

Bail Slip

The Appellants/Accused namely 1. Venkat aged about 45 years S/o. Lakshmanaswamy in Crl.A. 17/2015 2. G. Kumar aged about 37 years S/o. Gurusamy in Crl.A.No.18/2015 3. M.Kanniappan aged about 57 years S/o. Mahadhevan in Crl.A.No.22/2015 were directed to be released on bail as per order of this Court dated 19.01.2015, 13.01.2015, 19.01.2015 respectively in Crl.M.P. 1/2015 in Crl.A.No.17/2015, 18/2015, 22/2015 on the file of this Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 24.09.2019
PRONOUNCED ON : 04.10.2019

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

Criminal Appeal Nos.17, 18, 22 and 23 of 2015

Venkat

.. Appellant in
C.A.No.17 of 2015/A2

G.Kumar

.. Appellant in
C.A.No.18 of 2015/A3

M.Kanniappan

.. Appellant in
C.A.No.22 of 2015/A4

B.Murali

.. Appellant in
C.A.No.23 of 2015/A1

Vs

State rep. by
Inspector of Police, (Crime)
Prevention of Counterfeit Currency Wing,
C.B.C.I.D.,
V-5 Thirumangalam Police Station,
Chennai.

.. Respondent/
Complainant in all C.A.s

Criminal Appeals filed under Section 374(2) Cr.P.C against the judgment and order dated 15.12.2014 passed by the VI Additional Sessions Judge, Chennai in S.C.No.394 of 2007.

For Appellant in
C.A.No.23 of 2015/A1 : Mr.Kumar Tarejaa - Amicus Curiae

For Appellant in
C.A.No.17 of 2015/A2 : Mr.V.Gopinath, Sr. Counsel
for Mr.S.Suresh

For Appellant in
C.A.No.18 of 2015/A3 : Mr.Sunder Mohan

Appellant in
C.A.No.22 of 2015/A4 :Died

For Respondent
in all C.A.s : Mrs.P.Kritika Kamal,
Govt. Advocate (Crl. Side)

C O M M O N J U D G M E N T

These criminal appeals are directed against the judgment and order dated 15.12.2014 passed by the VI Additional Sessions Judge, Chennai in S.C. No.394 of 2007.

2.It is the case of the prosecution that the police had intelligence that some persons were fabricating R.C. books in Agathiar Nagar, Villivakkam and hence, they mounted surveillance in that area on 22.06.2001. Around 10.30 am, they saw a person moving suspiciously and they intercepted him, questioned him and learnt that his name is Murali (A1). From Murali (A1), the police seized 10 nos. of 100 rupee currency notes bearing the same serial number under the cover of mahazar Ex.P2.

3.On a complaint lodged by G. Ramachandran (P.W.1), Inspector of Police, Crime Branch, V-5 Thirumangalam Police Station, an F.I.R. was registered on 22.06.2001 in Cr. No.822 of 2001 against Murali (A.1) for the offences under Sections 489-B and 489-C IPC.

4.Based on the information provided by Murali (A1), further investigation was conducted and the police arrested Venkat (A2), G.Kumar (A3), M.Kanniappan (A4), Panneerselvam (A5), Thangamani (A6), Balaji (A7) and Loganathan (A8) and effected seizures of

counterfeit currency notes, degree certificates, S.S.L.C. (Secondary School Leaving Certificate), caste certificates, rubber stamps and seals of various Government offices, etc.

5.After completing the investigation, the police filed a final report against the aforesaid 8 persons in P.R.C.No.174 of 2005 before the Additional Chief Metropolitan Magistrate, Egmore, Chennai, for the offences under Sections 489-B, 489-C, 465, 466, 472 read with 467, 467 read with 471 and 109 IPC.

6.On appearance of the accused, the provisions of Section 207 Cr.P.C were complied with and the case was committed to the Court of Session in S.C.No.394 of 2007 and was made over to the VI Additional District and Sessions Court, Chennai, for trial.

7.The trial Court framed charges against the accused for the aforesaid offences and when questioned, they pleaded "not guilty".

8.To prove the case, the prosecution examined 15 witnesses and marked 43 exhibits and 36 material objects.

9.When the accused were questioned under Section 313 Cr.P.C on the incriminating circumstances appearing against them, they denied the same. On behalf of the accused, no witness was examined nor was any document marked.

10.After considering the evidence on record and hearing either side, the trial Court, by a judgment and order dated 15.12.2014 in S.C.No.394 of 2007, acquitted Panneerselvam (A5), Thangamani (A6), Balaji (A7) and Loganathan (A8), but, convicted and sentenced Murali (A1), Venkat (A2), Kumar (A3) and Kanniappan (A4) as follows:

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Name of the accused	Provision under which convicted	Sentence
Murali (A1)	Section 489-B IPC	Three years simple imprisonment and fine of Rs.5,000/-, in default to undergo 6 months simple imprisonment
	Section 489-C	Two years simple imprisonment and fine of Rs.2,000/-, in default to undergo 6 months simple imprisonment
	Section 466 IPC	Two years simple imprisonment and fine of Rs.2,000/-, in default to undergo 6 months simple imprisonment
	Sections 472 r/w.467 IPC	Two years simple imprisonment and fine of Rs.2,000/-, in default to undergo 6 months simple imprisonment
	Sections 467 r/w.471 IPC and 109 IPC	Three years simple imprisonment and fine of Rs.5,000/-, in default to undergo 6 months simple imprisonment
Venkat (A2)	Section 465 IPC	One year simple imprisonment
	Section 466 IPC	Two years simple imprisonment and fine of Rs.2,000/-, in default to undergo 6 months simple imprisonment
	Sections 467 r/w.471 IPC	Three years simple imprisonment and fine of Rs.2,000/-, in default to undergo 6 months simple imprisonment
	Sections 472 r/w.467 and 109 IPC	Two years simple imprisonment and fine of Rs.2,000/-, in default to undergo 6 months simple imprisonment

