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Crl. R.C. No. 1553 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.11.2024

Coram :

THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

Criminal Revision Case No.1553 of 2017
and
Crl.M.P.No.10416 of 2023

1.Vignesh
2.Karthi

... Petitioners/Appellants/Accused 2 & 3

Versus

State, represented by
Inspector of Police,
Pallapatty Police Station,
Salem District.
(Crime No.85 of 2016)

... Respondent/Respondent/Complainant

Criminal Revision filed under Section 397 r/w. 401 of Cr.P.C seeking to call for the records in C.A.No.33 of 2017, dated 16.08.2017 on the file of the learned II Additional District and Sessions Judge, Salem confirming the conviction and sentence imposed in S.C.No.360 of 2016, dated 08.03.2017 on the file of the learned Chief Judicial Magistrate-cum-Assistant Sessions Judge, Salem and set aside the same.

For Petitioners .. Mr.R.Sankarasubbu

For Respondent .. Mr.V.Meganathan
Government Advocate (Crl. Side)



ORDER

WEB COPY This Criminal Revision Case had been filed against the judgment made in C.A.No.33 of 2017, dated 16.08.2017 by the learned II Additional District and Sessions Judge, Salem confirming the conviction and sentence imposed in S.C.No.360 of 2016, dated 08.03.2017 on the file of the learned Chief Judicial Magistrate-cum-Assistant Sessions Judge, Salem and to set aside the same.

2. The brief facts which are necessary for disposal of this Criminal Revision Case are as follows:-

2.1. The *De-facto Complainant* Prakashkumar is the resident of N.S.Palayam, Bangalore and he was working in DELL Company. On 27.02.2016 at night he started from Bangalore and proceeded to Vanniyar Nagar Meyanor Salem to see his paternal uncle's son Mahendrakumar by bus and after getting down from the bus at Salem on 28.02.2016 at 4.00 a.m., when he was proceeding to the house of Mahendrakumar through Vanniyar Nagar, at that time, three persons came on a motor cycle and unlawfully restrained him and wielded a knife and put him under threat. When he was standing under shock and fear, they snatched two sovereigns of gold chain from his neck and one sovereign of gold wrist chain from his left hand and also a wrist watch and Rs.500/- cash and a cellphone [Celkon] from his pocket. Thereafter



they ran away. When the *De-facto Complainant* shouted, residents of the nearby place and his paternal uncle's son Mahendrakumar came to the place and before they reached the place, the Accused ran away. The properties robbed was worth Rs.50,500/-. The *De-facto Complainant* Prakashkumar, went to Pallapatti Police and gave a written complaint and based on which, the Sub Inspector of Police, registered a case in Crime No.85/2016 under Sec.341, 392 r/w 397 I.P.C. on 28.02.2016 at 10.00 a.m. Thereafter, the Inspector of Police took up investigation, proceeded to the spot and prepared Rough sketch under Ex.P-16 and observation mahazar under Ex.P-2 and thereafter examined the witnesses and recorded their statements under Sec.161 Cr.P.C. On 26.06.2016 the Inspector of Police arrested the second Accused and one Deepak Karthi and recorded the confession statement given by them and recovered knife and cellphone at their instance in the presence of witnesses. On 29.06.2016 the Inspector of Police arrested the fourth Accused before the trial Court by name Chandra Mohan and recorded his statement and recovered a motorcycle at his instance in the presence of the witnesses. On 02.07.2016 the Inspector of Police arrested the first Accused Shanmugavel and recorded his confession statement and on the basis of the said statement he recovered gold ingot and casio watch in the presence of the witnesses. On the same day, he also arrested the third Accused Karthi and recorded his statement also in the



presence of the witnesses. After completion of the investigation, the Inspector of Police altered the case from Sec.341, 392 r/w 397 I.P.C. into Sec.341, 395 into 397 and 201 I.P.C. and forwarded the report to the learned Judicial Magistrate No.2, Salem and filed charge sheet against the Accused persons under the aforesaid sections of law.

