



BAIL SLIP in CRL RC.No.659 of 2019

The Petitioners/Accused namely 1. P.V.Rajah @ Varadharaj (62 Years) S/o, Palanisamy, 2. V.Usha @ Usharani W/o, P.V.Rajah Aged 56 Years, were directed to be released on bail as per order of this court dated 02.08.2019 made in CrI MP No.9171 of 2019 in CrI RC No.659 of 2019 on the file of this Court.

BAIL SLIP in CRL RC.No.741 of 2019

The Petitioner/Accused namely N.Subramani M/53 Years S/o, NagiChettiyar, was directed to be released on bail as per order of this court dated 06.08.2019 made in CrI MP.No.10398 of 2019 in CrI RC No.741 of 2019 on the file of this court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :07.09.2021

CORAM:

THE HON'BLE MR.JUSTICE P.VELMURUGAN

CRL.R.C.Nos.659 & 741 of 2019

CRL.R.C.No.659 of 2019

1. P.V.Rajah @ Varadharaj
S/o, Palanisamy

2. V.Usha @ Usharani
W/o, P.V.Rajah

... Petitioners/Appellant/Accused 1

Versus

State represented by
The Inspector of Police,
Crime Branch CID,
Namakkal.

... Respondent/Respondent/Complainant

PRAYER in CRL.R.C.No.659 of 2019: Criminal Revision Petition
filed under Section 397 and 401 of the Code of Criminal



Procedure, to set aside the judgment in Criminal Appeal No.66 of 2014 passed by the learned Principal Sessions Judge, Namakkal dated 03.06.2019 confirming the judgment of the learned Chief Judicial Magistrate, Namakkal in C.C.No.65 of 2010 dated 25.09.2014.

For Petitioners : Mr.R.Karthikyan
For Respondent : Mr.S.Sugendran
Government Advocate, (Criminal Side)

CRL.R.C.No.741 of 2019

N.Subramani
S/o, NagiChettiyan ... Petitioner/Appellant/Accused

Versus

State represented by
The Inspector of Police,
Crime Branch CID,
Namakkal. ... Respondent/Respondent 1/Complainant

PRAYER in CRL.R.C.No.741 of 2019: Criminal Revision Petition filed under Section 397 and 401 of the Code of Criminal Procedure, to set aside the judgment in Criminal Appeal No.66 of 2014 passed by the learned Principal Sessions Judge, Namakkal dated 03.06.2019 confirming the judgment of the learned Chief Judicial Magistrate, Namakkal in C.C.No.65 of 2010 dated 25.09.2014.

For Petitioner : Mr.S.Suresh
For Respondent : Mr.S.Sugendran
Government Advocate, (Criminal Side)

COMMON ORDER

The Criminal Revision Petitions have been filed to set aside the judgment dated 03.06.2019 passed in Criminal Appeal No.66 of 2014 passed by the learned Principal Sessions Judge, Namakkal, confirming the judgment dated 25.09.2014 passed in C.C.No.65 of 2010 on the file of the learned Chief Judicial Magistrate, Namakkal.



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2. The respondent police registered a case against the petitioners in CrI.R.C.No.659 of 2019 for the offence under sections 120(B), 120(B) r/w 419, 420, 465, 468 and 471 IPC and against the petitioner in CrI.R.C.No.741 of 2019 for the offence under sections 120(B), 120(B) r/w 419, 420, 465 468 IPC. After investigating the matter, laid a charge sheet before the Chief Judicial Magistrate, Namakkal. The learned Magistrate taken the charge sheet on file in C.C.No.65 of 2010. After completing the trial, the learned Magistrate convicted the accused 1 and 2 for the offence under section 120(B) r/w 419 IPC and sentenced to undergo 2 years Rigorous Imprisonment and to pay a fine of Rs.2000/- each in default to undergo three months Simple imprisonment and further the accused 1 and 2 were also convicted for the offence under sections 420, 465, 468 and 471 I.P.C. and sentenced them to undergo three years Rigorous Imprisonment and to pay fine of Rs.5,000/- for each offence, in default to undergo 6 months Simple imprisonment for each offence and the third accused was convicted for the offence under section 419 I.P.C and sentenced him to undergo two years Rigorous Imprisonment and to pay a fine of Rs.2,000/- in default to undergo three months Simple Imprisonment and he was also convicted for the offence under sections 420, 465, 468 IPC, sentenced him to undergo three years Rigorous Imprisonment and to pay fine of Rs.5,000/- for each offence in default to undergo 6 months Simple Imprisonment for each offence. Challenging the said judgment of conviction and sentence, all the accused filed the criminal appeal before the Principal Sessions Judge, Namakkal. The learned Principal Sessions Judge taken the appeal on file in CrI.A.No.66 of 2014 and after conclusion of the arguments advanced on either side, dismissed the appeal and confirmed the judgment of the Chief Judicial Magistrate passed in C.C.No.65 of 2010. Challenging the said judgment of conviction and sentence, the accused 1 and 2 have filed CrI.R.C.659 of 2019 and the third accused filed the CrI.R.C.No.741 of 2019 before this Court. Since both the revision cases are arising out of the judgment in CrI.A.No.65 of 2010 on the file of the learned Principal Sessions Judge, Namakkal, both the cases heard jointly.

