



BAIL SLIP

The Petitioner herein/Accused namely Palani S/o.Kuppusamy was released on bail vide order dated 08/05/2019 made in CRL.MP.No.6439 of 2019 in CRL.R.C.No.413 of 2019.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :06.09.2021

CORAM:

THE HON'BLE MR.JUSTICE P.VELMURUGAN

CRIMINAL REVISION CASE NO.413 OF 2019

Palani
S/o.Kuppusamy

... Petitioner/Accused

Versus

The Tamil Nadu State Represented by
Drugs Inspector,
Pallipattu Range i/c
Office of the Assistant Director of Drugs Control,
Tiruvallur Zone, No.201, J.N.Road,
1 Floor, Vishnu Complex,
Tiruvallur - 602 001.

... Respondent/Complainant

Criminal Revision Case filed under Section 397 r/w 401 Criminal Procedure Code, to set aside the judgment passed by the learned I Additional District and Sessions Judge, Tiruvallur in C.A.No.210 of 2018 dated 16.04.2019 partly confirming the sentence passed in C.C.No.47 of 2017 dated 23.11.2018 by the learned Chief Judicial Magistrate, Tiruvallur.

For Petitioner : Mr.C.P.Palanichamy

For Respondent : Mr.S.Sugendran
Government Advocate (Crl.Side)



O R D E R

This Criminal Revision Case has been filed against order dated 16.04.2019 passed in C.A.No.210 of 2018 by the learned I Additional District and Sessions Judge, Tiruvallur, in and by which, the sentence passed in C.C.No.47 of 2017 dated 23.11.2018 by the learned Chief Judicial Magistrate, Tiruvallur was confirmed.

2.The case of the prosecution is that on 13.10.2015 P.W.1/Drugs Inspector and two others inspected the accused's clinic, in the presence of Mrs.A.Anjali, who was working as a Nursing Assistant in the clinic and found that certain allopathic drugs of about 29 items were stocked for distribution/sale without any valid drug licence and hence, they seized the drugs. Subsequently, a show cause notice was issued to the petitioner and Mrs.A.Anjali. The petitioner has given a reply stating that the said Anjali was only his employee and he has admitted the offences and sought for excuse, but, he failed to disclose the name and address of the persons from whom the drugs were acquired. Hence, a complaint has been registered against the petitioner.

3.The respondent police filed a complaint before the learned Chief Judicial Magistrate, Tiruvallur against the petitioner and the same was taken on file in C.C.No.47 of 2017. After completing the formalities, charges were framed against the petitioner for the offence under Sections 18(c) r/w 27(b) (ii) and 18(A) r/w 28 of the Drugs and Cosmetics Act [hereafter 'D&C Act' for the sake of convenience]

4.The trial Court, after hearing the arguments advanced on either side and also considering the materials available on record found that the accused/petitioner is guilty for the charged offences and convicted and sentenced him as follows:-

(i) For the offence under Section 18(c), which is punishable under Section 27(b)(ii) of D & C Act, the petitioner has to undergo rigorous imprisonment for a period of two years and to pay a fine of Rs.1,00,000/-, in default, to undergo simple imprisonment for a period of three months.



(ii) For the offence under Section 18(A), which is punishable under Section 28 of D & C Act, the petitioner has to undergo simple imprisonment for a period of six months and to pay a fine of Rs.20,000/-, in default, to undergo simple imprisonment for a period of one month and ordering the sentences to be run concurrently.

5. Being aggrieved by the said judgment of conviction and sentence, the petitioner preferred an appeal in C.A.No.210 of 2018 before the learned I Additional District and Sessions Judge, Tiruvallur. After hearing the arguments advanced on either side, the Lower Appellate Court partly allowed the appeal by acquitting the petitioner for the offence under Section 18(c) r/w 27(b)(ii) of D & C Act and confirming the conviction and sentence imposed by the trial Court with regard to the offence under Section 18(A) r/w 28 of D & C Act. Challenging the said judgment, the petitioner is before this Court by way of Criminal Revision Case.

6. The learned counsel for the petitioner would submit that the petitioner has not committed any offence as alleged by the prosecution. The petitioner is not the owner of the shop and he has not violated the said Act. Though the trial Court convicted and sentenced the petitioner for the offence under Sections 18(c) r/w 27(b)(ii) and 18(A) r/w 28 of D & C Act, subsequently, the lower Appellate Court acquitted the petitioner for the offence under Section 18(c) r/w 27(b)(ii) of D & C Act and wrongly convicted and sentenced him for the offence under Section 18(A) r/w 28 of D & C. Hence, he prays to set aside the sentence of imprisonment imposed by the lower Appellate Court and instead fine amount may be imposed on the petitioner.