2.2. The learned Judicial Magistrate No.2, Salem had taken the case on file in P.R.C.No.25/2016. On the appearance of the Accused persons, furnished them with the copies of the documents relied on by the Prosecution under Sec. 207 Cr.P.C. Since the offence under Sec. 395 r/w 397 of IPC is exclusively triable by the Court of Sessions, the learned Judicial Magistrate-2, Salem, after complying with all the formalities under Section 209 Cr.P.C., committed the case to the Court of the learned Principal Sessions Judge, Salem. The learned Principal Sessions Judge, Salem has taken the case on file as S.C.No.360/2016 and made over the same to the Court of the learned Chief Judicial Magistrate-cum-Assistant Sessions Judge, Salem for trial according to law.

2.3. After hearing both sides and upon perusing the materials, the learned Chief Judicial Magistrate-cum-Assistant Sessions Judge, Salem



framed charge against the Accused 1 to 4 under Sec. 341, 395 r/w 397 I.P.C. and further under Section 201 I.P.C. against the second Accused and when explained, the Accused persons pleaded not guilty and claimed to be tried. Accordingly, trial was ordered. During trial, the Prosecution in order to establish its case, examined 11 witnesses as P.W-1 to P.W-11 and marked 25 documents as Ex.P-1 to Ex.P-25 and also marked 4 material objects as M.O-1 to M.O-4.

2.4. After completion of the Prosecution side evidence, the Accused persons were examined under Sec. 313(1)(b) Cr.P.C. with regard to the incriminating evidence available in the evidence of the Prosecution witnesses. The Accused denied the incriminating evidence against them. They also claimed that they have been falsely implicated. However, no witness was examined on the side of the Accused. The learned Chief Judicial Magistrate-cum-Assistant Sessions Judge, Salem, after considering the evidence and materials on record, by order dated 08.03.2017, convicted the Accused 1 to 3 before the trial Court under Sections 341 and 392 r/w.397 IPC and sentenced to undergo Rigorous Imprisonment for two months under Section 341 I.P.C and Rigorous Imprisonment for 7 years under Sec.392 r/w.397 IPC and the second Accused has been convicted for the offence punishable under Sec.341



and 392 r/w.397 IPC and sentenced to undergo Rigorous Imprisonment for two months under Section 341 IPC and Rigorous Imprisonment for 7 years under Sec. 392 r/w 397 IPC and to pay a fine of Rs.500/-, in default, to undergo Rigorous Imprisonment for further two months. Sentences of imprisonment are ordered to run concurrently and set off under Sec.428 Cr.P.C. was also allowed. At the same time, the fourth Accused before the trial Court was acquitted as he was not found guilty.

3. Aggrieved by the judgment of conviction and order of sentence of imprisonment imposed on the Accused, the Accused 2 and 3 had filed this Criminal Revision Case.

4. This Criminal Revision Case had been filed raising the flaws in the investigation that identification parade was not conducted and seeks to set aside the judgment of conviction and sentence imposed in S.C.No.360 of 2016, dated 08.03.2017 on the file of the learned Chief Judicial Magistrate-cum-Assistant Sessions Judge, Salem which was confirmed by the learned II Additional District and Sessions Judge, Salem by judgment dated 16.08.2017 in C.A.No.33 of 2017.



5. The learned Counsel for the Revision Petitioners Thiru.R.Sankarasubbu seeks to extend the benefit of the Tamil Nadu Borstal Schools Act, 1925. He relied on the ruling of the Hon'ble Supreme Court in the case of ***C.Elumalai -vs- State of Tamil Nadu*** reported in ***1985 SCC (Cri) 1*** wherein the Hon'ble Supreme Court has held as under:

“Tamil Nadu Borstal Schools Act, 1925 (5 of 1926) – Section 10 – Adolescent offenders sentenced to life imprisonment, if transferred to Borstal School or subjected to any other kind of detention under, cannot be detained after attaining age of 23 years and must be released thereafter.”