Kumar (A3)	Section 489 r/w.109 IPC	Three years simple imprisonment and fine of Rs.5,000/-, in default to undergo 6 months simple imprisonment
M.Kanniappan (A4)	Section 465 IPC	One year simple imprisonment
	Sections 472 r/w.467 IPC	Two years simple imprisonment and fine of Rs.2,000/-, in default to undergo 6 months simple imprisonment
	Sections 467 r/w.471 and 109 IPC	Three years simple imprisonment and fine of Rs.2,000/-, in default to undergo 6 months simple imprisonment



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The aforesaid sentences were ordered to run concurrently. Challenging the said conviction and sentences, Murali (A1) has filed C.A.No.23 of 2015, Venkat (A2) has filed C.A.No.17 of 2015, Kumar (A3) has filed C.A.No.18 of 2015 and Kannappan (A4) has filed C.A.No.22 of 2015.

11.It is seen that Murali (A1) and Kannappan (A4) had engaged Mr.Arunprasad and Ms.K.Jayachitra for filing appeals in C.A.Nos.23 of 2015 and 22 of 2015 before this Court. They have also obtained suspension of sentence and bail. When the matter was posted for final hearing on 18.09.2019, there was no representation for them. However, Mr.Sunder Mohan, learned counsel for Kumar (A3) made his submissions. Therefore, this Court made their names appear in the display board and the Court Officer contacted the counsel in his mobile number and informed him of the case. The counsel never turned up for arguments. Hence, this Court appointed Mr.Kumar Tarejaa, Advocate (Enrolment No.463/1988) of more than 20 years standing in the criminal bar, as amicus curiae for the appellants Murali/A1 (C.A.No.23 of 2015) and Kannappan/A4 (C.A.No.22 of 2015) and furnished him with a typed set of papers. The matter was adjourned to various dates and in the cause list, the names of Mr.Arunprasad and Ms.Jayachitra were printed along with the name of Mr.Kumar Tarejaa.

12.The matter was heard on 19.09.2019 and 24.09.2019. Mrs.P.Kritika Kamal, learned Government Advocate (Crl. Side) submitted that Kannappan (A4) has died, but, the police did not produce the death certificate and therefore, this Court was unable to act merely on the representation of the learned Government Advocate (Crl. Side). Hence, this Court proceeded to hear Mr.Kumar Tarejaa, as if Kannappan (A4) was alive. Mr.V.Gopinath, learned Senior Counsel representing Mr.Suresh, learned counsel on record for Venkat (A2) in C.A.No.17 of 2015, made his submissions. Mr.Sunder Mohan, learned counsel made his submissions for Kumar (A3) in C.A.No.18 of 2015.

13.G.Ramachandran (P.W.1), in his evidence, has stated that when he was working as Inspector of Police (Crimes), V-5 Thirumangalam Police Station, the police had intelligence that some persons are printing fake registration certificates for two-wheelers in Agathiar Nagar, Villivakkam area and therefore, he constituted a team comprising Head Constables and Constables and mounted surveillance on 22.06.2001 near Wheels India area; around 10.30 a.m., he saw a person moving around suspiciously and he intercepted him and questioned him; the said person gave evasive replies and was not giving his name properly; on thorough enquiry, that person said that he is Murali, S/o.Balakrishnan and a resident of Block No.23, 40th Street, Agathiar Nagar, Villivakkam; on searching him, a black purse was

found, in which, 10 nos. of 100 rupee notes, all bearing serial No.3BK047664 (M.O.1 series) were available; therefore, he (P.W.1) seized the purse under Mahazar (Ex.P2) in the presence of witnesses Mani (P.W.11) and one Kannan (not examined); he arrested Murali (A1), brought him along with the seized counterfeit notes (M.O.1) to the police station and registered a case in Crime No.822 of 2001; he recorded the confession statement of Murali (A1), pursuant to which, the house of Murali (A1) was searched and from there, the following items were recovered under mahazar (Ex.P4), in the presence of witnesses Mani (PW11) and Kannan (not examined):

- i. 59 nos. of 100 rupee notes, all bearing same serial No.3BK047664 (M.O.2);
- ii. Old Tin box (M.O.3);
- iii. Fake H.S.C. Certificate in the name of S.Shanmugasundaram (M.O.4);
- iv. Fake Madras University B.Sc. mark sheet bearing Serial No.260844 in the name of Senthil Kumar (M.O.5);
- v. Fake Mark Sheet in the name of R.Senthilkumar of University of Madras bearing Serial No.069415 (M.O.6);
- vi. Fake M.C.A. Mark Sheet in the name of Rajesh Jawahar of University of Madras bearing Serial No.335496 (M.O.7);
- vii. Fake B.Tech. Mark Sheet of University of Madras in the name of Kishore bearing serial No.8190 (M.O.8);
- viii. Fake S.S.L.C. Mark sheet without name -93 nos. (M.O.9);
- ix. Fake and blank H.S.C. Mark sheets without names - 32 nos. (M.O.10);
- x. Fake and blank H.S.C. Certificates without names - 676 nos. (M.O.11);
- xi. Fake and blank Transfer Certificates - 90 nos. (M.O.12);
- xii. Fake and blank Madras University Degree certificates without names - 65 nos. (M.O.13);
- xiii. Fake Transfer Certificates of Maruti Vidya Mandir, Minjur without names - 30 nos. (M.O.14);
- xiv. Fake blank B.A. Provisional Certificate of University of Madras - 110 nos. (M.O.15);