7. The learned Government Advocate (Crl.Side) for the respondent would submit that during inspection, the respondent police found that the petitioner sold the drugs without any valid licence. Hence, show cause notice was issued to the petitioner and explanation was called for from the petitioner, but, the petitioner had not given any explanation. Hence, the complaint was preferred before the Chief Judicial Magistrate, Tiruvallur and after trial, the petitioner was convicted and sentenced for the charged offence. He would further submit that as per Section 18(A) of D & C Act, the sentence may be imposed



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up to two years, however, the learned Magistrate very leniently imposed six months simple imprisonment and imposed a fine of Rs.20,000/-. Hence, there is no merit in this revision and the same is liable to be dismissed.

8. Heard the learned counsel for the petitioner and the learned Government Advocate (Cr1.Side) for the respondent and also perused the materials available on record.

9. Admittedly, the respondent police filed the complaint against the petitioner before the learned Chief Judicial Magistrate, Tiruvallur and the same was taken on file in C.C.No.47 of 2017 and charges were framed against the petitioner for the offence under Sections 18(c) r/w 27(b)(ii) and 18(A) r/w 28 of D & C Act. In order to prove the case of the prosecution before the trial Court as many as six witnesses were examined as P.W.1 to P.W.6 and 12 documents were marked as Ex.P1 to Ex.P12 and one material object was marked as M.O.1. On the side of the defence, no oral and documentary evidence were produced. After trial, the petitioner was convicted and sentenced as stated above. Challenging the same, the petitioner preferred the appeal and he was acquitted for the offence under Section 18(c) r/w 27(b)(ii) of D & C Act.

10. The defence taken by the learned counsel for the petitioner is that the respondent has not proved its case beyond all reasonable doubts. It is his further defence that though the lower Appellate Court accepted the contention raised by the petitioner and acquitted him for the offence under Section 18(c) r/w 27(b)(ii) of D & C Act, wrongly convicted and sentenced him for the offence under Section 18(A) r/w 28 of D & C Act.

11. It is seen from the records that P.W.1 in her evidence has clearly deposed that during inspection, they found that the petitioner was running a pharmacy and sold the drugs without any valid licence. Hence, show cause notice was issued, but, in the reply the petitioner has failed to disclose the name and address of the persons from whom the drugs were acquired and hence, they filed the complaint against the petitioner. Though the trial Court convicted and sentenced the petitioner for two charged offences, the Lower Appellate Court acquitted the petitioner for the offence under Section 18(c) r/w 27(b)(ii) of D & C Act. Challenging the said judgment, the State



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has not filed any appeal, however, the petitioner has filed the present Criminal Revision Case. Based on the oral and documentary evidence, the prosecution proved the allegations levelled against the petitioner.

12.The scope of revision is very limited. The Trial Court and the Appellate Court had already appreciated the entire evidence and also given the findings. While exercising the revisional jurisdiction, this Court cannot sit in the arm chair of the Appellate Court and reappreciate the evidences. Therefore, this Court has to see only as to whether there is any perversity in the appreciation of evidence in the judgment of the Courts below.

13. On a combined reading of the entire materials and the Drugs and Cosmetics Act, this Court does not find any perversity or infirmity in the judgment of lower Appellate Court and the revision is liable to be dismissed.

14.The learned counsel for the petitioner would submit that this Court may set aside the conviction and sentence imposed on the petitioner for the offence under Section 18(A) of D & C Act and instead fine amount may be imposed on the petitioner. However, considering the facts and circumstances, this Court finds that the petitioner without having any valid licence run the Pharmacy and sold the medicine and he does not disclose the name of the manufacturers and not given any proper explanation.

15.Under these circumstances, this Court does not find any reason to interfere with the findings of the lower Appellate Court and there is no merit in this Criminal Revision Case. Accordingly, this Criminal Revision Case is dismissed.

Sd/-

Assistant Registrar(CCC)

// True Copy //

Sub Assistant Registrar

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To

1. The I Additional District and Sessions Judge,
Tiruvallur.
2. The Chief Judicial Magistrate,
Tiruvallur.
3. The Drugs Inspector,
Pallipattu Range i/c
Office of the Assistant Director of Drugs Control,
Tiruvallur Zone, No.201, J.N.Road,
1 Floor, Vishnu Complex,
Tiruvallur - 602 001
Tamil Nadu State.
4. The Public Prosecutor,
High Court, Madras.

Copy To

The Section Officer,
Criminal Section,
High Court, Madras.

+1cc to M/s.C.P.Palanichamy, Advocate, S.R.No.45066

Cr1.R.C.No.413 of 2019

RSI(CO)
RLP(02/11/2021)