3. The case of the prosecution is that during the period from 27.05.1998 to October 2000, the first accused is the Director of Sri Prasanna Vinayagar Textiles Private Limited and the second accused, Managing Director of the abovesaid



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institution, obtained a loan amount of Rs.22,00,000/- from the Bank, by producing fake documents. The third accused, who is the relative of the accused A1 and A2, assisted them in their illegal activities. Hence the complaint.

4. The trial court framed the charges as against the petitioners for the offence under section 120(B) r/w.419, 420, 465, 468 and 471 IPC. In order to substantiate the charges, on the side of the prosecution, totally 21 witnesses were examined and 45 documents were marked. On the side of the defence, one witness was examined and three documents were marked. P.W.1 is the Manager of the Canara Bank. Prosecution evidence shows that the petitioners produced the forged documents. The petitioners 1 and 2 obtained a loan amount of Rs.22,00,000/- from the Bank and failed to repay the amount. On verification, it is found that the documents produced by the petitioners to the Bank are forged one. Therefore, they filed a complaint before the respondent police. The respondent police registered the case as against the petitioners and investigated the matter, laid a charge sheet before the Chief Judicial Magistrate, Namakkal. On completion of trial, hearing the arguments advanced on either side, perused the materials, the trial court framed the charges as stated above.

5. Learned counsel for the petitioners would submit that the witnesses P.W.1 and P.W.2 have not produced the original documents which were filed before the Debt Recovery Tribunal. The prosecution has not taken any effective steps to produce the original documents which are on the file of the Debt Recovery Tribunal. Therefore, from the xerox copy of the documents, it cannot be stated that the documents were forged. Therefore, without producing the original documents, the trial court wrongly convicted the petitioners. As far as the third accused is concerned, the learned counsel for the petitioner would submit that no witness has spoken that he impersonated one Srinivasan and put the signature in the documents and no witness has spoken about the development of the third accused in the said act and therefore, the learned counsel for A3 would submit that no witness has spoken about that they have seen A3 impersonated one Srinivasan and put the signature in the documents and also obtained the loan along with A1 and A2 from the defacto complainant Bank and therefore the trial court failed to appreciate the evidence of the witnesses and wrongly



convicted the petitioners.

6. Heard the learned counsel for the petitioners and the learned Government Advocate (Criminal Side) appearing for the respondent.

7. On a reading of the entire materials, both the trial court and the appellate court rightly re-appreciated the evidence, since A1 and A2 have not denied the borrowal of loan from the Bank, after furnishing the documents and obtaining opinion from the panel lawyers and now the case is also pending against the petitioners before the Debt Recovery Tribunal. All the original documents are in the file of the Tribunal. Therefore, under these circumstances, the prosecution is not in a position to file the original documents since all the original documents are in the Debt Recovery Tribunal. Therefore, the non-production/non marking of the original documents is not fatal to the case of the prosecution and the xerox copies of all the documents have been marked before the trial court and the petitioners have not objected that the xerox copies of the documents are not the xerox copies of the original documents which are produced before the Debt Recovery Tribunal. Therefore, the non-marking of the original documents is not fatal to the case of the prosecution.

8. The trial court as well as the appellate court, the court of fact finding, appreciated the entire evidence that A1 and A2 obtained the loan from the Bank by producing all the documents. A3 is also working as Manager and he is the relative of A1 and A2, helped them to forge the documents. Therefore, the trial court as well as the appellate court also appreciated that A1 and A2 have committed the offence under section 420(B) r/w 419, 420, 465, 468 and 471 IPC and the third accused has committed the offence under sections 419, 420, 465 and 468 IPC.

9. On a perusal of the records and from the reading of the evidence, it is found that, obtainment of loan from the bank by A1 and A2 is not in dispute and the production of the documents are also not in dispute. Those documents are on the file of the Debt Recovery Tribunal is also not in dispute. Therefore, considering the facts and circumstances of the case, the revisional court cannot re-appreciate or revisit and the entire materials as the trial court or the appellate court and



the revision court has to see as to whether there is any perversity in the appreciation of evidence and in the judgment. On a reading of the entire materials and the facts and circumstances of the case, this Courts does not find any perversity in the appreciation of the evidence and when it is not possible to prove the offence under section 120(B) I.P.C and the same could be proved through circumstantial evidence also in this case based on the documentary evidence, prosecution proved its case beyond reasonable doubt.

10.Considering the facts and circumstances of the case, since A1 and A2 are not denied regarding the production of documents for obtaining loan, this Court does not find any reason to interfere with the judgment of the both the Courts below. The learned counsel for the petitioners would submit that the entire loan amount has been repaid. Proceedings before the DRT was closed. Admittedly, the loan amount was secured only during pendency of the appeal, therefore, subsequent repayment of the loan will not absolve the petitioners of their liability. Therefore the learned District Judge, dismissed the appeal. Under this circumstances, this Court is not inclined to interfere with the order of the Courts below and there is no merit in the revision and the same is liable to be dismissed. Accordingly, the Criminal Revision Cases are dismissed.

Sd/-

Assistant Registrar (CS-II)

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Sub Assistant Registrar

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To

1. The Principal Sessions Judge,
Principal Sessions Court,
Namakkal.
2. The Chief Judicial Magistrate,
Chief Judicial Magistrate Court,
Namakkal.



3. The Inspector of Police,
Crime Bench, CID, Namakkal.

4. The Public Prosecutor,
High Court,
Madras.

5. The Superintendent,
Central Prison, Coimbatore.

Copy to

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

CRL.R.C.Nos.659 & 741 of 2019

PL(CO)

B.VC (25/10/2021)