- xv. Forged Residency Certificates with the seal of the Tahsildar, Perambur-Purasawalkam - 3 nos. (M.O.16);
- xvi. Forged Transfer Certificate of Government Arts College, Tiruttani - 4 nos. (M.O.17);
- xvii. Forged blank Transfer Certificates of Annamalai University - 2 nos. (M.O.18);
- xviii. Forged blank Science degree certificate of Madras University - 1 no. (M.O.19);
- xix. Forged blank University of Madras Mark Sheet - 9 nos. (M.O.20);
- xx. Forged blank community certificates with the signature of Tahsildar and Government Seal - 2 nos. (M.O.21);
- xxi. Forged Community Certificates of various castes - 10 nos. (M.O.22);
- xxii. Forged Community Certificate with the Government Seal and signature of Tahsildar, Purasaiwalkam - 1 no. (M.O.23);
- xxiii. Forged Community Certificate with the Government Seal and signature of Tahsildar, Ambattur - 1 no. (M.O.24);
- xxiv. Forged Scheduled Caste Certificate with the Government Seal and signature of Tahsildar, Ponneri - 1 no. (M.O.25);
- xxv. Rubber Stamps of various universities and colleges - 74 nos. (M.O.26);
- xxvi. Metal seals of various colleges and universities - 39 nos. (M.O.27);
- xxvii. Dyes for the purpose of printing the fake certificates weighing 34 kilograms (M.O.28);
- xxviii. Special papers for manufacturing the certificates - 2 bundles (M.O.29);
- xxix. Black colour ink in a polythene bag (M.O.30); and
- xxx. Typewriter - 1no. (M.O.31).

14.G.Ramachandran (P.W.1), has further stated that, on the showing of Murali (A1), Venkat (A2), S/o.Lakshmanasamy, residing at No.31/8, Abdul Aziz Street, T.Nagar, was arrested on 22.06.2001 at 15.00 hours and his confession statement was recorded; the admissible portion of the confession statement was marked as Ex.P5; based on the disclosure, he (P.W.1) searched the house of Venkat (A2) and seized the following items under the cover of Mahazar (Ex.P6):

- i. Cement colour Aristocrat suitcase;
- ii. Community Certificate with the Government seal and sign of Tahsildar, Perambur-Purasawalkam in the name of Subba Rao S/o.Baskara Rao;
- iii. Community Certificate with the Government seal and sign of Tahsildar, Ponneri in the name of Komma Sriram S/o.K.S.Venkateswara Rao;
- iv. Community Certificate with the Government seal and sign of Tahsildar in the name of Pasala Srinivasa Rao, S/o.Rama Rao;
- v. Fake and blank Community Certificate with the Government Seal and signature of Tahsildar, Purasawalkam;
- vi. Fake and blank Community Certificate with the Government Seal and signature of Tahsildar, Ponneri;
- vii. Fake Community Certificate with the seal and signature of Tahsildar, Mambalam-Guindy;
- viii. 15 nos. of blank residency certificates with the signature and seal of Tahsildar, Perambur-Purasawalkam; and
- ix. Fake and blank residency certificate with the signature and seal of Tahsildar, Ponneri.

The aforesaid items were marked as M.O.32 series.

15.Ramachandran (P.W.1), has also stated that, on the information provided by Murali (A1), the police arrested Kumar (A3) and seized a colour photocopier and a stabilizer (M.O.33) under mahazar Ex.P8; on the information provided by Murali (A1), he arrested M.Kanniappan (A4) on 22.06.2001 at 17.05 hours and

recorded his confession statement, based on which, he recovered the following items from Kanniappan's (A4's) residence at 4/12, First Street, Tikasa Road, Pulianthope:

- i) Blank Community Certificate (2 Nos.);
- ii) Blank H.S.C. Certificate Mark Sheet (3 Nos.);
- iii) Blank S.S.L.C. Mark Sheet (1 No.);
- iv) Blank H.S.C. Certificate Mark Sheet (3 Nos.);
- vi) Blank St. Mary's Matric Higher Secondary School Transfer Certificate (1No.) and
- vii) Blue Colour file

All of the aforesaid items were marked as Ex.P11 Series.

16.Ramachandran (P.W.1), has further testified about the arrest of and seizure from Panneerselvam (A5), Thangamani (A6), Balaji (A7) and Loganathan (A8). Since A5 to A8 have been acquitted and the State has not preferred any appeal against their acquittal, this Court is not adverting to Ramachandran's (P.W.1's) testimony in this regard. Ramachandran (P.W.1) was cross-examined by the accused on 15.12.2010, 24.01.2011 and 25.03.2011. The defence strenuously attacked the seizure, but to no avail. The evidence of Ramachandran (P.W.1) has been substantially corroborated by Stephen (P.W.2), Head Constable and Ravindran (P.W.3), Head Constable.

