



Crl.R.C(MD)No.253 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.03.2023

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.R.C(MD)No.253 of 2017

Nagendran @ Nagaraj ... Revision Petitioner/
Appellant/Accused No.1

Vs.

The Deputy Superintendent of Police,
Q Branch CID, Tirunelveli Unit,
Incharge of Q Branch CID,
Ramanathapuram Unit,
Ramanathapuram District.
In Crime No.2/2008.

... Respondent/
Respondent/Complainant

PRAYER: Criminal Revision Case filed under Section 397 r/w 401 of the Code of Criminal Procedure, to call for the records relating to the Judgment in Crl.A.No.19 of 2015 dated 11.11.2016 on the file of the learned Principal Sessions Judge, Ramanathapuram, confirming the order of conviction and sentence passed in S.C.No.96 of 2010 dated 15.05.2015 on the file of the learned Assistant Sessions Judge/Chief Judicial Magistrate, Ramanathapuram and set aside the same and acquit the petitioner from the charge levelled against him.

For Petitioner : Mr.R.Venkateswaran

For Respondent : Mr.T.Senthil Kumar
Additional Public Prosecutor



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ORDER

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The revision has been filed to set aside the Judgment in Crl.A.No.19 of 2015, dated 11.11.2016, on the file of the learned Principal Sessions Judge, Ramanathapuram, confirming the order of conviction and sentence passed in S.C.No.96 of 2010 dated 15.05.2015 on the file of the learned Assistant Sessions Judge/Chief Judicial Magistrate, Ramanathapuram.

2.The case of the prosecution is that the petitioner/A1 along with other accused conspired illegally for the supply of explosive substances to the banned organization, namely LTTE, which had strong roots in Srilanka. On 08.05.2008 at about 15.30 hours, based on the secret information, P.W.1 conducted a search in a country boat bearing Registration No.TN-10-WB-1238 and at that time, the petitioner attempted to escape from that place. During the search, it was found that there were explosive substances. On the complaint, the respondent registered the F.I.R in Crime No. 2 of 2008 for the offences under Sections 5(a) of the Explosive



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Substances (Amendment) Act, 2001 and 10(a)(iv) of the Unlawful Activities (Prevention) Amendment Act, 2004 and 120 of I.P.C. After completion of the investigation, filed a final report and the same has been taken cognizance in S.C.No.96 of 2010 on the file of the learned Assistant Sessions Judge/Chief Judicial Magistrate, Ramanathapuram.

3.On the side of the prosecution, they had examined P.W.1 to P.W.31 and marked Exs.P.1 to P.30 and the prosecution also marked M.O.1 to M.O.13 and marked Ex.C.1 and Ex.C.2 and on the side of the accused, no one was examined and no materials were produced before the trial Court.

4.On perusal of the oral and documentary evidence, the trial Court found the petitioner alone guilty for the offence under Section 5(a) of the Explosive Substances (Amendment) Act, 2001 and sentenced him to undergo one year Simple Imprisonment and also imposed a fine of Rs.5,000/- in default,



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to undergo 3 months Simple Imprisonment and acquitted him from other two charges under Section 10(a)(iv) of the Unlawful Activities (Prevention) Amendment Act, 2004 and 120 of I.P.C. Aggrieved by the same, the petitioner preferred an appeal in Crl.A.No.19 of 2015 on the file of the learned Principal Sessions Judge, Ramanathapuram and the Appellate Court dismissed the appeal, thereby confirmed the conviction imposed by the trial Court. Aggrieved by the same, the present Revision.

5.The learned counsel appearing for the petitioner would submit that except the petitioner, the other accused persons were acquitted by the trial Court. Even according to the case of the prosecution, the petitioner was found in possession of explosive substances and there is absolutely no evidence to show that he is a supporter of LTTE and that he brought the explosive substances to supply to the LTTE. He further submitted that the petitioner so far had undergone 91 days imprisonment.



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6.The learned Additional Public Prosecutor appearing for the respondent would submit that in this case so far the prosecution had examined P.W.1 to P.W.5, and they categorically deposed about the recovery of the explosive substances from the petitioner's boat. Therefore, the prosecution has proved its case beyond any doubt and as such, there is no infirmity or illegality in the order passed by the Courts below.

7.Heard the learned counsel appearing on either side and perused the materials available on record.

8.On perusal of the materials revealed that the petitioner himself admitted that he is the owner of the boat, which is marked as M.O.1. In fact, he has also filed an application for return of the boat claiming that he is the owner of the boat. Further, on perusal of evidences of P.W.1 to P.W.5, they categorically deposed about the recovery of explosive substances along with the boat owned by the petitioner. P.W.20



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is from the Bomb detection and disposal squad, and he has categorically deposed that the substances recovered from the boat are explosive substances. Further, P.W.26, who is the Assistant Director of the Forensic Department, deposed that after analyzing the samples collected from the scene of crime, where the explosive substances were destroyed. From the analysis report, it was found that the existence of chemical PETN, which is known as 'Pentaerythritol Tetrinitrate' and it is a dangerous explosive substance. Therefore, the prosecution proved its case for the offence punishable under Section 5(a) of the Explosive Substances (Amendment) Act, 2001 and both the Courts below rightly sentenced him to undergo one year Simple Imprisonment. However, considering the age of the petitioner and the present scenario, this Court is inclined to reduce the sentence imposed by the Courts below as to the period already undergone by the petitioner.

9. In view of the above, the conviction imposed by the Courts below for the offence punishable under Section 5(a) of the Explosive Substances (Amendment) Act, 2001 is confirmed, and the sentence imposed by the Courts below is hereby



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modified to the period which was already undergone by the petitioner. Accordingly,
this Criminal Revision Case is partly allowed.

09.03.2023

NCC : Yes/No
Index : Yes/No
Internet : Yes
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To

- 1.The Principal Sessions Judge,
Ramanathapuram.
- 2.The Assistant Sessions Judge/Chief Judicial Magistrate,
Ramanathapuram.
- 3.The Deputy Superintendent of Police,
Q Branch CID, Tirunelveli Unit,
Incharge of Q Branch CID,
Ramanathapuram Unit,
Ramanathapuram District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.K.ILANTHIRAIYAN, J.

ps

Order made in
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