6. The above said decision is based on the earlier ruling of the Hon'ble Supreme Court in a case arising out of Andhra Pradesh High Court in the case of ***State of Andhra Pradesh -vs- Vallabhapuram Ravi*** reported in ***(1984) 4 SCC 410*** wherein it is held as under:-

“Andhra Pradesh Borstal Schools Act, 1925 (5 of 1926) – Section 10-A – Life convict transferred to Borstal School under – Held, entitled to be released after serving the maximum period of detention of 5 years or on his attaining 23 years as prescribed under Section 8 – He cannot thereafter be transferred to serve the remaining period of sentence of imprisonment – Section 433-A, Cr.P.C. would not apply in case of release of such a detenu – Words 'as if' and “the whole or any part of the unexpired residue of his sentence” - Interpretation of – Criminal Procedure Code, 1973, Section 433-A – Constitution of India, Article 254 and Schedule VI List III Entries 2 and 4 – Interpretation of Statutes – Deeming provision.”

7. In the above said case, the Accused was aged more than 16 and below 23 years and he was charged for the offence of murder and he was



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granted the benefit of Andhra Pradesh Borstal Schools Act, 1925 which is based on the Madras Borstal Schools Act, 1925. Therefore, it is the contention of the learned Counsel for the Revision Petitioners that at the time of commission of offence, the Petitioners herein was aged 18 and 18½ respectively. Therefore, they cannot be detained in Prison beyond the age of 23 with regard to the offence involved in this case. Therefore, the benefit of Tamil Nadu Borstal Schools Act, 1925 is to be extended to the Revision Petitioners and they cannot be sentenced beyond the period as per the Tamil Nadu Borstal Schools Act, 1925. It is the further contention of the learned Counsel for the Revision Petitioners that that Revision Petitioners/Accused in S.C.No.360 of 2016 on the file of the learned Chief Judicial Magistrate-cum-Assistant Sessions Judge, Salem in Crime No.85 of 2016 on the file of the Inspector of Police, Pallapatty Police Station, Salem City, cannot be detained in Prison in violation of the Tamil Nadu Borstal Schools Act, 1925 (previously Madras Borstal Schools Act) and also based on the ruling of the Hon'ble Supreme Court in *Ezhumalai Vs State of Tamil Nadu* stating that the first time offenders youthful offender of the age group between 18 to 21 shall not be sentenced to Prison and shall not be detained in Prison, instead shall be sent to Borstal Schools for psychological counselling and rehabilitation.

Therefore, he seeks to set aside the judgment of conviction and sentence of



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imprisonment recorded in S.C.No.360 of 2016, dated 08.03.2017 by the learned Chief Judicial Magistrate-cum-Assistant Sessions Judge, Salem which was confirmed by the learned II Additional District and Sessions Judge, Salem, by judgment in Crl.A.No.33 of 2017, dated 16.08.2017.

8. The learned Government Advocate (Criminal Side) vehemently objected to the line of arguments made by the learned Counsel for the Revision Petitioners stating that the learned Chief Judicial Magistrate-cum-Assistant Sessions Judge, Salem as well as the learned II Additional District and Sessions Judge, Salem, had rightly invoked the law. The question of reformation is not applicable to this case as the Accused/Petitioners are habitual offenders. There are cases pending against them. At the time of their arrest, they were involved in other crime also. Also the learned Government Advocate (Criminal Side) relied on the Full Bench decision dated 29.08.2016 in a batch of cases in **H.C.P.No.1441 of 2007, etc. [N.Gowthaman @ Babu -vs- The Government of Tamil Nadu, rep. by its Home Secretary, Fort St. George, Chennai – 600 009 and another]**. As per the Full Bench judgment of this Court, the Full Bench had recommended the State Government to repeal the Tamil Nadu Borstal Schools Act, 1925 since it has outlived its purpose. For the first time offenders, the Probation of Offenders Act is