17.In order to satisfy the judicial conscience, this Court called for the original records and material objects from the trial Court and placed the same in the open Court for perusal of the defence counsel and the learned Government Advocate. For a clear understanding of the nature of the seized documents, this Court is giving herein below, one sample each of the various documents that were recovered from each of the accused. A decade ago, when we were using only manual typewriters, it would not have been possible to extract such images in the body of the judgment. Now, however, with the advent of the state-of-the-art technology, this Court wants to make the best use of the same that is available for making this judgment complete.

Seized from Murali (A1)

- i. Transfer Certificate - front & reverse (M.O.12 - 90 nos.)

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11. Whether qualified for promotion to higher standard

12. Whether the Pupil was in receipt of any scholarship (Nature of the scholarship to be specified)

13. Whether the pupil has undergone Medical inspection during the last academic year. (First or Repeat to be specified)

14. Date on which the pupil actually left the school

15. The pupil's conduct and character

16. Date on which the application for transfer certificate was made on behalf of the pupil by the parent or guardian

17. Date of the Transfer Certificate

18. Course of Study

Name of the School	Academic year (s)	Standard(s) studied	First Language	Medium of Instruction

19. Signature of the H.M. with date and with school seal

20. Declaration by the Parent or Guardian

I hereby declare that the particulars recorded against items 2 to 7 are correct and that no charges will be demanded by me in future.

Signature of the Parent or Guardian

ii. Maruti Vidya Mandir - Transfer Certificate (M.O.14 - 30 nos.)

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MARUTHY VIDYA MANDIR
MINJUR - 601 203.

No. *M-0-14*

Transfer Certificate

1. Name of the Pupil.....

2. Name of father or Guardian.....

3. Date of birth as entered in the Admission Register.....

4. Religion and Caste.....

5. Class in which the pupil was studying at the time of leaving.....

6. Whether qualified for promotion to a higher class.....

7. Whether the pupil has paid all the fees due in the school.....

8. Whether the pupil during the year had to repeat.....

9. Date on which the pupil actually left the school.....

10. Highest examination passed.....

11. Reason for leaving the school.....

12. Date of transfer certificate.....

Seal:

Date: Signature of the Principal:

iii. University of Madras - Provisional Certificate
(M.O.15-110nos.)

UNIVERSITY OF MADRAS
FACULTY OF ARTS
PROVISIONAL CERTIFICATE - B.A.

CONTROL CODE: REGISTER NO: FOLD NUMBER:

DATE:

WE HEREBY CERTIFY THAT
THE UNDERSIGNED HAS BEEN QUALIFIED FOR THE DEGREE IN BACHELOR OF ARTS
AND HAS HAVING PASSED THE B.A. EXAMINATION
HELD IN
AS PER THE

FOUNDATION COURSE:
LANGUAGE: CLASS:
ENGLISH: CLASS:
CORE COURSE: CLASS:
HANY *सत्यमेव जयते* CLASS:

ASSISTANT REGISTRAR

iv. Nativity Certificate (M.O.16 - 3 nos.)

NO. 15/15-
110/15-
15/

/PURASANKHAM-PERAMBUR
Taluk Office
Chennai - 600 011.

15/15-
110/15-
15/

NATIVITY / RESIDENCE CERTIFICATE

This is to certify that (Hiru/Inti/Selvi).....
.....
Son of Daughter of Hiru.....
.....
is a native / residence of Chennai.

This certificate is issued for the purpose of.....

TAHSILDAR,
PERAMBUR-PURASANKHAM DISTRICT,
TAMIL NADU.

PURASANKHAM - PERAMBUR Taluk,
Chennai - 600 011.

v. Community Certificate (M.O.21 - 2 nos.)

NO. 15/15-
110/15-
15/

SC. 480527

Community Certificate

TAHSILDAR
PONNERI

Signature:
Date:

Name in Capital Letters:
Designation:

TAHSILDAR
PONNERI

Seized from the residence of Venkat (A2)

- i. Community Certificate - Vijaya Kumar (filled certificate)
(Serial No.2 of M.O.32 Series)



This is a filled Community Certificate for Vijaya Kumar. The certificate is in English and Tamil. It states that the holder is a son/daughter of a person belonging to a Scheduled Caste as per the Scheduled Caste and Scheduled Tribe Orders (Amendment) Act, 1976. The certificate is issued by the Tahsildar, Perambur, Madras-11. The certificate number is 477291. The certificate is dated 10/10/76. The certificate is issued to the holder for the purpose of obtaining a ration card. The certificate is valid for one year from the date of issue. The certificate is issued by the Tahsildar, Perambur, Madras-11. The certificate is dated 10/10/76. The certificate is issued to the holder for the purpose of obtaining a ration card. The certificate is valid for one year from the date of issue.

- ii. Community Certificate (unfilled certificate)
(Serial No.5 of M.O.32 Series - 2 nos.)



This is an unfilled Community Certificate for Vijaya Kumar. The certificate is in English and Tamil. It states that the holder is a son/daughter of a person belonging to a Scheduled Caste as per the Scheduled Caste and Scheduled Tribe Orders (Amendment) Act, 1976. The certificate is issued by the Tahsildar, Perambur, Madras-11. The certificate number is 477291. The certificate is dated 10/10/76. The certificate is issued to the holder for the purpose of obtaining a ration card. The certificate is valid for one year from the date of issue. The certificate is issued by the Tahsildar, Perambur, Madras-11. The certificate is dated 10/10/76. The certificate is issued to the holder for the purpose of obtaining a ration card. The certificate is valid for one year from the date of issue.

