



Crl.RC.No.423 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 13.08.2025

CORAM:

THE HONOURABLE MR. JUSTICE **D.BHARATHA CHAKRAVARTHY**

Crl.RC.No.423 of 2024

and

Crl.MP.No.4110 of 2024

Murugan,
S/o.Arumugam

...Petitioner

Vs.

The State
Rep by The Inspector of Police,
Railway Protection Force,
Egmore,
Chennai - 600 008.
(Crime No.02 of 2002)

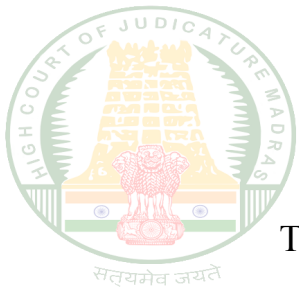
...Respondent

Prayer: Criminal Revision Case filed under Section 397 r/w 401 of Code of Criminal Procedure, to set aside the judgment and order dated 05.09.2023 in C.A.No.548 of 2018 on the file of the XVI Additional Sessions Judge, Chennai as confirmed in C.C.No.9487 of 2003 dated 03.09.2018 passed by the XI Metropolitan Magistrate, Saidapet, Chennai.

For Petitioner : M/s.T.Gnana Banu

For Respondent : Mr.J.Subbiah
Government Advocate (Crl.side)

ORDER



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This criminal revision is filed against the judgement of the learned XVI

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Additional Sessions Judge, Chennai made in C.A.No.548 of 2018 dated 05.09.2023. By the said judgement, the appellate Court confirmed the conviction and sentence imposed on the petitioner by the learned trial Judge (XIth Metropolitan Magistrate, Saidapet) in CC No.9487 of 2003 dated 03.09.2018. By the said judgement, the learned trial Court had found the accused guilty of an offence punishable under Section 3(a) of the Railway Property (Unlawful Possession) Act, 1966 and sentenced him to undergo a simple imprisonment for a period of 6 months and to pay a fine of Rs.3000/- and in default to undergo simple imprisonment for another period of 8 weeks.

2. The case of the prosecution is that, on 31.12.2001, a complaint was received from the Senior Divisional Engineer, Tambaram, Southern Railway, stating that the property of the railways being Mahindra and Mahindra vehicle bearing TN 21 EZ 1136 which was parked in front of the railway station is missing. On the strength of the same, a case was registered in Crime No.2 of 2002 and was being investigated. While so, on 04.02.2002, upon suspicion, when a Jeep bearing no.TN 49 W 1462 was intercepted, it was found that it contained newly coated paints and newly changed number plates. However, the registration number that is contained in both the number plates



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varied with the registration number written in the battery, on the tires and other parts of the Jeep. In the interior portion of the bumper in the rear side, there was also markings to the effect that the property belongs to the railways. Therefore, immediately upon suspicion, when the Jeep was detained and the 3 persons travelling in the Jeep was questioned, they are alleged to have admitted that, in conspiracy with yet another Accused No.4, one Nalina Sundaram, who was the retired Constable from the Railway Protection Force they had stolen the vehicle and changed the number plate etc and were plying the same. The confession statement was recorded and all the 3 persons namely A1 to A3 were sent to judicial custody. The person who was driving the vehicle, was the present petitioner Accused No.1 / Murugan. Thereafter, P.W.19 completed the investigation and laid a final report. The case was taken on file as C.C.No. 9487 of 2003. Upon questioning, A1, A2 and A4 denied the allegations against them, while A3 pleaded guilty and the case against him came to an end on 24.11.2003. While the trial as against A1, A2 and A4 proceeded further. Pending the trial, A4 died. In order to bring home the charges, the prosecution examined P.W.1 to P.W.19 and Ex.P1 to P36 were marked. The Jeep and the other material objects were also produced as M.O.1 to M.O.4. Upon questioning about the incriminating evidence and material evidence circumstances on record, the A1 & A2 denied the same. The trial



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Court, thereafter considered the case of the parties and found the Accused No.1 and 2 also guilty of the offence under Section 3(a) of the Railway Property (Unlawful Possession) Act, 1966 and imposed the punishment as aforesaid. It is stated that A2 chose to undergo the sentence and thereafter, released from prison with due remission. The petitioner herein, being the first accused preferred Criminal Appeal No. 548 of 2018. The appellate Court, considered the evidence on record and by basing the reasoning on the witness to the confession statement, the admissible portion of which is marked, confirmed the conviction and punishment against this petitioner. Aggrieved by which, the present revision is filed.

