

**BAIL SLIP**

The Appellant Mr.Thangakani, Sole Accused, Age 50, W/o.Ponsekar, was released on Bail as per the order of this Court made in Crl Mp(MD) No.7944/2016 in Crl RC(MD) 604/2016 Dated 31.08.2016.

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON	18.03.2021
DELIVERED ON	05/05/21

CORAM :

THE HONOURABLE MRS.JUSTICE S.ANANTHI
Crl.RC(MD)No. 604 of 2016

Thangakani

... Petitioner/Appellant/A-2

Vs.

The State rep. by the Inspector of Police,
 CCIW-CID, Tuticorin District.

[Crime No. 01 of 2009]. ... Respondent/Respondent/Respondent

PRAYER : Criminal Revisions filed under Section 397 r/w 401 of the Criminal Procedure Code, to call for the records relating to the Judgment dated 22.04.2016 made in C.A. No.47 of 2015 on the file of Principal District and Sessions Court, Tuticorin, confirming the Judgment dated 02.09.2015 made in C.C. No.26 of 2009 on the file of the Judicial Magistrate Court No.II, Tirunelveli (C.C.I.W. Special Court) and set aside the same as illegal.

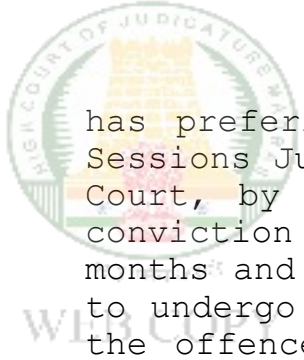
For Petitioner : Mr.M. Ajmalkhan, Senior Counsel
 for M/s.Ajmal Associates

For Respondent : Mrs.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 22.04.2016 passed by the learned Principal District and Sessions Judge, Tuticorin, in C.A. No.47 of 2015, confirmed the Judgment dated 02.09.2015 passed by the learned Judicial Magistrate No.II, Tirunelveli (C.C.I.W. Special Court) in C.C. No.26 of 2009.

2. As against the judgment of conviction and sentence passed by the learned Judicial Magistrate No.II, Tirunelveli (C.C.I.W. Special Court) in C.C. No.26 of 2009, dated 02.09.2015, the petitioner/A-2



has preferred an appeal before the learned Principal District and Sessions Judge, Tuticorin, in C.A.No.47 of 2015. The lower appellate Court, by Judgment dated 22.04.2016, dismissed the appeal and the conviction and sentence to undergo simple imprisonment for Five months and to pay a fine of Rs.1,000/-for each sections, in default to undergo simple imprisonment for Two weeks for each Sections, for the offences under Sections 467, 468, 471, 477(A) and 408 of IPC, was confirmed. Aggrieved over the same, the petitioner has preferred the instant criminal revision case.

3. The case of the prosecution is that, during the period 01.04.2004 to 31.12.2004, while the revision petitioner/A-2 was working in the cadre of Manager and A-1 was working as Secretary of A432-Chokkan Kudiyruppu Primary Agricultural Co-operative Bank. The revision petitioner had abused her official power along with one A.S. Jesudurai (Secretary)/A-2 and misappropriated to the tune of Rs.9,60,000/-. Based on a complaint given by P.W.2, a case in Crime No.1 of 2009 for the offences under Sections 408, 409, 467, 468, 471 and 477(A) r/w 109 and 34 of IPC, was registered by the respondent police.

4. The learned Counsel for the revision petitioner submitted that the Courts below have failed to note that there is a gross violation of provision under Section 81(4) of the Tamil Nadu Co-operative Societies Act. As per provision, the extension of time for continuing the enquiry must be done by the next level higher authorities. He further submitted that, in the present case, the Deputy Registrar of Co-operative Societies, Tiruchendur, has passed an order for conducting enquiry under Section 81 of Tamil Nadu Co-operative Society Act. The enquiry order was marked as Ex.P.3. But, in the present case, the Deputy Registrar has issued Ex.P.6/Extension, without any authority under Section 81(4) of Tamil Nadu Co-operative Societies Act. He further submitted that the auditor who conducted an audit in the alleged society for the period from 2004-2005 have not found any defect or misappropriation and therefore, findings of the Court below are totally perverse and unsustainable in law. He further submitted that the Court below has failed to note that all the 34 incidents in this case, documents of voucher, chitta, jewel loan register, cash book have been corrected and manipulated after the transaction was over. The evidence of P.W.5 and the statement of the revision petitioner before the Enquiry Officer have categorically mentioned about the manipulation by A-1 in all the documents without the knowledge of the revision petitioner and the same was admitted by P.W.35/Investigating Officer. He further submitted that the Courts below have failed to consider the above said facts and hence, the Criminal Revision case is liable to be allowed .