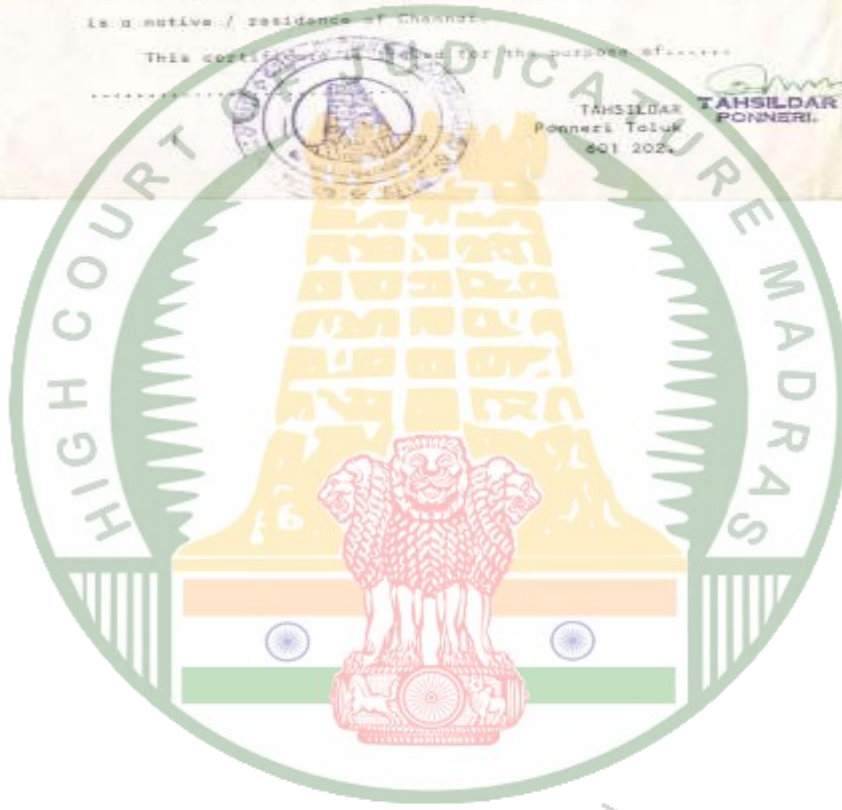
- iii. Nativity/Residence Certificate (unfilled certificate)
(Serial No.9 of M.O.32 Series)

O.015. C5/ Ponnéri Taluk Office
Ponnéri - 601 202.
Dated-----

NATIVITY / RESIDENCE CERTIFICATE

This is to certify that Thiru/Int/Selvi.....
.....
Son of Daughter of Thiru.....
.....
is a native / residence of Channar.....
This certificate is issued for the purpose of.....

TAHSILDAR Ponnéri Taluk 601 202.
TAHSILDAR PONNERI.



सत्यमेव जयते

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Seized from the residence of Kanniappan (A4)

i. Community Certificate

ii. Higher Secondary Course (H.S.C) Certificate

This Court was unable to scan the aforesaid documents as they are intimately stitched to the trial Court records.

18. Mr. Kumar Tarejaa submitted that there should be some evidence to show that the certificates were forged, inasmuch as the police should have obtained the opinion of an expert, who should have compared the original certificates with the forged certificates. This argument will apply in a case, where 'A' has the original of a sale deed and 'B' has the forged sale deed. In such a case, the police can send the original and the forged one to the expert and get their opinion.

19. Mr. V. Gopinath submitted that the prosecution had failed to prove the exact place from where, the seizures were effected from Venkat (A2). In this regard, he drew the attention of this Court to the evidence of Ramachandran (P.W.1), who has stated that, for searching in all the places, he had taken only the same witnesses, viz., Mani (P.W.11) and Kannan (not examined) and did not call other persons from the local area to stand as witnesses. In this case, after arresting Murali (A1), the police had to continuously conduct search at various places and in those circumstances, they had taken these two witnesses with them. This cannot be faulted in the facts and circumstances of the present case.

20. Mr. V. Gopinath further submitted that there are contradictions in the evidence of Ramachandran (P.W.1), Stephen (P.W.2) and Mani (P.W.11), with regard to the exact place from where, the seizure was effected in the house of Venkat (A2). According to him, Ramachandran (P.W.1) has stated in the cross-examination that Venkat (A2) was standing in front of his house in a lane, whereas, Stephen (P.W.2), has stated that, they went inside Venkat's (A2's) house, which is in a lane. He took this Court through the evidence of Mani (P.W.11), who has stated that Venkat's (A2's) house was opened and he was living in the ground floor, whereas, Stephen (P.W.2), has stated that, Venkat's (A2's) house was in the first floor. As stated above, the seizures in this case were effected in June 2001 and Mani (P.W.11) was examined in February 2013 and other witnesses were examined subsequently, nearly a decade later. The witnesses cannot be expected to remember accurately, which is the exact place Mani (P.W.11) was standing, when the police came to his house or in which floor, he was living with his family. In the opinion of this Court, these are trivial discrepancies and the evidence of witnesses should be appreciated, bearing in mind that they are not robots or recording machines to give parrot-like versions.

