



Crl.A.No.569 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.07.2025

CORAM :

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

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Thasikumar @ Chinna @ Sharma @ Vinoth

... Appellant

Vs

The State represented by
The Inspector of Police,
Erode Q Branch CID.
(Crime No.1 of 2020)

... Respondent

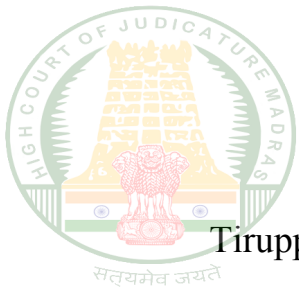
Prayer: Criminal Appeal filed under Section 374(2) of the Criminal Procedure Code, pleaded to set aside the conviction and sentence imposed in judgment dated 09.03.2023 made in S.C.No.138 of 2022 on the file of the learned Principal District Sessions Judge, Tiruppur.

For Appellant : Mrs.V.Shakila
for M/s.D.Mario Johnson

For Respondent : Mr.S.Raja Kumar
Additional Public Prosecutor

JUDGMENT

This Criminal Appeal has been preferred as against the judgment dated 09.03.2023 passed by the learned Principal District Sessions Judge,



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Tiruppur in S.C.No.138 of 2022, thereby convicting the appellant for the offence punishable u/s 3(2)(b) r/w 14(A)(b) of Foreigners Act.

2. The case of the prosecution is that on receipt of information, the respondent found the accused who had come down to India from Sri Lanka without valid passport, visa and illegally staying in a company. The accused also revealed that he had not come to India with valid passport and visa and he had entered India illegally through a boat. On 17.10.2020, he started from Thalaimanner and came to Rameshwaram, Uthipulli on 18.10.2010 illegally and he stayed in Shantha Spinning Milla in a room No.8 along with the workmen working in the said company. Thereafter, his Sri Lankan I.D., Bank of Ceylon ATM Card, Commercial Bank ATM Card, Samsung Android phone, two Simcards of Sri Lanka, Srilankan currencies of Rs.6,700/-, Indian currency Rs.400/- were seized from the accused and the respondent police registered an FIR in Crime No.1 of 2020 for the offences punishable u/s 3(2)(b) r/w 14(A)(b) of Foreigners Act. After completion of investigation, a final report was filed before the Principal District Sessions Court, Tiruppur and the same was taken cognizance in S.C.No.138 of 2022 for the offence punishable u/s 3(2)(b) r/w 14(A)(b) of Foreigners Act.



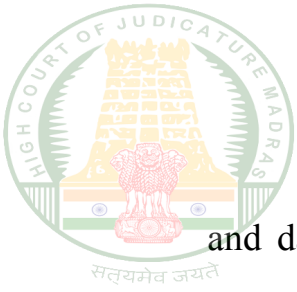
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3. To bring the charges to home, the prosecution had examined 9 witnesses as P.W.1 to P.W.9 and marked 15 documents as Ex.P.1 to Ex.P.15. The prosecution also produced material objects in M.O.1 to M.O.4. On the side of the accused, no witnesses were examined nor any documents were marked.

4. On perusal of the oral and documentary evidence, the Trial Court found the appellant guilty and convicted him for the offence u/s 3(2)(b) r/w Section 14(A)(b) of Foreigners Act and sentenced him to undergo rigorous imprisonment for three (3) years and to pay fine of Rs.10,000/-, in default to payment of fine, to undergo simple imprisonment for a further period of 3 months. The Trial Court also held that the period already undergone by the accused in prison for the period from 24.10.2020 to 19.03.2021 is ordered to be set off u/s 428 Cr.P.C. Aggrieved by the same, the present Criminal Appeal has been filed.

5. The learned counsel appearing for the appellant would submit that the appellant is a Sri Lankan Tamil national and due to life threat

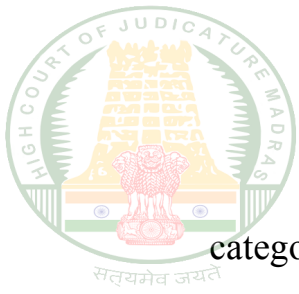


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and danger, he reached India by boat to safeguard his life and liberty.

