



Bail Slip

Srinivasan, S/o.Arumugam(Sole Accused) was released on bail vide Court order dated 24.02.2021 made in Crl.MP(MD)No.1584 of 2021 in Crl.RC (MD)No.139/2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 15.03.2021

CORAM

THE HONOURABLE MRS. JUSTICE R. THARANI

Crl. R.C.(MD)No.139 of 2021

Srinivasan .. Petitioner/Appellant/Accused
Vs.

State rep. By,
The Inspector of Police,
Southern railway,
Thiruvarur Police Station,
Thiruvarur District.
(Crime No.1 of 2010)

.. Respondent/Respondent/Complainant

Prayer : This criminal revision case is filed under Sections 397 r/w. 401 of Cr.P.C., to call for the records and to set aside the order passed by the learned Principal District and Sessions Judge, Thanjavur in C.A.No.11 of 2016 dated 18.07.2016 in C.C.No.138 of 2010 on the file of the learned Judicial Magistrate No.1, Thanjavur dated 11.02.2016 and restore the Criminal appeal no.11 of 2016 to file and to dispose of the same on merits in the manner known to law.

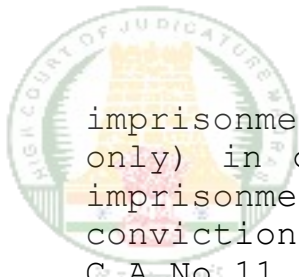
For Petitioner
For Respondent

: Mr.K.S.Duraipandian
: Mrs.S.Bharathi
Government Advocate
(Crl. Side)

ORDER

This petition has been filed to set aside the order passed in C.A.No.11 of 2016 dated 18.07.2016, on the file of the learned Principal Sessions Judge, Thanjavur.

2.The petitioner was convicted by the learned Judicial Magistrate No.1, Thanjavur in C.C.No.138 of 2010 for the offence under Section 3(a) of the Railway Property (Unlawful Possession) Act, 1966 and was sentenced to undergo six months rigorous



imprisonment and to pay a fine of Rs.1,000/- (Rupees One Thousand only) in default, to undergo further period of one month simple imprisonment, by judgment dated 11.02.2016. As against the said conviction and sentence, the petitioner has preferred an appeal in C.A.No.11 of 2016 before the learned Principal District and Sessions Judge, Thanjavur. The first appellate Court has dismissed the appeal for non payment of batta. Aggrieved by which, the petitioner has preferred the present revision case.

3.On the side of the petitioner, it is stated that the appeal filed by the petitioner was dismissed only on the sole ground that batta was not paid. The petitioner was a heart patient and he could not contact his counsel at that time. The petitioner has attached the medical proof for the treatment given to the petitioner. An opportunity for the petitioner to put forth his case has to be given. The right of the petitioner cannot be curtailed at the threshold and prayed the petition to be allowed.

4.In support of his contention, the judgment passed by the Hon'ble Supreme Court in the case of **Kishan Singh v. State of Uttar Pradesh** is cited.

5.On the side of the respondent, it is stated that the order passed by the first appellate Court is not based on the merits. The offence is under Section 3(a) of the Railway Property (Unlawful Possession) Act. The petitioner was in custody from 28.12.2020. Subsequently the sentence imposed upon the petitioner was suspended by this Court on 24.02.2021.

6.A perusal of the records reveals that the appeal filed by the petitioner in C.A.No.11 of 2019 was dismissed by the learned Principal District and Sessions Judge, Thanjavur only on the ground of non payment of batta. The judgment was not passed on merits. The offence against the petitioner is that he is in possession of railway property. It is stated that the petitioner is having heart ailments and hence, he could not pay the batta at that time. The medical records were also filed along with this petition. An opportunity for the petitioner to put forth is to be given in the interest of justice. The petitioner is in custody from 28.12.2020 till 24.02.2021.

7.In view of the same, this Court is inclined to set aside the order passed in C.A.No.11 of 2016 dated 18.07.2016, on the file of the learned Principal Sessions Judge, Thanjavur and remitted back the matter to the learned Principal Sessions Judge, Thanjavur for fresh consideration. The petitioner is hereby directed to file batta within a period of one week from the date of receipt of copy of this order and to cooperate with the



8. With the above direction, this Criminal Revision Case is allowed.

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Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Mrn

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 Principal District and Sessions Judge, Thanjavur.

2.The Judicial Magistrate No.I, Thanjavur.

3.The Chief Judicial Magistrate,
Thanjavur District at Kumbakonam.

4.The Superintendent, Central Prison,
Trichy District.

5.The Inspector of Police,
Southern railway,
Thiruvarur Police Station,
Thiruvarur District.

6.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to Mr.K.S.DURAI PANDIAN, Advocate (SR-11799[F] dated
17/03/2021)

Crl. R.C.(MD)No.139 of 2021
15.03.2021

KM (24.03.2021) 3P 8C