21.Mr.V.Gopinath submitted that, out of 9 classes of documents allegedly recovered from the house of Venkat (A2), the police had sent three blank community certificates to the Office of the Tahsildar, Perambur-Purasawalkam Taluk, for opinion. Jayapandian (P.W.5), Tahsildar, Perambur-Purasawalkam Taluk, has given his opinion (Ex.P15), wherein, he has stated that the three community certificates bearing Nos.477291, 477293 and 4800105 were not issued by his office. However, Mr.V.Gopinath contended that in the cross-examination, Jayapandian (P.W.5) has stated that he had given the opinion, based on the file noting of the Junior Assistant and thus, the evidence of Jayapandian (P.W.5) deserves to be rejected.

22.To appreciate the contention of Mr.V.Gopinath, it may be relevant to state here that 9 classes of documents were recovered from the residence of Venkat (A2) and they have been exhibited in paragraph 14 supra. Out of them, 3 community certificates were sent to the Office of the Tahsildar, Perambur-Purasawalkam Taluk, for opinion. A bare perusal of the said 3 certificates shows that they bear the signature of Vijayakumar. A copy of the sample of the certificate is given in paragraph 17 supra. A mere perusal of these certificates shows that they have the seal of the Taluk office and the person who has signed as Tahsildar is one Vijayakumar.

23.Jayapandian (P.W.5), in his evidence, has clearly stated that no one by name Vijayakumar had ever worked as Tahsildar in Perambur-Purasawalkam Taluk. In the cross-examination, this has not been denied. When a certificate is sent to an institution like Taluk office or Collectorate, we cannot expect the Tahsildar or the Collector to examine the old records and give a report himself. He would seek the aid of his staff member working under him to examine the request of the police and prepare a note file. The staff member will examine the old records and find out whether the certificate in question was issued by their office and thereafter, put up a note to the head of the office. Therefore, the answer of Jayapandian (P.W.5) that he acted on the note put up by his clerk, cannot be a reason to hold that these certificates are genuine in nature.

24.What surprises this Court is, as to how Venkat (A2) is connected to the Revenue Department. It is not known as to why, he had so many numbers of Community Certificates, both filled and unfilled, of various Tahsildars and residence certificates in huge quantities. As stated above, the bogus certificates bear the signature of one Vijayakumar, which is clearly visible to the naked eye and the evidence of Jayapandian (P.W.5) that no one by name Vijayakumar had worked as Tahsildar of Perambur-Purasawalkam Taluk, is sufficient, in the opinion of this Court,

to hold that the documents were forged ones.

25.Mr.V.Gopinath and Mr.Kumar Tarejaa contended that the independent witness Ezhumalai (P.W.4) turned hostile and therefore, the alleged seizures of the incriminating materials have not been satisfactorily proved. It is true that Ezhumalai (P.W.4), the independent witness for the seizure of counterfeit currency from Murali (A1) turned hostile, for which, there may be several reasons. In this case, the seizures were of the year 2001 and the trial began only in the year 2010 and therefore, it is obvious that much water would have flown under the bridge.

26.Be that as it may, in Rameshbhai Mohanbhai Koli Vs. State of Gurajat [2011 (3) SCC (Crl.) 102], the Surpeme Court has held as follows:

"35. This Court has held in large number of cases that merely because the panch witnesses have turned hostile is no ground to reject the evidence if the same is based on the testimony of the Investigating Officer alone."

27.As alluded to above, the evidence of Ramachandran (P.W.1) does inspire the confidence of this Court. There is no reason for Ramachandran (P.W.1) or the police to foist a case of such a gargantuan nature on the accused. Seizure of counterfeit currency notes, fake educational and community certificates and rubber stamps of all hues from the residences of the accused speak for themselves. The prosecution has examined, the officials from the Revenue Department, University of Madras and respective institutions, viz., K.Jeyapandian (P.W.5), Tahsildar (Retd.), A.S.Karunanidhi (P.W.6) from Madras University, Stanly Charly (P.W.7), Principal, St. Mary's Boys High School, Stalin (P.W.8), Principal, Kamaraj Matriculation Higher Secondary School, Vasantha (P.W.9), Principal, Velankanni Matriculation Higher Secondary School and Santha Bella (P.W.10), from Corporation School, Nungambakkam, to prove that the seized certificates were not issued by their respective institutions.

28.Mr.Kumar Tarejaa, learned counsel for Murali (A1) and Kanniappan (A4) contended that the F.I.R. in this case was registered on the complaint of Ramachandran (P.W.1) and hence, he ought not to have been the Investigating Officer. In support of this contention, the defence placed strong reliance on the judgment of the Supreme Court in Mohan Lal Vs. State of Punjab [(2018) 17 SCC 627].

29.However, Mrs.P.Kritika Kamal, learned Government Advocate (Crl. Side) brought to the notice of this Court, the judgment of the Supreme Court in Varinder Kumar Vs. State of Himachal Pradesh (2019 SCC OnLine SC 170), wherein, in paragraph 18, it is held as follows :

"18.The criminal justice delivery system, cannot be allowed to veer exclusively to the benefit of the offender making it uni-directional exercise. A proper administration of the criminal justice delivery system, therefore requires balancing the rights of the accused and the prosecution, so that the law laid down in Mohan Lal Vs. State of Punjab [(2018) 17 SCC 627] is not allowed to become a springboard for acquittal in prosecutions prior to the same, irrespective of all other considerations. We therefore hold that all pending criminal prosecutions, trials and appeals prior to the law laid down in Mohan Lal (supra) shall continue to be governed by the individual facts of the case."

