



WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 13.03.2023

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.R.C.(MD)No.01 of 2011

Srinivasan P.C.Saminathan @ Sundaram

... Petitioner/Appellant/Accused No.1

Vs.

The State rep. By
The Inspector of Police,
City Crime Branch,
Tirunelveli
(Crime No.10 of 1996)

... Respondent/Respondent/Complainant

PRAYER: Criminal Revision Petition is filed under Section 397 r/w 401 of Cr.P.C., against the judgment by the Additional District and Sessions Judge, (Fast Track Court No.I), Tirunelveli, in C.A.No. 101 of 2008 dated 13.10.2010 confirming the conviction and sentence passed by the Judicial Magistrate No.1, Tirunelveli, in C.C.No.352 of 2002 dated 05.05.2008.

For Petitioner	: Mr.G.Ramanathan
For Respondent	: Mr.K.Sanjay Gandhi
	Government Advocate(Crl.side)

ORDER

This Criminal Revision Petition has been filed against the order passed in C.A.No.101 of 2008 dated 13.10.2010 on the file of the



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Additional District and Sessions Judge, (Fast Track Court No.I),
Tirunelveli, confirming the conviction and sentence passed by the Judicial
Magistrate No.1, Tirunelveli, in C.C.No.352 of 2002 dated 05.05.2008.

2. The case of the prosecution is that on 04.05.1996, the accused persons loaded 130 bags of PDS rice worth Rs.77,760/-, which was said to have been transported in a lorry bearing Registration No. TAX.2369 and they failed to deliver the consignment to Ramanathapuram Civil Supplies Godown and the petitioner along with A2 sold 130 bags at Gandhi Market, Trichy and the case has been registered in Crime No.10 of 1996 for the offences under Sections 407, 468, 471, 414 and 34 of IPC.

3. After completion of investigation, the respondent filed final report and the same has been taken cognizance by the trial court in C.C.No.352 of 2002. Before the trial court, on the side of the prosecution, P.W.1 to P.W.13 were examined and Ex.P.1 to Ex.P.5 were marked. They also marked M.O.1 and M.O.2. On the side of the accused, no one was examined and no document was marked.



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4. On a perusal of oral and documentary evidence, the trial court convicted the petitioner for the offence under Section 407 IPC and sentenced him to undergo 3 years R.I and also imposed fine of Rs.10,000/- in default of payment, the petitioner shall undergo 6 months R.I. So far as other offences are concerned, he was acquitted by the trial court. Aggrieved by the same, the petitioner preferred an appeal and the appellate court also confirmed the conviction and sentence imposed by the trial court for the offence punishable under Section 407 IPC. Hence, the petitioner is before this Court.

5. The learned counsel for the petitioner would submit that the petitioner so far had undergone imprisonment for more than 11 months and the same is also confirmed by the learned Government Advocate (Crl.side). A perusal of record would reveal that there are material contradictions between the evidence of P.W.1 and prosecution case. In order to constitute the offence under Section 407 IPC, the prosecution ought to have proved that whoever being entrusted with property dishonestly misappropriates or converts to his own use would amount to criminal breach of trust.



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6. The case of the prosecution is that the petitioner had committed criminal breach of trust by selling 130 bags of PDS rice which is said to have been transported by him on 04.05.1996 in the lorry bearing Registration No. TAX.2369. A perusal of record would reveal that the lorry was loaded with 130 bags whereas the complaint was lodged on 20.05.1996. Further, the prosecution failed to produce any record to show about loading and unloading of number of rice bags and a number of vehicles from Civil Supplies Godown at Tuticorin. Further the case of the prosecution is that the petitioner along with other accused persons have sold PDS rice. However, that was not proved by the prosecution.

7. Considering the above facts and circumstances, this Court feels that the sentence which was already undergone by the petitioner may be treated as sentence. Accordingly, the conviction and sentence for the offence under Section 407 IPC is hereby confirmed and the sentence imposed by the courts below alone is reduced from 2 years to the period which was already undergone by the petitioner.



WEB COPY 8. With the above modification of sentence alone, this Criminal
Revision is partly allowed.

13.03.2023

NCC: Yes/No
Index : Yes/No
Internet: Yes/No
CM

To

1. The Inspector of Police, City Crime Branch,
Tirunelveli (Crime No. 10 of 1996)
2. The Additional District and Sessions Judge,
(Fast Track Court No. I), Tirunelveli
3. The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court,
Madurai.



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G.K.ILANTHIRAIYAN, J.

CM

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