



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.12.2020

CORAM:

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

Crl. R.C.(MD)No.75 of 2017

M.Saravanan

.. Petitioner/Appellant/
Accused

Vs.

Arul Mayer

.. Respondent/Respondent/
Complainant

Prayer : This Criminal Revision is filed under Sections 397 r/w. 401 of Cr.P.C., to call for the records and set aside the Judgment passed in C.A.No.38 of 2015 dated 26.09.2016 on the file of the III Additional District and Sessions Court, Tirunelveli, confirming the conviction and sentence passed in S.T.C.No.223 of 2011 dated 01.04.2015 on the file of the Judicial Magistrate Court No.4, Tirunelveli by allowing this criminal revision petition.

For Petitioner : Mr.H.Arumugam

For Respondent : Mr.K.R.Laxman

ORDER

Heard the learned counsel on either side.

2. The petitioner was prosecuted for the offences under Sections 138 and 142 of I.P.C. in S.T.C.No.223 of 2011 on the file of the Judicial Magistrate No.IV, Tirunelveli.

3. The case ended in conviction and sentence. Questioning the same, the petitioner filed C.A.No.38 of 2015 before the III Additional District and Sessions Judge, Tirunelveli. The Judgment of conviction and sentence passed by the trial Court was confirmed and the appeal was dismissed. Challenging the same, this criminal revision case came to be filed.

4. The petitioner asked for suspension of sentence. But it was initially not granted. The petitioner had spent 262 days in prison. The Courts below had sentenced the petitioner to undergo six months Simple Imprisonment. The petitioner was asked to pay the cheque amount of Rs.1,10,000/-. Default sentence of three months Simple Imprisonment was also imposed. It totals 270 days. The petitioner had already spent 262 days in prison. The petitioner had not only undergone the substantive sentence in full but he had almost undergone the default sentence in full. As rightly pointed out by the learned counsel appearing for the petitioner, what remains is only eight more days of sentence.



5. I am of the view that the petitioner need not be sent back to prison for undergoing the remaining period of eight days. Therefore, the conviction imposed on the petitioner by the trial Court is confirmed. The default sentence imposed on the petitioner is modified to the period already undergone. As rightly pointed out by the petitioner, he had already undergone the substantive imprisonment also. The petitioner need not be taken to prison again.

6. With this modification in the matter of sentence, this criminal revision case is partly allowed.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

pmu

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 III Additional District and Sessions Judge,
Tirunelveli.
2. The Judicial Magistrate No.IV,
Tirunelveli.
- 3.The Section Officer,(2 copies)
Criminal Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to Mr.H.ARUMUGAM, Advocate (SR-24576[F] dated 09/12/2020)

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