

Bail Slip
CRL.RC.1027 of 2012

The Appellant/Accused No.1 viz., V.Jayaraman,
S/o.Venkatesan aged 60 tears, was released on bail dated
23.08.2012 made in Mp.No.1 of 2012.

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED 12.07.2019

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN
Crl.R.C.No.1027 of 2012

V.JayaramanPetitioner/Accused No.1

Vs

State Rep., by,
The Sub-Inspector of Police,
CCIW,
CID, Cuddalore.
Crime No.05 of 1991

...Respondent/Complainant

PRAYER: Criminal Revision filed under Article 397 r/w 401 of
Criminal Procedure Code, against the judgment dated 10.07.2012
made in Crl.A.No.02 of 2008 passed by the learned III Additional
district and Sessions Judge, Cuddalore, Virudhachalam, by
confirming the judgment dated 17.12.2007, made in CC.No.497/94
passed by the learned Judicial Magistrate No-I, Virudhachalam.

For Petitioners : Mr.S.Ashok Kumar
For Respondent : Mr.R.ShanmugarajeswaranT
Government Advocate (Criminal Side)

O R D E R

The respondent police registered a case against the
revision petitioner and others for the offence under sections
468, 408, 471, 477-A r/w 34 IPC. After the investigation, the
respondent police laid a charge sheet before the Judicial
Magistrate No.I, Viruthachalam. The learned Judicial Magistrate,
has taken the charge sheet on file in C.C.No.497 of 1994. During
the pendency of the said case, the accused had filed a petition
for discharge and the same was allowed.

2 At the tile of the trial, only four accused before the
trial Court. In order to prove the case of the prosecution
before the Magistrate, during the trial, on the side of the
prosecution as many as 9 witnesses were examined and 80
documents were marked besides two Material Objects. On the side
of the defence no oral and documentary evidence was produced.

3 After completing the trial and also hearing the arguments, the learned Judicial Magistrate, found that the other accused namely A2 to A4 not guilty for the charges alleged against them. However, A1 found guilty for the above said offence and convicted him as follows.

Sl.No	Offences	Conviction
1	Under Section 471 IPC	Sentenced to undergo one year Rigorous Imprisonment
2	Under Section 477-A IPC	Sentenced to undergo three years Rigorous Imprisonment
3	Under Section 408 IPC	Sentenced to undergo three years Rigorous Imprisonment and to pay a fine of Rs.1,500/- in default to undergo further period of one month Simple Imprisonment
4	Under Section 468 IPC	Sentenced to undergo three years Rigorous Imprisonment and to pay a fine of Rs.1,500/- in default to undergo further period of one month Simple Imprisonment.

4 Challenging the said judgment of the learned Judicial Magistrate No-I, Virudhachalam, the petitioner had filed an appeal before the learned Principal District and Session Judge, Cuddalore. The learned Principal District and Sessions Judge, made over the case to the learned III Additional District and Sessions Judge, Virudhachalam for disposal.

5 The learned III Additional District and Sessions Judge, has taken the case on file in C.A.No.2 of 2008, after and elaborate enquiry, the learned III Addition District and Sessions Judge, dismissed the appeal and confirmed the judgment of the learned Judicial Magistrate No-I, Virudhachalam.

6 As against the said judgment of the learned III Additional District and Sessions Judge, the petitioner herein has preferred the present Criminal Revision Case before this Court.

7 The learned counsel for the revision petitioner would submit that the petitioner herein is the Secretary of the Alichikudi Primary Co-operative Bank, Virudhachalam admitted two fictitious persons namely Seeman and Rajakumari getting false chitta from VAO Pannombalam and admitted them as members in the society. Further the prosecution alleges that the petitioner herein forged bogus annual credit loan application in the name

of the said persons by fixing his ring finger impression for the fictitious Rajakumari and falsify the account and shown false disbursement of fertilizers to the value of Rs.5,850/- and Rs.9.188/- in the name of the fictitious persons and reduced cash in the day book and thus dishonestly misappropriated a total sum of Rs.15,038/-. The Court below has failed to note that the prosecution has given evidence only to the effect that the ring finger impression of the petitioner is identical to the finger impression of Rsjakumari and failed to produce any impression or signature of seeman against the petitioner. The Courts below ought not to have held that the members of the Alichikudi Primary Co-operative Bank, Virudhachalam since the P.W.5 the post man had deposed that the addressed postal covers of the said persons were returned with an endorsement that there is no such person. The above finding of the Courts below is erroneous since the transactions took place in the year prior to 1991 and the trial commenced in the year 2001 nearly 10 years. The prosecution has not taken any steps to find out the said persons was really in existence in that long gap of time period. The evidence of P.W.6 was contradictory in material particulars, he made entries as told by the petitioner in the name of Seeman and Rajakumari in Ex.P5 and Ex.P6 for payment of induction charges and at that time he ahs not seen such members. Further he also deposed that in Ex.P7 and Ex.P8 there is no signature of the members and he also not aware that in Ex.P12 to Ex.P15 who signed in the loan application. The above evidence of P.W.6 is contradictory since P.W.6 himself admitted that the said Rajakumari was introduced by him as member on 02.02.1990 and he has signed as witness, therefore, the conviction based upon the same is liable to be set aside.

