BAIL SLIP

1.The Appellant/Accused namely M.Meganathan, S/o.Damodara Mudaliar was directed to be released on bail as per order of this Court dated 16.04.2012 in Crl MP.No.1 of 2012 in Crl.RC No. 423 of 2012 on the file of this Court.

2.The Appellant/Accused namely Mohana, W/o.Kumar was directed to be released on bail as per order of this Court dated 05.03.2012 in Crl MP.No.1 of 2012 in Crl.RC No. 282 of 2012 on the file of this Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 21.02.2019	Pronounced on: 04.03.2019

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

CRIMINAL REVISION CASE NOS.282 & 423 OF 2012

Mohana,
W/o.Kumar,
No.17, Prakash Nagar,
Anna Street, Ambattur,
Chennai. ... Petitioner/Accused No.3
in Crl.R.C.No.282 of 2012

Meganathan,
S/o.Damodara Mudaliyar,
No.21, Kasiviswanatha Chetty Street,
Bypass Road, Redhills,
Chennai-600 052. ... Petitioner/Accused No.1
in Crl.R.C.No.423 of 2012

/versus/

State rep.by
Inspector of Police,
CB CID (C.C.Wing),
ChengalpattuEast,
Chengalpattu District. ... Respondent/Complainant
in Crl.R.C.No.282 of 2012

State rep.by
Inspector of Police,
CB CID, Chennai.
Cr.No.1 of 2000) ... Respondent/Complainant
in Crl.R.C.No.423 of 2012

Prayer in Crl.R.C.Nos.282 & 423 of 2012: Criminal Revision Case are filed under Section 397 r/w 401 of Criminal Procedure Code, to set aside the judgment made in C.A.No.17 of 2009, C.A.No.23 of 2009 respectively, dated 31.01.2012 on the file of the Learned Additional District and Sessions Judge F.T.C.No.4, Ponneri against the judgment made in C.C.No.120 of 2002 dated 18.06.2009 on the file of the Learned Judicial Magistrate No.II, Ponneri.

For Petitioner in Crl.R.C.No.282 of 2012 : Mr.R.C.Paul Kanagaraj

For Petitioner in Crl.R.C.No.423 of 2012 : Mr.P.K.Ilavarasan

For Respondent in bot the cases : Mrs.P.Kritika Kamal Government Advocate (Crl.Side)

COMMON ORDER

These two Revision Petitions are preferred by Mohana and Meganathan who are the 3rd accused and first accused respectively in C.C.No.120 of 2002 on the file of Judicial Magistrate No.2, Ponneri. These two revision petitioners were found guilty by the trial Court for offence under Section 260 of I.P.C. The trial Court convicted both the revision petitioners and sentenced them to undergo 3 years R.I and to pay a fine of Rs.5,000/- in default 6 months S.I.

2. The 3rd Accused Mohana preferred C.A.No.17 of 2009 before the Additional District and Sessions Court, Pooneri. The 1st accused Meganathan preferred C.A.No.23 of 2009 before the Additional District and Sessions Court (F.T.C.No.4), Pooneri. After re-appreciating the evidence, the Lower Appellate Court modified the period of imprisonment from three years to one year R.I in respect of Meganathan (A1) who is the appellant in C.A.No.23 of 2009 and modified the imprisonment for the period of two months R.I instead of three years R.I for the 3rd Accused Mohana who is the appellant in C.A.No.17 of 2009.

3. Aggrieved by the conviction and sentence both the accused have preferred the present revision petitions.

4. The brief facts leading to this revision petition is that between 1997 to December 1998 these revision petitioners along with one Srinivasan and Pandi @ Pandiyan accused in split up case in C.C.No.91 of 2005 entered into a criminal conspiracy to wit, to sell fake stamp papers to the gullible public and cheat them. In pursuant to the said conspiracy, the absconding

accused Pandiyan floated 6 numbers of Rs.5,000/- face value stamp papers and 17 numbers of Rs.1,000/- face value stamp papers through Meganathan receiving Rs.30,000/- for the said fake stamps. Similarly the other accused Srinivasan sold one 1000/- rupees fake stamp paper to Mohana, who in turn got it knowingly that it is not genuine and used it to for documentation. Meganathan and Mohana knowing fully well that the stamp papers are fake stamp papers used it for documenting sale deeds and presented those documents written on fake stamp papers before the Sub-Registrar, Redhills. Meganathan presented documents Nos.P.60/98, P.255/99, P.5115/98, P.4735/98, P.4903/98 and 4904/98 containing fake stamp papers. Mohana used the fake stamp paper of Rs.1,000/- face value purchased from A4 to prepare document No.4931/98 and presented the same to the Sub-Registrar, Redhills on 28.11.1998. The Sub-Registrar, Redhills suspecting the genuinity of the stamp papers gave a complaint to the respondent police leading to registration of the complaint and investigation in Crime No.1 of 2000 on the file of CIB CID, Chennai.

5. Initially final report was filed against four accused. Since one the accused Pandiyan absconded, the case against him was split up from C.C.No.120 of 2002 and assigned new No.91 of 2005. The ranking of the remaining accused was re-numbered. The revision petitioner in Crl.R.C.423 of 2012 Meganathan was arrayed as A1. The revision petitioner in Crl.R.C.No.282 of 2012 Mohana was arrayed as A3.