5. Per contra, the learned Government Advocate (Crl. Side) submitted that the accused persons have manipulated documents and misappropriated to the tune of Rs.9,60,000/-belonging to the society. She further submitted that they have been charged and the



offences charged against them were clearly proved by the prosecution and therefore, the trial Court came to a correct conclusion and there is no infirmity to interfere with the findings of the trial Court. Hence, therefore, she prays for dismissal.

6. Heard the learned counsel for the petitioner and the learned Government Advocate (crl. Side) for the respondent police and perused the material documents available on record.

7. The petitioner/appellant/A-2 has filed this Civil Revision Petition to set aside the Judgment, dated 22.04.2016 passed by the learned Principal District and Sessions Judge, Tuticorin, in C.A. No.47 of 2015, confirmed the Judgment dated 02.09.2015 passed by the learned Judicial Magistrate No.II, Tirunelveli (C.C.I.W. Special Court) in C.C. No.26 of 2009.

8. The revision petitioner was charged for an offences under Sections 467, 468, 471, 477(A) and 408 of IPC. She was convicted and sentenced to undergo simple imprisonment of Five months and to pay a fine of Rs.1,000/-for each sections, in default to undergo simple imprisonment for Two weeks for each Sections, for the offences under Sections 467, 468, 471, 477(A) and 408 of IPC.

9. The learned counsel appearing for the petitioner pleaded mercy of this Court to consider the age and ill-health of the revision petitioner and further submitted that three criminal cases were arising out of one First Information Report.

10. Except, 468 of IPC, other sections attracts only 7-years punishment. Now, she is aged about 54 years. At the time of filing revision she was affected by cancer and various ailments. Already Secretary had undergone imprisonment. At the time of occurrence, the revision petitioner was working as only a Cashier. She has also paid fine amount imposed by the trial Court. The case is pending from the year 2009. To prove the contention of the petitioner medical records were also produced before the Court below. On perusal of the records, A-1 only forged the documents and this revision petitioner/A-2 colluded with him. But, there is no evidence for recovery of amount.

11. Considering the facts and circumstances of the case and also considering the fact that the age and health condition of the revision petitioner, this Court is inclined to release the petitioner after admonition under Section 360 of Cr.P.C, for the offences under Sections 408, 467 & 471 of IPC. Considering the age and health condition of the petitioner, regarding the offence under Section 468 of IPC, this Court modify the punishment of imprisonment in to fine of Rs.10,000/-.

12. Finally, this Criminal Revision case is partly allowed. The revision petitioner/A-2 is directed to execute a bond of Rs.5,000/- before the learned Judicial Magistrate, Tirunelveli (CCIW Special Court) and further directed to pay a fine of Rs.10,000/-, within a



period of 4-weeks from the date of receipt of a copy of this order and on paying the fine amount the sentence shall set aside.

13. With the above modifications, this Criminal Revision Case is partly allowed.

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Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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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 COURT,
TUTICORIN.
2. THE I ADDITIONAL DISTRICT AND SESSIONS JUDGE,
TUTICORIN
3. THE JUDICIAL MAGISTRATE II (CCIW SPECIAL COURT),
TIRUNELVELI
4. THE CHIEF JUDICIAL MAGISTRATE
TIRUNELVELI DIST.
5. THE GOVERNMENT ADVOCATE CRL.SIDE
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI
6. THE INSPECTOR OF POLICE
CCIW-CID, TUTICORIN DISTRICT. CR.NO.1/2009
7. THE SECTION OFFICER,
CRIMINAL SECTION,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI (2 COPIES)

Order made in
Cr1.RC (MD) No.604 of 2016

05.05.2021