8 The learned Government Advocate (Criminal Side) appearing for the respondent would submit that it is the duty of the petitioner to explain the finger impressions and the accused has not stated any explanation during the examination under Section 313 Cr.P.C., and stated that the prosecution having established that the disputed thumb impression is that of A1's left ring finger impression. The burden has shifts to the accused. It is true that under Section 106 I.E.A., regarding the facts within the knowledge of the accused, the duty is cast on the accused to explain. The prosecution having established through Ex.P32 that the finger impression found in the records is that of A1, now the burden shifts to the accused to explain the same. But the accused has miserably failed to give any explanation to disprove Ex.P32, both the courts below have rightly appreciated the entire evidence and convicted the petitioner, which does not warrant any interference by this Court.

9 Heard the learned counsel for the petitioner and the learned Government Advocate (Criminal Side) appearing of the respondent and perused the materials available on record.

10 The case of the prosecution is that A1 as the Secretary of Alichikudi Primary Co-op., Bank, Viridhachalam Taluk, admitted two fictitious persons, Seeman and Rajakumari getting false chitta from the village Administrative Officer, Ponnambalam and admitted them as members in the society. Further, the prosecution alleges that A1 forged bogus Annual Credit Loan Applications in the name of the fictitious persons by fixing his ring finger impression for the fictitious member Rajakumari. The prosecution further alleges that A3, A4 and A5 stood as surety witness and have abetted A1. Further it is also alleged that A1 falsified the account and shown false disbursement of fertilizer to the value of Rs.5,850/- and Rs.9,188/- in the name of fictitious persons and reduced cash in the day book and has dishonestly misappropriated a total sum of Rs.15,038/-. Raveendran is the Special Officer and is alleged by the prosecution that in his capacity of Special Officer without verifying the signatures and thumb impressions in the application sent in the name of bogus member have passed resolution for members short term crop loan and has forwarded the application for loan sanction. He is also alleged to have willfully passed resolutions for disbursement of cash, vouchers for fertilizer disbursement, cash adjustment receipt for the bogus members. Ramachandran is the Circle Senior Supervisor who is alleged to have committed to verify the loan records, and has recommended for disbursement and has issued disbursement certificate for the bogus members. The CCIW., CID Police, Cuddalore have investigated and filed the charge sheet against the accused person for the above said offences.

11 On cogent reading of the evidences P.W.5, P.W.6, P.W.7 and Ex.P7, Ex.P8, Ex.P12, Ex.P15, Ex.P34, Ex.P17 to Ex.P29 as the documents forged by A2 at various stages like loan application, loan disbursement, fertilizer sales credit. The finger print Expert P.W.7, who has compared the finger impressions in Ex.P17 to Ex.P29 with that of the finger impressions of A1 and has filed the report Ec.P32. the evidence of P.W.7 and Ex.P32 is crucial to decide this case. The due perusal of the evidence of P.W.7 shows that all the impressions alleged to be made by the Rajakumari in the various documents from claiming loan till disbursement, withdrawal in Ex.P17 to Ex.P29.

12 This Court being a revisional Court, while exercising the revisional jurisdiction, the scope of the revision is very limit. While deciding a revision, this Court has to see as to whether there is any perversity in appreciating the evidence by the Courts below. On a reading of the entire materials, it is seen that the revision petitioner has committed the above said offences and which was also proved. Therefore, this Court cannot

re-appreciated the evidence and does not find any compelled reason to take a different view in the present case on hand. Therefore, under these circumstances, this Court finds that there is not reason to interfere with the judgment of both the Courts below and there is no merit in the revision case and hence, the revision case is liable to be dismissed.

13 In the result, the Criminal Revision Case is dismissed. The trial Court is directed to secure the petitioner to undergo remaining period of sentence, if any.

Sd/-
Assistant Registrar

// True Copy//

Sub Assistant Registrar

sbn

To

- 1.The III Additional District and Sessions Judge, Cuddalore, Virudhachalam.
- 2.The Judicial Magistrate No-I, Virudhachalam.
3. The Chief Judicial Magistrate, Cuddalore.
- 4.The Sub-Inspector of Police, CCIW, CID, Cuddalore.
- 5.The Public Prosecutor, High Court, Chennai.

+1cc to Mr.P.Palaninathan, Advocate, SR.No.60307.

सत्यमेव जयते

Cr1.R.C.No.1027 of 2012

CA (CO)
CSR: 10.02.2020

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