Rs.500/- and in default to undergo two months rigorous imprisonment for the offence under Section 436 (one count ) as one year rigorous imprisonment instead of three years and Rs.500/- fine for the said offence forthwith.

**Prayer in Crl.RC.(MD) No.67 of 2016.:** Petition filed under Section 397 r/w 401 of Criminal Procedure Code, to call for the records from the Lower Courts and set aside the impugned Judgment, dated 09.12.2015 passed by the Mahila Court, Nagercoil in Criminal Appeal No.24 of 2006 confirming the conviction and modified the sentence into one year rigorous imprisonment under Section 436 of IPC and confirmed the fine amount of Rs.500/- imposed on the first petitioner, confirmed the conviction and modified the sentence into one year rigorous imprisonment under Section 436 r/w 34 of IPC and also confirmed the fine amount of Rs.500/- imposed on the second revision petitioner and also ordered the set off period undergone during the trial under Section 428 of Cr.P.C., as against the Judgment passed by the learned Assistnat Sessions Judge cum Chief Judicial Magistrate, Kanyakumari in S.C.No.99 of 2004, dated 05.01.2006, convicting the first revision petitioner under Section 436 of IPC and sentenced to undergo rigorous imprisonment for 3 years and imposed a fine of Rs.500/-, in default to undergo simple imprisonment for 2 months and convicted the second revision petitioner under Section 436 of IPC r/w 34 of IPC and sentenced to



undergo rigorous imprisonment for three years and imposed a fine of Rs.500/- in default to undergo simple imprisonment for two months besides ordering set off under Section 428 of Cr.P.C for both revision petitioners.

For Petitioner : Mr.S.Palani Velayutham  
(in Crl.R.C (MD)No.52 of 2016)  
(in Crl.R.C.(MD)No.67 of 2016) : Mr.AR.Jeya Rhuthran  
For Respondent : Mr.A.Robinson  
Government Advocate (Crl.side)

**COMMON ORDER**

Heard the learned counsel on either side.

2.Both these revision cases arise out of the Judgment made in S.C.No.99 of 2004 on the file of the Chief Judicial Magistrate, Nagercoil.

3.The case of the prosecution is that the accused set fire to the tea shop owned by the defacto complainant. The occurrence is said to have taken place on 26.05.2002 at about 3.30 p.m. Based on the complaint of the defacto complainant, Crime No.407 of 2002 was registered on the file of the Suchindrum Police Station. Investigation was taken up and final report was filed and the case was committed to the Sessions court. It was made over to the learned Assistant Sessions Judge cum Chief Judicial Magistrate, Nagercoil and taken up for trial in S.C.No.99 of 2004. The prosecution examined as many as 16 witnesses and marked Ex.P1 to Ex.P7. M.O.1 to M.O.6 were marked. On the side of the accused, no evidence was adduced. The learned trial Judge, vide Judgment dated 05.01.2006, acquitted the fifth accused, but convicted A1 to A4 for the offence under Section 436 of IPC and sentenced them to three years rigorous imprisonment. Fine was also imposed. Questioning the same, all the four convicted accused filed Crl.A.No.24 of 2006 before the Fast Track Mahila Court, Nagercoil. Vide Judgment dated 09.12.2015, the Appellate Court, while confirming the conviction, reduced the sentence from three years rigorous imprisonment to one year rigorous imprisonment. The imposition of fine was also confirmed. Challenging the same, A1, A3 and A4 have preferred these revision cases.

4.The learned counsel for the petitioners submitted at the very outset that having regard to the evidence on record, they would not be in a position to challenge the finding of guilt. They have no objection for confirming the conviction. But then, they wanted substantial leniency in the matter of sentence. The victim suffered loss to the tune of Rs.20,000/-. The petitioners are willing to pay a sum of Rs.10,000/- each, so that, a sum of Rs.30,000/- can be given by way of compensation to the victim. They also would point out that the occurrence had taken place 18 years ago. The



petitioners herein had not come under adverse notice after the occurrence. The accused are said to have spent few weeks in custody soon after the registration of the case.

5. Therefore, even while confirming the conviction imposed on the petitioners, the substantive sentence of imprisonment imposed on them is modified and reduced to the period already undergone by them. The fine amount is however enhanced from Rs.500/- to Rs.10,500/-. The petitioners are given eight weeks to pay the fine amount. The Legal Service Authority will endeavour to trace the victim. If the victim could be traced, out of the enhanced fine amount imposed by this Court, a sum of Rs.30,000/- shall be paid to the victim.

6. With this modification in the matter of sentence, these criminal revision cases are partly allowed.

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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**Note:** In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

**To**

1. The Mahila Court, Nagercoil.
2. The Assistant Sessions Judge cum  
Chief Judicial Magistrate, Kanyakumari District.
3. The Judicial Magistrate No.III, Nagercoil, Kanyakumari District.
4. The Additional Public Prosecutor,  
Madurai Bench of Madras High Court, Madurai.
5. The Legal Services Authority, Kanyakumari District.
6. The Section Officer, Criminal Section,  
Madurai Bench of Madras High Court, Madurai (2 copies)

+1 CC to M/s P.Prabhakaran, Advocate, in SR.No.26432 of 2020.

Crl.R.C(MD)Nos.52 and 67 of 2016  
18.12.2020

(SJ)CO

AP(07/01/2021) 3P 9C

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