



Crl.R.C.(MD).No.92 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 10.02.2023

CORAM

THE HONOURABLE MR. JUSTICE G.ILANGO VAN

Crl.R.C.(MD).No.92 of 2023

Packiyakumar

... Petitioner

Vs.

State represented by
The Deputy Superintendent of Police,
Idol Theft Criminal Investigation Wing,
Chennai,
Udayarpalayam Police Station,
Chennai-32.

... Respondent

PRAYER: This Civil Revision Case is filed under Sections 397 r/w 401 of the Criminal Procedure Code, to call for the records of the impugned order dated 22.11.2022 in C.A.No.93 of 2022 passed by the learned Principal Sessions Judge, Thanjavur and set aside the same by allowing the revision petition.

For Petitioner : Mr.C.Arulvadivel @ Sekar
for Mr.S.Sankarapandian
For Respondents : Mr.S.Ravi
Additional Public Prosecutor



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ORDER

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This Criminal Revision Case has been filed to set aside the order, dated 22.11.2022, passed by the learned Principal Sessions Judge, Thanjavur in C.A.No.93 of 2022.

2.The facts in brief:-

The petitioner was arrayed as fourth accused in C.C.No.1 of 2016 on the file of the Additional Chief Judicial Magistrate, Kumbakonam. The petitioner was tried along with five other accused in C.C.No.1 of 2016 by the Additional Chief Judicial Magistrate, Kumbakonam for the offences under Sections 411, 414, 120(b), 465, 468 and 471 IPC as follows:

Section	Sentence	Fine	Default sentence
411 of IPC	R.I for 3 years	Rs.3,000/-	S.I for 3 months
414 of IPC	S.I for 3 years	...	...
120(B) of IPC	R.I for 7 years	Rs.1,000/-	S.I for 3 months
465 of IPC	S.I for 2 years	...	...
468 of IPC	S.I for 2 years	Rs.2,000/-	S.I for 3 months
471 of IPC	S.I for 2 years	Rs.2,000/-	S.I for 3 months

The trial Court ordered the sentences under Sections 411, 414, 465, 468 and 471 IPC to run concurrently and the sentence for the offence under Section 120(b) IPC is ordered to run consecutively. As against the above said judgment, the petitioner filed an appeal before the learned Principal



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Sessions Judge, Thanjavur in Crl.A.No.93 of 2022 and the appellate Court dismissed the appeal on the point of jurisdiction.

3. The appellate Court is of the view that the sentence for 7 years rigours imprisonment has been imposed under Section 120(b) IPC. The aggregate period of sentence was calculated as 10 years and by virtue of Section 374(2) Cr.P.C., the accused has to approach only the High Court by way of appeal.

4. According to the learned Principal District Judge, Thanjavur, he has no jurisdiction to entertain the appeal and on that ground, the appeal was dismissed. Challenging the same, the present revision has been preferred.

5. Even though the Registry entertained the doubt with regard to the maintainability of the revision, the learned counsel at the time of the arguments would challenge the legality of the order made by the learned Principal District Judge, Thanjavur on the point of jurisdiction, so the revision is very well maintainable. On that ground, the Registry was directed to number the revision and this matter was listed.



Section 31:-

Section 31(3) :-

4/7
https://www.mhc.tn.gov.in/judis



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Reading of the above said provisions makes the point very clear to the effect that the grievances expressed by the revision petitioner have been taken care of by this provision. Now, the grievance of the petitioner is that if he has to file an appeal before the High Court, then the revisional right would be lost. Perhaps only to meet this sort issue only specific provision has been made.

7. In the light of the submission made by the learned Additional Public Prosecutor and in view of section 31(3) Cr.P.C, the order passed by the learned Principal Sessions Judge, Thanjavur in C.A.No.93 of 2022 dated 22.11.2022 is set aside. The appellate Court is directed to restore C.A.No.93 of 2022 on its file and proceed in accordance with law, by issuing notice to the parties.

With the above directions, this Criminal Revision Case is allowed.

10.02.2023

Index : Yes / No

Internet : Yes / No

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(Issue order copy on 16.02.2023)



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To,

WEB COPY

1. The Deputy Superintendent of Police,
Idol Theft Criminal Investigation Wing,
Chennai,
Udayarpalayam Police Station,
Chennai-32.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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G.ILANGO VAN,J.

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