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Crl.R.C.No.902 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 17.03.2026

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

Crl.R.C.No.902 of 2021

Muniyappan
S/o Gopal

... Petitioner

Vs.

State rep by:-
The sub-Inspector of Police,
District Crime Branch,
Dharmapuri District.
(Crime No.02 of 2016)

... Respondent

Prayer: Criminal Original case is filed under Sections 397 read with 401 of Cr.P.C to set aside the Judgment of the Principal Sessions Judge, Dharmapuri made in Crl.A.No.15 of 2019 dated 30.09.2021 and sentence was confirmed against petitioner in C.C.No.36 of 2017 dated 25.06.2019 on the file of the Judicial Magistrate No.2, Dharmapuri convicted and pass order.

For Petitioner : Mr. V. Parthiban for Mr.M.Jayachandran
For Respondent : Mr.L. Baskaran, GA

ORDER

This Revision case has been filed by the petitioner against the Judgment of the Principal Sessions Judge, Dharmapuri made in Crl.A.No.15 of 2019 dated 30.09.2021 wherein, the sentence passed in



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C.C.No.36 of 2017 dated 25.06.2019 on the file of the Judicial Magistrate

No.2, Dharmapuri was confirmed.

2. Brief facts necessary for the disposal of the case is as follows:

2.1.The petitioner herein was working as a Supervisor in the Begarahalli Villlage in TASMACH Shop No.2890. While so, on 29.12.2015 at about 10:40 a.m, audit was conducted and it was found that there was shortage of stock and also the sales amount. It was found that a sum of Rs.57,663/- was missing from the total sales of liquor. After completing the investigation the respondent filed an FIR and the same was taken cognizance by the Trial Court and framed the charges against the petitioner under Section 409 of I.P.C. In order to prove the case on the side of prosecution P.W.1 to P.W.5 was examined and Ex.P.1 to D5 were marked and on the side of the respondent no witness was examined and Ex.D1 to Ex.D3 were marked.

2.2 On a perusal of the Oral and Documentary evidence the Trial Court found the petitioner guilty for the offence under Section 409 of I.P.C and sentenced him to under go 6 months imprisonment and imposed



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a fine of Rs.3,000/- in default to undergo 15 days simple imprisonment in C.C.No.36 of 2017 on 25.06.2019. Aggrieved over the same the petitioner has preferred an Appeal in Crl.A.No. 15 of 2029, wherein the Judgment of the Trial Court was confirmed on 30.09.2019. Hence, the present Revision.

3.The learned counsel for the petitioner submitted that the petitioner was charged with the offence under Section 409 of I.P.C and the same was not attracted against the petitioner, since in the normal course, the petitioner can remit the sales amount on the next working day before 4.00 p.m. Even according to the case of prosecution, at the time of inspection on 29.12.2025 at 10:45 a.m, there was a shortage of stock to the tune of Rs.57,663/- from the sales amount. On the very next day i.e on 30.12.2025 the petitioner had deposited 50% of the said amount in the bank along with 24% interest. He further submitted that in the normal course, the Sales Man or the Supervisor can retain the sales amount for one day since shop was closed at 10:30 p.m. Accordingly the petitioner deposited the said amount. Unfortunately the Trial Court concluded that the petitioner/accused had misappropriated the sales amount. Therefore,



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he submits that the sentence imposed by both the Courts cannot be sustained and prays to allow this petition.

4. The learned Government Advocate appearing for the respondent submits that the petitioner was working as a Supervisor in the TASMACH Shop No.2890 in Begarahalli Villlage and as per the audit report, the opening stock was Rs.14,84,844/ on 01.12.2015 and the value of stock received on the date was Rs.20,05,982/-. The total value comes to Rs. 34,90,826/- On 28.12.2025 the sale amount was Rs.27,47,062/- and the closing balance was Rs.7,41,764/-. On physical verification it was observed that there was a sales of Rs.76,808/- which reveals that there was a shortage of Rs.57,663/- and the said amount was misappropriated by the petitioner. Hence, the Trial Court has rightly convicted the petitioner and the same does not warrant any interference of this Court.

5. Heard both sides and perused the materials available on record.

6. The petitioner was working as a Supervisor in the TASMACH Shop No.2890 in Begarahalli Villlage and audit was conducted on



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29.12.2025 at 10:45 a.m wherein it was found that there was a shortage of stock to the tune of Rs.57,663/- from the sales amount. However, on perusal of records, it is seen that the petitioner had remitted 50% of the shortage amount along with 24% interest on the very next day i.e on 30.12.2015. The receipts were marked as D.1 to D3.

7. The Trial Court wrongly concluded that the petitioner admitted that he has misappropriated a sum of Rs.57,663/-and remitted the same to the bank and also paid the amount along with interest, therefore he was found to be guilty of the offence under Section 409 of I.P.C. The learned counsel for the petitioner rightly pointed that in the normal course, the Sales person and the Supervisor can remit the sale amount on the next working day before 4.00 p.m. Therefore, he has remitted the sales amount on the next day. In the case on hand P.W.1 conducted audit in the petitioner's shop and found that there was a shortage of sale amount to the tune of Rs.57,663/-. However, the sales amount was deposited by the petitioner on the very next day which is not an offence and penalty cannot be imposed for the same and the same does not require any interest. When the rule permits that the sales amount can be paid on the next day



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of sale, the petitioner need not pay any amount as penalty and interest.

Mere payment of penalty and interest would not amount to decide that the petitioner has misappropriated the amount.

8. However, the Trial Court as well as the Appellate Court has misconstrued the fact and convicted the petitioner for the offence under Section 409 of I.P.C. In fact, the petitioner, though was suspended from the services, was subsequently re-instated and till today he is working as a Sales Man in the very same TASMAC shop.

9. In view of the above, the order passed by the Principal Sessions Judge, Dharmapuri in Crl.A.No.15 of 2019 dated 30.09.2021 is set aside and this Criminal Revision Case is allowed.

17.03.2026

Index: Yes/No

Internet: Yes/No

Speaking/Non-Speaking order

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To.

1. The Principal Sessions Judge, Dharmapuri

2. The Judicial Magistrate No.2, Dharmapuri

3. The Public Prosecutor,
Madras High Court, Chennai.

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G.K.ILANTHIRAIYAN, J
smn

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