



BAIL SLIP

The Petitioner/Appellant/Sole Accused viz. Paul Kennedy, male, aged about 53 years /2016, was directed to release on bail as per the order of this Court, dated 10.06.2016 made in CrI.M.P(MD) NO.6734/2016 in CrI.RC(MD) No.532/2016 on the file of this Court.

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON	12.03.2021
DELIVERED ON	25.03.2021

CORAM :

THE HONOURABLE MRS.JUSTICE S.ANANTHI

CrI.RC(MD)No. 532 of 2016

Paul Kennedy ...Petitioner/Appellant/Sole accused

Vs.

State, rep. By the Inspector of Police,
District Crime Branch,
Pudukkottai.

(Crime No. 50 of 2002) ...Respondent/Respondent/Complainant

PRAYER: Criminal Revision filed under Section 397 r/w 401 of the Criminal Procedure Code, to call for the records of the learned Additional District and Sessions Judge, Pudukkottai in CrI. A. No. 118 of 2010 by Judgment, dated 31.03.2016, confirming the conviction and sentence imposed by the learned Judicial Magistrate, Alangudi in C.C. No. 161 of 2004 by the Judgment, dated 08.12.2010 and set aside the Judgments of the Courts below and acquit the petitioner.

For Petitioner : M/s. Prabha
for Mr.D. Ramesh Kumar

For Respondent : M/s.M. Anantha Devi
Government Advocate (crl. Side)



O R D E R

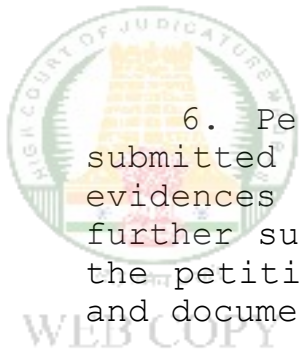
This Criminal Revision Case has been filed by the revision petitioner to set aside the Judgment, dated 31.03.2016 in Crl. A. No. 118 of 2010, passed by the learned Additional District and Sessions Judge, Pudukkottai by confirming the Judgment, dated 08.12.2010 in C.C. No. 161 of 2004, passed by the learned Judicial Magistrate, Alangudi.

2. The petitioner was tried before the trial Court. The petitioner was charged for the offences under Section 409 of IPC. The trial Court, in conclusion of the trial, by judgment, dated 08.12.2010, in C.C.No.161 of 2004, found the accused person guilty. The petitioner herein was convicted and sentenced to undergo simple imprisonment for One month and to pay a fine of Rs.5,000/-in default to undergo simple imprisonment of One month for the offence under Section 409 of IPC.

3. As against the judgment of conviction and sentence, the petitioner preferred an appeal before the learned Additional District and Sessions Judge, Pudukkottai, in C.A.No. 118 of 2010. The lower appellate Court, by judgment dated 31.03.2016, dismissed the appeal. Aggrieved over the same, the petitioner has preferred the instant criminal revision case.

4. The case of the prosecution is that the petitioner was working in Tamilnadu Transport Corporation, Pudukkottai. On 03.05.2002, the bus conductors who are working in Tamilnadu Transport Corporation have remitted the collected amount to the petitioner and after receiving the same, he wrongly tallied the total amount and cheated a sum of Rs.33,000/-. Based on a complaint given by P.W.1/Branch Manager, Tamilnadu Transport Corporation, a case was registered in Crime No.50 of 2002 by the respondent police and after completing investigation laid charge sheet against the petitioner for an offence under Section 420 of IPC.

5. The learned counsel appearing for the revision petitioner contended that there are lot of material contradictions with regard to the prosecution witnesses and the versions on the exhibits. He further contended that the evidence of P.W.1/Branch Manager is not at all corroborate with the evidence of P.W.2 to P.W.90 and there is an enormous delay in preferring the complaint. He further contended that independent witnesses had not been examined by the prosecution and the Judgment of the Courts below are liable to be set aside. Therefore, he prays for interference.



6. Per contra, the learned Government Advocate (Crl. Side) submitted that the case of the prosecution is supported by the evidences of PWs.1 to 90 and documents Ex.P.1 to P.174. She further submitted that the prosecution has proved the case against the petitioner based on the evidence of the prosecution witnesses and documents. Therefore, she prays for dismissal.

7. The revision petitioner/husband has filed this Criminal revision case to set aside the Judgment, dated 31.03.2016 in Crl. A. No. 118 of 2010, passed by the learned Additional District and Sessions Judge, Pudukkottai by confirming the Judgment, dated 08.12.2010 in C.C. No. 161 of 2004, passed by the learned Judicial Magistrate, Alangudi.

8. The petitioner/accused was charged an offence under Section 409 of IPC as he has cheated a sum of Rs.33,000/- on 03.05.2002. He was convicted and sentenced to undergo simple imprisonment for One month and to pay a fine of Rs.5,000/-in default to undergo simple imprisonment of One month for the offence under Section 409 of IPC.

9. The learned counsel appearing for the petitioner submitted that he already paid the fine amount of Rs.5,000/- and now he is aged about 58 years. He further submitted that he is a first offender and considering the age of the petitioner and nature of offence, he may be released. He further submitted that the case is pending from the year 2002.

10. Considering the submission of the learned counsel appearing for the petitioner, without going into the merits of the case, this Court is inclined to release him on considering the fact that he is a first offender, also considering his age, nature of offence and the case is pending from the year 2002.

11. Finally, the Criminal Revision Case is partly allowed and set aside only the sentence of imprisonment passed by the learned Judicial Magistrate, Alangudi, dated 08.12.2010 in C.C. No. 161 of 2004, confirmed by the learned Additional District and Sessions Judge, Pudukkottai, dated 31.03.2016 in Crl. A. No. 118 of 2010 and confirmed the order of the fine amount.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)



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 Additional District and Sessions Judge, Pudukkottai.
2. -Do- Thro' The Principal District Judge, Pudukkottai.
3. The Judicial Magistrate, Alangudi
4. -Do- Thro' The Chief Judicial Magistrate, Pudukkottai District.
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.
6. The Inspector of Police, District Crime Branch, Pudukkottai.
7. The Section Officer, Criminal Section,
Madurai Bench of Madras High Court,
Madurai. - 2 Copies

**Order made in
Crl.RC(MD)No. 532 of 2016
25.03.2021**

nsv (24.04.2021) 4P 9C