3. The learned counsel for the petitioner would argue that, the trial Court and the first appellate Court ought to have seen that the petitioner's avocation was only a Driver and he was engaged by A4 to act as a Driver and he did not actively participate in the conspiracy. Except for the alleged confession statement, there is absolutely no material whatsoever as against the petitioner/accused and therefore, the trial Court, as well as the appellate Court ought not to have convicted the appellant. Alternatively, the learned counsel would plead that the petitioner had undergone imprisonment for about 28 days which is substantial portion of the total period of 6 months that is imposed by



the trial Court. The petitioner alone has been facing the case from the year

2002 until today for a period of 23 years. He is now aged 61 years. The

medical records of the petitioner that he has got a perennial lung infection and the continuous treatment taken by him under the National Tuberculosis Elimination Programme and subsequently, in the Government Medical College Hospital, Chengalpattu for his long ailment as well as diabetes are all placed on record. Therefore, the learned counsel would pray that alternatively, this Court can also consider the question of sentence.

4. Per contra, the learned Government Advocate (Crl.side) would submit that, in this case, the prosecution has proved the offence beyond any reasonable doubt. The petitioner was intercepted when he was driving the stolen vehicle and when the vehicle was recovered pursuant to the confession statement coupled with the fact that the witness to the recovery and the Mahazar have all spoken to in detail, no exception whatsoever can be taken in respect of the finding of the guilt. With reference to the question of sentence, the learned Government Advocate (Crl.side) would confirm that, the petitioner is not involved in any other criminal case before and after this occurrence and also would confirm the fact that the petitioner has certain medical ailments.

5. I have considered the rivals submissions made and perused the



material records of the case.

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6. Though it can be seen that, predominantly the recovery of the Jeep and the petitioner being apprehended driving the Jeep was taken into account, whether the adequacy of the evidence of the admissible portion of the confession coupled with the other witnesses is enough or not cannot be gone into by this Court, as if it is an appellate Court, since this Court is exercising revisionary jurisdiction. No clinching ground is argued, so as to exercise the revisionary jurisdiction with reference to the finding of guilt. As far as the question of sentence is concerned, it can be seen that Accused No.4 is the primary person involved in the offence who being a retired Constable from the Railway Police Protection Force had identified the vehicle and planned the entire offence. The other person, who ably assisted him, Accused No.3 had admitted the guilt and was dealt with accordingly. Accused No.2 had also underwent the punishment and after undergoing punishment for 3 months, he was granted remission in respect of the balance period of 3 months and he was also released. As far as this petitioner is concerned, he is said to be the Driver. Secondly, I take into account the fact that he is now aged 61 years. Thirdly, he was not involved in any other crime either prior to the occurrence or subsequent to the occurrence. It can be seen that he has already undergone



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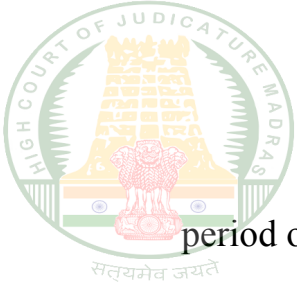
imprisonment for a period of 28 days. The fact that he has got serious ailments is noticed from the voluminous medical records that is produced, whereby it evidences the lung infection, tuberculosis, diabetes etc and the petitioner is taking protracted treatment at the Government Medical College Hospital, Chengalpattu.

7. For all the above, I am of the view that considering the nature of the part played by the accused and the proportionality, the period undergone itself would have made Accused No.1 known of the seriousness of the issue and he shown remorse in respect thereof by the subsequent conduct, the sentence of imprisonment can be modified as period undergone.

8. In view thereof, this criminal revision is partly allowed on the following terms:

(i) The conviction of the petitioner for the offence punishable under Section 3(a) of the Railway Property (Unlawful Possession) Act, 1966 by the judgement of the trial Court in CC No.9487 of 2003 dated 03.09.2018 and confirmed by the appellate Court in C.A.No.548 of 2018 dated 05.09.2023 stands confirmed.

(ii) However, the sentence of imprisonment alone is modified as



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period of imprisonment already undergone.

WEB COPY (iii) The fine amount already paid is recorded.

(iv) Connected miscellaneous petition is closed.

(v) There shall be no order as to costs.

13.08.2025

Neutral Citation: No
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To

1. The Inspector of Police,
Railway Protection Force,
Egmore,
Chennai - 600 008.

2. XVI Additional Sessions Judge, Chennai.

3. XI Metropolitan Magistrate, Saidapet, Chennai.

4. The Public Prosecutor,
Madras High Court.



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D.BHARATHA CHAKRAVARTHY, J.

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