Further, he was arrested and remanded to judicial custody during the Covid – 19 pandemic situation. The appellant, who being a foreigner is entitled to enjoy his fundamental rights contemplated under Article 21 of Constitution of India while in India. In respect of illegal entry into India, no joint interrogation was conducted by the respondent police. If the India Coastal Guard along with Embassy people had been enquired into this matter, the truth would have been found that the appellant had entered into India as a Refugee. He further submitted that at the time of admission itself, this Court had suspended the sentence, however now the appellant is in the special camp at Trichy. Therefore, more than the sentence, the appellant is inside the camp. Accordingly, he prays for allowing the appeal.

6. Per contra, learned Additional Public Prosecutor submitted that the appellant is a Sri Lankan national. He entered into India illegally that too by a boat and he did not possess any valid passport or visa to stay in India. The ATM card and other documents of the appellant were seized from the appellant and it would show that the appellant is a Citizen of Sri Lanka and he illegally entered into India. Therefore, the prosecution



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categorically proved the charges framed against the appellant and the Trial Court rightly convicted the appellant, which does not warrant any interference by this Court. Accordingly, he prays for dismissal of appeal.

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

8. Admittedly, the appellant is a Sri Lankan national and he came down to India through a boat with any valid passport or visa. According to the appellant, he was misguided by some persons and as such, he was arrested and remanded to judicial custody. The case of the prosecution is that he illegally entered into India and stayed in a company along with other workmen. In support of the prosecution case, P.W.4 to P.W.8 were examined and on perusal of their depositions, it is revealed that the appellant was staying in the mill in Kangayam without valid permission from the Indian Police and Q branch and travelled from Kangayam to Trichy, Trichy to Coimbatore, Coimbatore to Chennai and then to Rameswaram. Further, on a perusal of the documents which were marked by the prosecution, it is revealed that the appellant is a Sri Lankan



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national. Therefore, the prosecution proved the charges u/s 3(2)(b) r/w 14(A)(b) of Foreigners Act. Hence, this Court finds no infirmity or illegality in the order of conviction passed by the trial Court.

9. Insofar as the sentences are concerned, at the time of the registration of FIR, the appellant was arrested and remanded to judicial custody and he was incarcerated for the period from 24.10.2020 to 19.03.2021. Thereafter, he was granted bail, however subsequently, he was kept in Srilankan Tamil Rehabilitation Camp (Special Camp), Kotapattu, Tiruchirapalli, since he has no right to stay in India. At the time of admission of this appeal itself, this Court suspended the sentence in Crl.M.P.No.7458 of 2023, vide order dated 01.06.2023 and ordered that after release from the prison, the appellant shall stay in special camp as per the Rules prevailing over the State of Tamilnadu and the Government of India. Even till today, the appellant is in special camp at Trichy. However, those period cannot be considered as imprisonment, since the camp itself is designated for Srilankan refugee. Therefore, the special camp is not a prison. At the same time, the appellant is not allowed to go out from the special camp and his family members can go and visit the camp.



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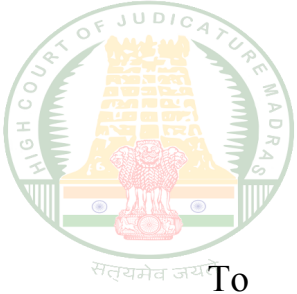
WEB COPY 10. Considering the above facts and circumstances, this Court is inclined to modify the sentence imposed by the trial Court. Accordingly, the sentence imposed on the appellant is modified to the period of imprisonment already undergone by the appellant. The appellant is set at liberty forthwith and the District Collector, Trichy and the Regional Special District Collector, Srilankan Tamil Rehabilitation Camp (Special Camp), Kotapattu, Tiruchirapalli are directed to take steps to deport the appellant to his country viz., Sri Lanka, forthwith.

11. Accordingly, the Criminal Appeal stands partly allowed.

18.07.2025

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order
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Note: Issue order copy on or before 23.07.2025.



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To
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- 1.The Principal District Sessions Court,
Tiruppur.
- 2.The District Collector,
Trichy.
- 3.The Regional Special District Collector,
Srilankan Tamil Rehabilitation Camp (Special Camp),
Kotapattu,
Tiruchirapalli.
- 4.The Inspector of Police,
Erode Q Branch CID Police Station.
- 5.The Public Prosecutor,
High Court of Madras,
Chennai.



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G.K.ILANTHIRAIYAN, J.

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