30.In this case, Ramachandran (P.W.1) intercepted Murali (A1) on suspicion and recovered counterfeit currency notes from him. Thereafter, on the disclosure statement of Murali (A1), other seizures were effected, without giving much time for the accused to destroy the evidence. However, investigation was done by the C.B.C.I.D and charge sheet was filed by A.Udhayakumar (P.W.15), Inspector of Police (C.B.C.I.D). Therefore, on facts, the aforesaid ruling relied upon by the defence may not have any application to the facts of the case at hand.

31.Mr.Sunder Mohan, learned counsel for Kumar (A3) strenuously contended that except the seizure of a photocopier and a stabilizer from the shop of Kumar (A3), there is absolutely no material to link him in the offence. There appears to be sufficient force in the contention of the learned counsel. It is true that apart from seizure of a colour photocopier (M.O.33) from the shop of Kumar (A3), there is no other material to fasten criminal liability on him. Had there been seizure of certificates or currency notes from the shop of Kumar (A3), then one can link them with the other seizures effected from the residences of the other accused. The photocopier has not been seized from the residence of Kumar (A3), but, from Jamuna Xerox that was run by Kumar (A3). Of course, Kumar (A3) is not as innocent as a lamb. But, we have only his police confession and the police confession of the co-accused against Kumar and nothing more. Therefore, in the absence of any legal evidence against Kumar (A3), the conviction and sentence of Kumar (A3) deserves to be set aside.

32.Mr.V.Gopinath took this Court through Sections 463, 464, 465, 466 and 471 IPC and submitted that even if the evidence adduced by the prosecution finds acceptance by this Court, yet, there is no material to show that it was Venkat (A2), who had made, signed, sealed or executed the documents in question. He contended that, at the most, the evidence would show that Venkat

(A2) was in possession of forged documents and nothing more. From the residence of Venkat (A2), 9 Community Certificates, out of which, 3 certificates have been filled up and the rest are unfilled, but, which bear the signature of Vijayakumar and seal of Tahsildar, Perambur-Purasawalkam Taluk, were seized. Similarly, 15 unfilled Nativity/Residence Certificates bearing the signature of Vijayakumar and seal of Tahsildar, Perambur-Purasawalkam Taluk were also seized.

33.It is true that there is no direct evidence to show that Venkat (A2) made these documents. One cannot expect the accused to manufacture such certificates with witnesses around. Such manufacture will take place only clandestinely and therefore, seldom will there be direct evidence to show that the accused had manufactured the documents. In a case, where the accused is found to be possessed of a single forged document, then, he can possibly argue that he had not manufactured the document himself and that, he was only in possession of it. In this case, out of 9 Community Certificates, 3 of them are filled and they bear the name of the recipients and the rest are blank. Similarly, the name of the recipients has not been filled in 15 Nativity Certificates. This shows that Venkat (A2) is ready to fill up the name of the recipient, as and when he is approached. Thus, the evidence, cumulatively viewed, unmistakably show that these documents were manufactured by Venkat (A2) for sale to prospective customers. The possession of these mass quantities of certificates has remained unexplained. The onus was clearly on Venkat (A2) to lead some evidence to establish the nature of his possession, regard being had to the provisions of Section 106 of the Evidence Act.

34.The above submission of Mr.V.Gopinath can also be analysed from yet another dimension.

35.The charge that was framed against Venkat (A2) in Tamil reads thus: "On 22.06.2001, around 14.30 hours, you (A2) was in possession of 25 nos. of forged Community Certificates and Nativity Certificates in your residence at No.318, Abdul Aziz Street, T.Nagar, Chennai-17 and thereby, you are punishable under Sections 465, 466, 467 read with 471 and 472 read with 467 and 109 IPC."

36.Section 474 IPC reads as under :

"474.Having possession of document described in section 466 or 467, knowing it to be forged and intending to use it as genuine - Whoever has in his possession any document or electronic record, knowing the same to be forged and intending that the same shall fraudulently or dishonestly be used as genuine,

shall, if the document or electronic record is one of the description mentioned in section 466 of this Code, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine; and if the document is one of the description mentioned in section 467, shall be punished with imprisonment for life, or with imprisonment of either description, for a term which may extend to seven years, and shall also be liable to fine."

The Community Certificates and Nativity Certificates would fall within the meaning of Section 466 IPC, as they are certificates purported to have been made by a public servant in his official capacity. At this juncture, it may be apposite to extract illustration (b) of Section 14 of the Evidence Act, 1872 :

"A is accused of fraudulently delivering to another person a counterfeit coin which, at the time when he delivered it, he knew to be counterfeit.

That fact that, at the time of its delivery, A was possessed of a number of other pieces of counterfeit is relevant.

The fact that A had been previously convicted of delivering to another person as genuine a counterfeit coin knowing it to be counterfeit is relevant."

As stated above, 3 Community Certificates seized from Venkat (A2) bear the name of the recipients and they are (i) G.Subba Rao, S/o.Baskar Rao, (ii) Komma Sriram, S/o.Gangeswara Rao and (iii) Pasala Srinivasa Rao, S/o.Rama Rao. These 3 certificates were ready for delivery to the recipients named therein and before that, Venkat (A2) was caught.

