

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO.514 OF 2020
(Arising out of SLP (Criminal) No.2865 of 2020)

V. KUTHAPERUMAL & ANR.

Appellants

VERSUS

STATE REPRESENTED BY THE INSPECTOR OF POLICE

Respondent

O R D E R

Leave granted.

This appeal by original Accused Nos.2 and 3 is directed against the judgment and order dated 23.10.2019 passed by the High Court of Judicature at Madras, Madurai Bench in Criminal Appeal (MD) No.171 of 2013.

The appellants along with one T. Subramanian (Accused No.1) were tried in the Court of Principal District Munsif-cum-Judicial Magistrate, Karaikudi for having committed offence punishable under Section 3(a) of the Railway Property (Unlawful Possession) Act, 1966 (for short "the Act"). Said Section 3 for facility is quoted hereunder:

"Section 3. Penalty for unlawful possession of Railway Property: Whoever is found or is proved to have been, in possession of any railway property reasonably suspected of having been stolen or unlawful obtained shall, unless he proves that the railway property came into his possession lawfully, be punishable—

- (a) for the first offence, with imprisonment for a term which may extend to five years, or with fine, or with both and in the absence of special and adequate reasons to be mentioned in the judgment of the Court, such imprisonment shall not be less than one year and such fine shall not be less than one thousand rupees;
- (b) for the second or a subsequent offence, with imprisonment for a term which may extend to five years and also with fine and in the absence of special and adequate reasons to be mentioned in the judgment of the Court, such imprisonment shall not be less than two years and such fine shall not be less than two thousand rupees."

The Trial Court acquitted all the accused. In appeal arising therefrom, the acquittal was reversed by the High Court and while convicting the accused for the offence in question, the High Court imposed sentence of simple imprisonment for one year with fine in the sum of Rs.1000/-, in default whereof to undergo further simple imprisonment for one month.

According to the record, this is the first offence of the appellants and the value of the property in question was Rs.6150/-. The prosecution itself was launched on 19.05.2005. It is also a matter of record that the appellants have undergone more than six months of actual imprisonment.

While issuing notice, this Court directed the appellants to deposit a sum of Rs.10000/- in aggregate before the Trial Court, which direction has been complied with.

Considering the entirety of the matter and especially the facts that - (a) the prosecution was launched 15 years back; (b) the accused were initially acquitted by the Trial Court; (c) it was

their first offence; and (d) the value of the property was Rs.6150/-, in our view, the appellants deserve leniency in terms of Section 3 of the Act.

We find special and adequate reasons in terms of the relevant provision and, therefore, direct that the amount deposited by the appellants in pursuance of the interim direction shall be appropriated towards fine and the substantive sentence of the appellants shall stand reduced to the period already undergone.

With the aforesaid observations, the appeal is allowed.

.....J.
[UDAY UMESH LALIT]

.....J.
[VINEET SARAN]

NEW DELHI;
AUGUST 11, 2020

