



Crl.R.C.No.1046 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.03.2026

CORAM:

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

Crl.R.C.No.1046 of 2018

C. Sampath Kumar

... Petitioner

Vs.

The Assistant Director,
Enforcement Directorate,
Government of India,
Shastri Bhavan,
Chennai – 600 006

... Respondent

PRAYER: Criminal Revision filed under Section 397 r/w S.401 of I.P.C to call for the records pertaining to the Judgment dated 29.06.2018 in Crl.A.No.169 of 2014 on the file of the Principal Sessions Judge, Chennai, confirming the Judgment dated 04.06.2014 in E.O.C.C.No.253 of 1997 on the file of the Additional Chief Metropolitan Magistrate (E.O-1), Egmore, Chennai-8 and setaside the same and set the Revision Petitioner/Appellant/Accused at liberty and pass orders.

For Appellant : Mr.B. Satish Sundar

For Respondents : Mr.Rajnish Pathiyil,
Spl Public Prosecutor

ORDER

This criminal revision has been preferred as against the Judgment passed in Crl.A.No.169 of 2014 dated 29.06.2018 on the file of the Principal Sessions Judge, Chennai, thereby confirming the order and

Page 1 of 7



Crl.R.C.No.1046 of 2018

conviction in E.O.C.C.No.253 of 1997 on the file of the Additional Chief Metropolitan Magistrate (E.O-1), Egmore, Chennai-8 dated 04.06.2014.

2.The case of the prosecution is that search was conducted by the respondent in the residence of one A.N.Dyaneswaran. At the time of search, the petitioner/accused entered into the said premises with briefcase on his hand and the officials instructed to disclose the contents in the briefcase, as a result of which 5,014 U.S dollors and certain documents were found in the briefcase and the same was seized. Thereafter, statement was recorded from the petitioner on 19.01.1996, wherein he has stated that he is a Chartered Accountant by profession and he is a Director of Domore Tools and Accessories Pvt. Ltd which is engaged in manufacture of Machine tools and his first cousin by name Nadalur Varathan who is also a Chartered Accountant is residing with his wife in U.S.A and they are maintaining accounts with NRI Branch, State Bank of India, Madras. During the year 1994-1995, on six occasions a sum of Rs.41,16,529.40/- was deposited by the petitioner in the account of Nadalur Varadhan. That apart on 29.06.1994 to 09.12.1995 a sum of Rs.54,67,534.25/- was deposited in the account of Nadaur Varathan. Hence, the accused had contravened the provisions u/s 9(1)(a) and 9(1)(d) and 56(I(i) of FERA, 1973. Hence, the complaint.

Page 2 of 7



Crl.R.C.No.1046 of 2018

3.In order to prove the complaint, the prosecution has examined four witnesses P.W.1 to 4 and Ex.P.1 to Ex.P.51 were marked. On the side of the respondent no witnesses were examined and Documents Ex.D.1 and Ex.D2 were marked.

4.On a perusal of the Oral and Documentary evidence the Trial Court found the petitioner guilty for the offences under sections 9(1) (a)r/w 56(1)(i) of Foreign Exchange Regulation Act, 1973 and 9(1)(d) r/w 56(1)(i) of Foreign Exchange Regulation Act, 1973 and passed an order in E.O.C.C.No.253 of 1997 on the file of the Additional Chief Metropolitan Magistrate (E.O-1), Egmore, Chennai-8 and convicted the petitioner for the offences u/s 9(1)(a) r/w 56(1)(i) of Foreign Exchange Regulation Act, 1973 and Rigorous imprisonment for 6 months with a fine of RS.5,000/- for the offences u/s 9(1)(d) r/w 56(1)(i) of Foreign Exchange Regulation Act, 1973. In default of payment of fine, 2 months simple imprisonment was imposed against the accused. The period of imprisonment already undergone by the accused was ordered to be set off u/s 428 of Cr.P.C. Challenging the same, the petitioner filed Crl.A.No.269 of 2014 on the file of the Principal Sessions Judge, Chennai and the same was dismissed. Aggrieved by the same the petitioner has filed the present revision case.



Crl.R.C.No.1046 of 2018

5. The learned counsel for the petitioner submits that the petitioner is now aged about 82 years and he is bedridden and also counting his days and further he had also undergone more than 6 months imprisonment and had also paid the fine imposed by the Trial Court. Therefore, he prays for modification of the sentence and also relied upon the Judgment of this Court reported in ***2003 SCC Online Mad 910; in the case of The Assistant Director, Enforcement Directorate, Govt of India, Madras Vs Khader Sulaiman Etc.,***

6. *Per contra* the learned Special Public Prosecutor appearing for the respondents submits that though the petitioner has undergone more than 3 months imprisonment, he has not undergone the sentence imposed by both the Courts concurrently against the petitioner. Hence, prays to dismiss this petition.

7. Heard the learned counsel for the petitioner and the learned counsel for the respondent.

8. Before advertng further, it would be appropriate to go through the FERA (Foreign Exchange Regulation Act). Now the FERA 1973 stands repealed by the Enactment of FEMA,1999 whereunder no

Page 4 of 7



Crl.R.C.No.1046 of 2018

provisions has been invoked for punishment, assuming that the respondents/accused are liable to be convicted for the offences punishable under Section 9(1)(b) and 9(1)(d) of the FERA 1973 in the respective criminal cases.

9. Concedingly, the FERA, 1973 was repealed and replaced by FEMA 1999 taking into account the substantial increase in our foreign exchange reserves, growth in foreign trade, rationalization of tariffs, current account convertibility, liberalization of Indian Investments abroad, increased access to external commercial borrowings by Indian Corporates and participation of Foreign institutional investors in our stock markets. Thus FERA,1973 stood repealed and FEMA1999 came to be enacted with effect from 01.06.2000, with a repealing and saving clause namely Section 49 of the FEMA,1999.

10. The provisions under Section 49(3) of the FEMA,1999 prescribes a statutory limitation that no Court shall take cognizance of an offence under the repealed Act, namely the FERA 1973 and no adjudication officer shall take note of any contravention under Section 51 of the repealed Act, after the expiry of a period of two years from the date of the commencement of the Act.



Crl.R.C.No.1046 of 2018

11. Though this Revision Petition is to be dealt with the FERA Act,

1973 considering the Repeal Act of FEMA Act, 1999 this Court does not find any ground to interfere with the concurrent findings of the Trial Court and the Appellate Court, with regard to the conviction. Insofar as sentence is concerned considering the petitioner's age and the fact that he is bedridden and counting his days and considering the period of imprisonment already undergone, the sentence imposed is modified to the period already undergone by him.

12. With the above observations and directions, this Criminal Revision is partly allowed.

23.03.2026

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order

To

- 1.Principal Sessions Judge, Chennai
2. The Additional Chief Metropolitan Magistrate (E.O-1), Egmore, Chennai-8
3. The Public Prosecutor,
Madras High Court,
Chennai.



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Crl.R.C.No.1046 of 2018

G.K.ILANTHIRAIYAN, J.

smn

Crl.R.C.No.1046 of 2018

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