



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.01.2022

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY
Crl.R.C.No.738 of 2014

1.Kumar @ Sasikumar

2.Tamil Selvam

... Petitioners/Accused 1 & 2

Versus

State by The Inspector of Police,
Sooramangalam Police Station,
Crime No.1123 of 2009.

... Respondent/ Complainant

Prayer: Criminal Revision Petition filed under Section 397 r/w 401 of Criminal Procedure Code, against the judgment passed in C.A.No.42 of 2011, dated 22.06.2012 by the learned II Additional District and Sessions Judge, Salem confirming and convicting the revision petitioners under Section 392 r/w 75 of I.P.C and sentenced to undergo Rigorous Imprisonment to three years filed against the judgment passed by the learned Magistrate No.II, Salem, dated 17.03.2011 convicting from under Section 392 r/w 75 I.P.C and sentenced to undergo three years Rigorous Imprisonment and to set aside the above said conviction and sentence.

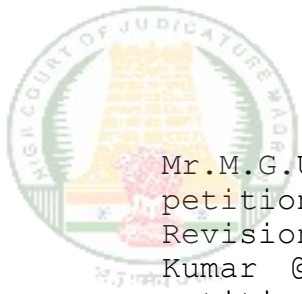
For Petitioners: Mr.M.G.Udayashankar

For Respondent : Mr.L.A.J.Selvam
Government Advocate
(Criminal Side)

ORDER

This Criminal Revision Case in Crl.R.C.No.738 of 2014 is filed by the petitioners/accused Nos.1 and 2, aggrieved by the judgment of the learned Judicial Magistrate No.II, Salem, dated 17.03.2011 in C.C.No.326 of 2009, thereby, finding them guilty of the offence under Section 392 read with Section 75 of the Indian Penal Code and imposing a sentence of three years Rigorous Imprisonment and the judgment of the learned II Additional District and Sessions Judge, Salem in C.A.No.42 of 2011, dated 22.06.2012, thereby, confirming the conviction and sentence imposed by the Trial Court.

2. Today, when the mater came up for hearing,



Mr.M.G.Udayashankar, learned Counsel appearing for the petitioners would submit that in this case, pending the Revision, already the first petitioner in the Revision, namely Kumar @ Sasikumar has passed away and as far as the second petitioner is concerned, instead of considering the matter on merits, this Court will be pleased to consider the question of sentence alone.

3. Mr.L.A.J.Selvam, the learned Government Advocate (Criminal Side) appears on behalf of the prosecution. He also produced the death certificate of the first petitioner, in this case, from which it is clear that the first petitioner died on 16.12.2015 pending disposal of this Revision. He would also produce a certificate from the Superintendent of Central Prison, Salem, which states that the second petitioner was in prison from 04.07.2009 to 31.12.2010 i.e., about one year and five months.

4. I have gone through the records. In this case, the Trial Court, after considering the evidence let in on behalf of the prosecution, namely the oral evidence of P.Ws.1 to 10 and exhibits marked, namely Exs.P-1 to P-9, the recovery of the thali chain in M.O-1, has rightly come to the conclusion about the guilt of the accused and as contended by the learned Counsel for the petitioner, considering the fact that the offence took place in the year 2009 and the second petitioner is now aged 51 years and that he has shown remorse to his conduct and that he was in jail from 04.07.2009 to 31.12.2010, I am inclined to modify the sentence imposed on the second petitioner from the period of three years Rigorous Imprisonment to that of the period already undergone.

5. The Criminal Revision Case is partly allowed accordingly.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

grs

To

1.The II Additional District and Sessions Judge, Salem.

2. -do through Principal District and Sessions Judge, Salem.



3. The Judicial Magistrate No.II, Salem.

4. -do through Chief Judicial Magistrate, Salem.

5. The Public Prosecutor,
High Court of Madras.

6. The The Inspector of Police,
Sooramangalam Police Station.

+lcc to Mr.M.G.Udayashankar, Advocate, S.R.No.5578

Cr1.R.C.No.738 of 2014

PMK (CO)
CT 25/02/2021