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invoked. For the juvenile in conflict with law, the Juvenile Justice Act had been enacted by the Parliament. Therefore, the provisions regarding first time offender can be detained only in Borstal Schools till the age of 23 years will not hold good. In this case as the Government had issued Government Order in G.O.(Ms) No.328, Home (Prison-IV) Department, dated 29.06.2022 in the light of the Full Bench judgment thereby treating the Sub Jails in the State as Borstal Schools had been invoked. Particularly, the Borstal Schools had been converted into Sub-Jails. Regarding the charges like murder, rape, sedition, dacoity, robbery and regarding white collar crimes regarding food adulteration cases, regarding vigilance cases, these are the cases where Probation of Offenders Act is not invoked as it is barred. The offence in this case is under Section 392 r/w. 397 which had been proved before the learned Chief Judicial Magistrate-cum-Assistant Sessions Judge, Salam, had been confirmed by the learned II Additional District and Sessions Judge, Salem. Therefore, the offence under which the Petitioners are arrayed as Accused is not a fit case to invoke the beneficial provisions of Tamil Nadu Borstal Schools Act, 1925.

9. The learned Government Advocate (Crl. Side) Thiru.V.Meganathan, pointed out that there is a Full Bench ruling that powers of Tamil Nadu Borstal Schools Act, 1925 cannot be invoked by the Accused at



his whims and fancies. It is the discretion vested with the Court and for that he cited the Full Bench decision dated 29.08.2016 in a batch of cases in **H.C.P.No.1441 of 2007, etc. [N.Gowthaman @ Babu -vs- The Government of Tamil Nadu, rep. by its Home Secretary, Fort St. George, Chennai – 600 009 and another]**, in which it is held as under:-

"105. Ex consequenti, the decision of the Division Bench of this Court in Shanmuganathan's case extending the provisions of the Borstal Schools Act to remand prisoners is over-ruled and the consequent GO (D) No. 922, Home (Prisons IV) Department dated 12.08.2008, declaring all the sub jails as borstal schools is hereby quashed. It is open to the Magistrates to remand the accused between the age group of 18 and 21 years to prisons and not to borstal schools. Further, the judgment of the Full Bench of this Court in Thangammal's case holding that the word "imprisonment" in Section 8 of the Borstal Schools Act, includes imprisonment for life", does not lay down the correct law and is accordingly overruled.

106. While parting with the case, we suggest to the State Government to repeal the Borstal Schools Act since it has outlived its purpose.

107. The individual cases will now be placed before the respective Benches for disposal in the light of the answers set down by us in these references."

10. In support of his contention, the learned Government Advocate (Crl. Side) Mr.V.Meganathan placed reliance on the following rulings:

(i) In the case of ***Rakesh -vs- State rep. by the Inspector of Police, D-1, Triplicane Police Station, Chennai [Crl.A.No.787 of 2017, dated 15.07.2022*** wherein this Court has held as follows:-



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“23. In this case, the juvenile in conflict with law was in home only for a period about one year and six months and thereafter, his sentence has been suspended. Therefore, the remaining period of sentence cannot be waived for the reason he has attained majority and cannot be sent to home. The harmonious way of reading the provisions of law, the spirit of the Juvenile Justice Act which emphasis the care and protection of the juvenile in conflict with law qua the public interest in case of offence of grave nature, the JCL who has now attained majority and crossed 23 years is to be detained in prison. Neither the home nor the Subsidiary Jail is meant for this appellant. Therefore, this Court confirms the order of the trial Court and thereby dismissed this Criminal Appeal. The respondent is directed to secure the appellant and commit him to Central Prison to undergo the remaining period of sentence. The period already undergone by the appellant shall be set off under Section 428 of Cr.P.C.”