37.The possession of other certificates becomes relevant to show the existence of his state of mind. Though there is no specific charge under Section 474 IPC, the substance of the imputation extracted above, clearly encompasses the ingredients of Section 474 IPC. Therefore, the failure to refer to Section 474 IPC in the charge, cannot have the effect of vitiating the prosecution case, especially in the light of Section 464 Cr.P.C. The maximum punishment for the offence under Section 466 IPC and 474 IPC in respect of a document, which is not a valuable security or will, is only 7 years imprisonment. In this case, Venkat (A2) has been awarded 3 years rigorous imprisonment. There is absolutely no material to show that failure of justice had occasioned by non-framing of a charge under Section 474 IPC. Section 466 IPC will apply, if a person had manufactured the document and Section 474 IPC will apply, if a person is in possession of a forged document.

38.As explained above, the circumstantial evidence shows that Venkat (A2) had manufactured the impugned documents,

whereas, direct evidence shows that Venkat (A2) was in possession of the impugned documents. Even if Venkat (A2) escapes from the frying pan of Section 466 IPC, he will fall into the fire of Section 474 IPC.

39. Coming to the case of Kanniappan (A4), two blank Community Certificates, six blank Higher Secondary Course Certificates, one Secondary School Leaving Certificate and one Transfer Certificate of St. Mary's Matriculation Higher Secondary School were recovered. Stanly Charly (P.W.7), Principal of St. Mary's Matriculation Higher Secondary School, in his testimony, has stated that the blank Transfer Certificate form was not printed by his school and he has given reasons for it. From the possession of Murali (A1), 74 nos. of rubber stamps of various Government offices, colleges, schools and universities were recovered and they were marked as M.O.26. He was also in possession of metal seals numbering 39 with Mahatma Gandhi's figure embossed and they have been marked as M.O.27. The recovery of these seals and the certificates clearly shows that he was running a full-fledged manufacturing unit, from where he was churning out all sorts of certificates.

40. Therefore, this Court has no reason to disbelieve the prosecution version for acquitting the appellants. It is indeed very sad that the police have not been able to find out the clientele of these appellants, who, with the forged certificates obtained from them, may now be occupying various positions in public offices.

41. Before parting, this Court is recalling an interesting counterfeit coin case mentioned in the book "Crime in India" by S.M. Edwardes published by Printwell, London (1924):

"A remarkable case of false coining occurred in Nagpur. The official staff of the Central Jail suddenly became aware that one of their prisoners was gaily counterfeiting four-anna and two-anna pieces inside the jail. He was promptly prosecuted and was sentenced to a term of rigorous imprisonment; but on appeal the Sessions Judge quashed the conviction, as he found it impossible to believe that the prisoner could have counterfeited coin in the presence of so many prisoners and under the nose of the jail staff. Against the acquittal of the prisoner by the Sessions Judge, the Local Government made a further appeal, which resulted in the original finding and sentence being restored. One can hardly imagine the possibility of a long-term convict in, say, Maidstone Jail calmly counterfeiting sixpenny and threepenny bits, and it seems possible that jail supervision and discipline in India are sometimes of a more *dolce far niente* type than is usual in England. If the average Indian peasant and small

trader were less gullible and more alert, a good deal of false coining and note-forgery would automatically cease."

41. In the result:

- Crl.A.No.18 of 2015 filed by Kumar (A3) is allowed. The judgment of conviction and sentence passed by the Trial Court in S.C.No.394 of 2007 qua Kumar (A3) are set aside. Bail bond executed by him will stand discharged. Fine amount, if any, paid by him shall be refunded.
- Crl.A.No.17 of 2015 preferred by Venkat (A2), Crl.A.No.23 of 2015 preferred by Murali (A1) and Crl.A.No.22 of 2015 preferred by Kanniappan (A4) are dismissed as being devoid of merits. The trial Court is directed to take Murali (A1), Venkat (A2) and Kanniappan (A4) into custody, for them to serve out the remaining period of sentence.
- This Court further directs the trial Judge to ensure that all the material objects and bogus certificates, including Ex.P11 series, are completely destroyed under his direct supervision, so that they do not find their way into the system and send a report to this Court.
- The Registry is directed to send the original records and the material objects through a special messenger to the trial Court.

42. The Tamil Nadu State Legal Services Authority, Chennai, is directed to pay a sum of Rs.10,000/- as remuneration to Mr. Kumar Tarejaa, Amicus Curiae.

To sum up:

- i. Crl.A.No.18 of 2015 filed by Kumar (A3) is allowed.
- ii. Crl.A.No.17 of 2015 filed by Venkat (A2), Crl.A.No.22 of 2015 filed by Kanniappan (A4) and Crl.A.No.23 of 2015 filed by Murali (A1) are dismissed as being devoid of merits.

-s/d-

Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

gya/gpa

To

1.The VI Additional Sessions Judge,
Chennai.

2.The Inspector of Police,
Prevention of Counterfeit Currency Wing,
C.B.C.I.D.,
V-5 Thirumangalam Police Station,
Chennai.

3.The Deputy Registrar,
Criminal Side,
High Court,
Madras.

4.The Public Prosecutor,
High Court,
Madras.

5. The Member Secretary
Tamil Nadu State Legal Services Authority
High Court Buildings
Chennai 600 104

6.The Principal Sessions Judge
Chennai

+1 CC to Mr. Sunder Mohan, Advocate sr 85643.

+1 CC to Mr.S.Suresh, Advocate sr 85179.

Criminal Appeal Nos.17, 18, 22
and 23 of 2015

JP(CO)
SP(31/10/2019)

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