(ii) In the case of ***Rajkumar -vs- State through the Inspector of***

Police reported in ***2023 SCC OnLine Mad 50*** this Court has observed as

under:-

“13. Relying upon the judgment of the Supreme Court rendered in State of West Bengal vs. Mir Mohammad Omar and others reported in (2000) 8 SCC 382, the learned Additional Public Prosecutor submitted that the circumstantial evidence and the fact the accused and the deceased were found together moving towards foot hill in a TVS-XL vehicle and later the accused alone was seen, but the child found dead in the foot hill sufficient to hold him guilty of murder. Regarding the allegation of violation of Section 15 of JJ Act, 2015, and the accused being tried as an adult, the learned Additional Public Prosecutor submitted that the antecedents of the accused have been properly dealt with as per the procedure laid under the Act for trial of juvenile as adult the accused acquiescence to be tried as an adult after his appeal to the Children's Court not considered favourable. Therefore he cannot plead violation of Section 15 of JJ Act, 2015 when there is no violation. Therefore submitted that the evidence let in by the prosecution proves the chain of event regarding the child last seen alive with the accused and the accused has left his two-wheeler used for kidnapping the girl with P.W.16. In the said context, the confession statement disclosing the facts which were in exclusive knowledge of the accused and leading to discovery of vehicle and the silver anklet been properly appreciated by



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the trial Court for holding the accused guilty. He therefore plead that the judgment of the trial Court has to be confirmed.

16. Section 21 of JJ Act, 2015 reads as below:-

“ Order that may not be passed against a child in conflict with law.— No child in conflict with law shall be sentenced to death or for life imprisonment without the possibility of release, for any such offence, either under the provisions of this Act or under the provisions of the Indian Penal Code (45 of 1860) or any other law for the time being in force.”

17. The plain reading of this Section clearly indicates that the bar is only to impose the life imprisonment without the possibility of release and it is not a complete or total bar for a Court to impose life imprisonment if there is possibility of release. If sentence of life is imposed with possibility of release either premature or on completion of 14 years of imprisonment, such imposition of sentence will not fall within the bar under Section 21 of the JJ Act, 2015.

18. Regarding the duty cast upon the Court as per the provisions of the Juvenile Justice Act, 2015 under Section 15 to assess the mental and physical capacity of the child in conflict with law, it is to be noted that in this case, the prosecution has relied upon Exs.P16, 17 & 18 which are the Observation Reports of the doctors who had examined the accused on the requisition of the Court before commencement of the trial. Particularly, Ex.P17, which has clarified earlier Observation Report on answering the question raised by the Court would clearly show that the accused had the mental capacity to commit the offence and had ability to understand the consequences of the offence. ”

11. The learned Government Advocate (Crl. Side) also submitted that status report has been filed by the Inspector of Police, Pallapatti Police Station, Salem City in which he had stated as follows:

“10.It is further submitted that the 1st Petitioner/Accused [A2] [No.RP.1457] detained for 80 days from 26.06.2016 to 13.09.2016 at Borstal School, Paramathi and detained for 70 days from 09.03.2017 to 15.07.2017 Borstal School, Pudukottai [totally 150 days respectively].



11.It is submitted that 2nd Petitioner/Accused [A-3] detained for 249 days from 03.07.2016 to 08.03.2017 at Borstal School, Gingee and detained for 77 days from 09.03.2017 to 24.05.2017 at Borstal School, Pudukottai [totally 326 days respectively].”

Therefore, the Rulings cited by the learned Counsel for the Revision Petitioners will not hold good in the light of the Full Bench decision in the batch of cases in H.C.P.No.1441 of 2007, etc. The Criminal Appeal does not have any merit and is to be dismissed.

Point of consideration:

Whether the judgment of conviction and sentence of imprisonment recorded by the learned Chief Judicial Magistrate-cum-Assistant Sessions Judge, Salem in S.C.No.360 of 2016, dated 08.03.2017 and confirmed by the learned II Additional District and Sessions Judge, Salem in C.A.No.33 of 2017, dated 16.08.2017 is to be set aside as perverse?

12. Heard the learned Counsel for the Revision Petitioners Thiru.R.Sankarasubbu and the learned Government Advocate (Crl. Side) Thiru.V.Meganathan for the Respondent the documents and the judgments of the learned Chief Judicial Magistrate-cum-Assistant Sessions Judge, Salem and the judgment of the learned II Additional District and Sessions Judge,

Salem.

<https://www.mhc.tn.gov.in/judis>



WEB COPY13. On perusal of the documents and judgments and on consideration of the submissions made by the learned Counsel for the Revision Petitioners and the learned Government Advocate (Crl. Side), it is found that even though in the grounds of revision, the Revision Petitioners had raised the issue regarding the identification parade, the conviction recorded by the learned Assistant Sessions Judge, Salem in S.C.No.360 of 2016 is perverse and to be set aside, the scope of revision is very narrow. The Revision Court does not have the power to re-appreciate the evidence as that of the Appellate Court. Here the right of Appeal was exercised by the Revision Petitioners before the learned II Additional District and Sessions Judge, Salem. The Appeal was dismissed and the judgment of the learned Chief Judicial Magistrate-cum-Assistant Sessions Judge, Salem was confirmed. Aggrieved by the Appeal having been dismissed and the judgment of the learned Chief Judicial Magistrate-cum-Assistant Sessions Judge, Salem, having been confirmed, the Accused 2 and 3 alone had filed this Criminal Revision Case.

14. Even though the grounds raised in the Revision is that the learned Chief Judicial Magistrate-cum-Assistant Sessions Judge, Salem as well as the learned II Additional District and Sessions Judge, Salem had not considered



the defence of the Accused that the identification parade was not conducted and the recovery was made after four months of the registration of the case, the learned Counsel for the Revision Petitioners had raised the issue of Tamil Nadu Borstal Schools Act. It is his further submission that the defence of the Accused to invoke the provisions of Tamil Nadu Borstal Schools Act was not considered and the Accused were sentenced by the learned Chief Judicial Magistrate-cum-Assistant Sessions Judge, Salem, thereby detaining them in Central Prison. It is the contention of the learned Counsel for the Petitioners that the Revision Petitioners are the first time offenders. Even if the Prosecution case is accepted, they have to be treated in the light of the beneficial provisions of Tamil Nadu Borstal Schools Act, 1925 they should have been sent to Borstal Schools to give them Counselling and to reform them, as per the provisions of Tamil Nadu Borstal School Act, 1925. But they were sent to Central Prison to undergo the sentence of imprisonment. The beneficial provisions of reformatory and reformation and join mainstream of the society was ignored by the learned Chief Judicial Magistrate-cum-Assistant Sessions Judge, Salem and the learned II Additional District and Sessions Judge, Salem which had resulted in miscarriage of justice by denying the opportunity of reformation of the first time offenders. Therefore, the learned Counsel for the Revision Petitioners seeks to set aside the sentence of



imprisonment imposed on the Revision Petitioners.

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15. The submission of the learned Government Advocate that the question of reformation is not applicable to this case as the Accused/Petitioners are habitual offenders. There are cases pending against them. At the time of their arrest, they were involved in other crime also. Also the Tamil Nadu Borstal Schools Act, 1925 since revised/abolished by G.O.(MS) No.328, Home (Prison-IV) Department, dated 29.06.2022 based on the Full Bench judgment of this Court dated 29.08.2016 in a batch of cases in **H.C.P.No.1441 of 2007, etc. [N.Gowthaman @ Babu -vs- The Government of Tamil Nadu, rep. by its Home Secretary, Fort St. George, Chennai – 600 009 and another]**. As per the Full Bench judgment of this Court, the Full Bench had recommended the State Government to repeal the Tamil Nadu Borstal Schools Act, 1925 since it has outlived its purpose. For the first time offenders, the Probation of Offenders Act is invoked. For the juvenile in conflict with law, the Juvenile Justice Act had been enacted by the Parliament. Therefore, the provisions regarding first time offender can be detained only in Borstal Schools till the age of 23 years will not hold good. In the light of the Full Bench judgment the Government had issued Government Order in G.O.(Ms) No.328, Home (Prison-IV) Department, dated 29.06.2022 thereby



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treating the Sub Jails in the State as Borstal Schools had been invoked.

Particularly, the Borstal Schools had been converted into Sub-Jails. Regarding the charges like murder, rape, sedation, decoity, robbery and regarding white collar crimes regarding food adulteration cases, regarding vigilance cases, these are the cases where Probation of Offenders Act is not invoked as it is a bar. The offence in this case is under Section 392 r/w. 397 which had been proved before the learned Chief Judicial Magistrate-cum-Assistant Sessions Judge, Salam, had been confirmed by the learned II Additional District and Sessions Judge, Salem. Therefore, the offence under which the Petitioners are arrayed as Accused is not a fit case to invoke the beneficial provisions of Tamil Nadu Borstal Schools Act, 1925.

16. In the light of the submissions made by the learned Government Advocate (Criminal Side) which is supported with decision of the Full Bench of this Court dated 29.08.2016 in a batch of cases in **H.C.P.No.1441 of 2007, etc. [N.Gowthaman @ Babu -vs- The Government of Tamil Nadu, rep. by its Home Secretary, Fort St. George, Chennai – 600 009 and another]** and the action of the Government in issuing G.O.(MS) No.328, Home (Prison-IV) Department, dated 29.06.2022 whereby the Borstal Schools had been abolished and converted as Subsidiary Jail/Subsidiary Jails. Therefore, as on



today, as per the decision of the Full Bench dated 29.08.2016 in a batch of cases in **H.C.P.No.1441 of 2007, etc. [N.Gowthaman @ Babu -vs- The Government of Tamil Nadu, rep. by its Home Secretary, Fort St. George, Chennai – 600 009 and another]** there are no Borstal Schools available in the State of Tamil Nadu. Therefore, in the light of the Full Bench Judgment, the argument of the learned Counsel for the Revision Petitioners are rejected.

17. In the light of the above discussion, the point for consideration is answered against the Petitioners and in favour of the Prosecution. The judgment of conviction and sentence of imprisonment recorded by the learned Chief Judicial Magistrate-cum-Assistant Sessions Judge, Salem in S.C.No.360 of 2016, dated 08.03.2017 and confirmed by the learned II Additional District and Sessions Judge, Salem in C.A.No.33 of 2017, dated 16.08.2017 is found proper.

18. In the result, **this Criminal Revision Petition is dismissed.** The learned Chief Judicial Magistrate-cum-Assistant Sessions Judge, Salem, is directed to issue warrant to the Accused to undergo the remaining period of sentence of imprisonment in continuation of the judgment dated 08.03.2017 in S.C.No.360 of 2016. Regarding the other Accused No.1, who is still



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absconding, the Inspector of Police, Pallapatty Police Station is directed to initiate action against the absconding Accused as Proclaimed Offender by filing appropriate petition before the learned Chief Judicial Magistrate-cum-Assistant Sessions Judge, Salem. The learned Chief Judicial Magistrate-cum-Assistant Sessions Judge, Salem, is also directed to conduct the proceedings regarding the Proclaimed Offenders as the convicted Accused is not appeared before the learned Chief Judicial Magistrate-cum-Assistant Sessions Judge, Salem, for further proceedings. Therefore, they are to be treated as “absconding Accused” and proceedings regarding Proclaimed Offenders has to be initiated thereby bringing their properties for sale by public auction. This shall be done within a period of three months from the date of receipt of copy of this order and the report to be filed before this Court regarding compliance. Consequently, connected miscellaneous petition is closed.

19. The Director General of Police, Tamil Nadu Police, is directed to issue appropriate instructions to his subordinates throughout the State to execute the warrants where the Accused exhausted the remedy of Appeal/Revision before the High Court so that the warrants pending before various trial Courts shall be reduced and in future, it will result in Accused not absconding. The Director General of Police, Tamil Nadu, shall also initiate



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action against the Police Officers who had not secured the Accused to undergo the period of imprisonment as per the judgment of the trial Courts.

29.11.2024

srm

Internet: Yes/No

Index: Yes/No

Speaking/Non-speaking order

To

1. The II Additional District and Sessions Judge,
Salem.
2. The Chief Judicial Magistrate-cum-Assistant Sessions Judge,
Salem.
3. The Inspector of Police,
Pallapatty Police Station,
Salem District.
4. The Director General of Police,
O/o. The Director General of Police,
Dr.Radhakrishnan Salai, Mylapore,
Chennai – 600 004.
5. The Section Officer,
Criminal Section,
High Court, Madras.



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SATHI KUMAR SUKUMARA KURUP. J.

vsn/srm

Order made in
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