6. Before the trial Court, the prosecution examined 12 witnesses and marked 22 Exhibits. The trial Court acquitted the accused A1 and A3 for offences under Sections 120-B, 258 r/w 109 I.P.C. Found A1 and A3 guilty of offence under Section 260 of I.P.C. Acquitted Srinivasan A2 from all charges.

7. On appeal, sentence alone was modified. Aggrieved by the conviction confirmed by the Appellate Court with modification in sentence, these two revision petition are filed.

8. The learned Counsel appearing for the revision petitioner in Crl.A.No.282 of 2012 Mohana would submit that even according to the prosecution only one fake stamp paper of Rs.1,000/- face value was used by Mohana for preparing the document No.4931/1998. The said document was used to prepare the sale deed of PW.3. The said Mohana had neither animus about the stamp paper or corpus over the said fake stamp paper. They are only three incriminating material against the revision petitioner. Ex.P.13 the document which contain the fake stamp paper alleged to have been used by Mohana and received by the Sub-Registrar PW.1 for registration. According to PW.1 evidence, Mohana presented a sale deed (Ex.P.13) in favour of Vairavan. The document was written by one Chellan (PW.4). In the said sale deeds; two stamp papers one face value of

Rs.5,000/- and another face value of Rs.1,000/- were suspected to be fake document. On the same day Mohana also presented another document alleged to have been scribed by Chellan written on genuine stamp papers.

9. Vairavan, the purchaser of the property and in whose name Ex.P.13 was prepared examined as PW.3. He has deposed that he purchased 2,500 sq.ft of land from one Santhi for value of Rs.1,16,000/-, gave Rs.17,000/- to Mohana for the purpose of registering the document including stamp charges. Yet another witness who have spoken about Mohana is PW.4 Chellan who is the scribe to the document Ex.P.13. According to this witness, on the request of one Pankraj, Peon working in the Register Office he signed his name in Ex.P.13 sale deed as scribe of the document, though it was prepared by Mohana. According to this witness Pankraj informed him that the document was prepared by Mohana but she is awaiting for her document writer license, therefore requested to affix his signature and seal as document writer which he obliged. He has affixed his signature on the last sheet of the sale deed, which is a Rs.1/- rupee stamp paper. Except this evidence nothing incriminating against Mohana. She in the normal course has purchased the stamp papers and prepared the documents. The stamp vendor Thyagarajan was not examined Pankraj, Peon in the Arni Registrar Office not examined. One Chinna whom PW.3 (Vairavan) the purchaser has referred as a mediator and entrusted the charge of registering the sale deed was not examined by the prosecution. The prosecution having failed to prove the guilt of the accused Mohana through evidence, she cannot be convicted. The Courts below have failed to appreciate the lack of evidence. It erred in convicting the revision petitioner Mohana.

10. Per contra, the learned Public Prosecutor would submit that Mohana had culpable state of mind while dealing the fake stamp paper of Rs.1,000/- rupees face value. She was a registered license document writer on the day on which Ex.P.13 and Ex.P.14 was presented for registration. Knowing fully well that one of the stamp paper Ex.P.13 with Rs.1,000/- rupees face value is a fake stamp value, she has requested PW.4 (Chellan) to sign the document as the writer of the document. The evidence of PW.1, Sub-Registrar who has categorically stated that the document was presented by Mohana and the purchaser of the property for whom the document was prepared has deposed incriminating this accused attracting the ingredient of Section 260 of I.P.C. The evidence of PW.8 wife of Thyagarajan stamp vendor also adds credence to the case of the prosecution that this revision petitioner had animus about the fake stamp paper used by her. While the stamp vending license for Thyagarajan was cancelled long back, his name and seal has been used in the fake stamp papers, therefore, the Courts below right in holding the accused guilty of offence under Section 260 of I.P.C.

11. The learned Counsel appearing for the revision petitioner Meganathan (A1) in C.C.No.120 of 2002 appellant in C.A.No.23 of 2009 and Crl.R.C.No.423 of 2012 would submit that the revision petitioner is a document writer duly licensed. 7 documents presented by him for registration were suspected to be written on fake stamp papers, hence based on the complaint given the Sub-Registrar, Redhills, a case was registered by CB CID, Chennai, in Crime No.1 of 2002 and he was prosecuted along with the other accused for offences under Sections 120-B, 258, 260 r/w 109 of I.P.C. The Lower Court as well as the First Appellate Court failed to consider that there was no direct or circumstantial evidence against this accused to hold him guilty.

12. PW.7, Kalyani the licensed stamp vendor who has sold the stamps has disowned the seal and signature found in the said stamp papers which is now alleged to be fake. Her signature and seal were not sent to scientific expert for comparison to accept her exculpatory statement. In the cross examination, she admits that she is aware of the fact that even in the year 1998 fake stamp papers was sold in her name. In such circumstances, the prosecution has not come forward with satisfactory evidence why they have exonerated the stamp vendor Kalyani PW.7 and prosecuted the documentary writers. He would also submit that the earlier complaint regarding fake stamp papers spoken by PW.9 and PW.10 was not properly probed by the prosecution in order to scream the real accused. The present case alleging that fake stamp papers was sold by the accused persons between 25.03.1998 to 02.12.1998 came to be registered only on 31.01.2000, after inordinate delay of 2 years. When Thyagarajan and Kalyani in whose name the fake stamp papers were sold, the Investigating Officer ought to have seized the seals used by these stamp vendors to compare the same with that of the seal found in the fake stamp papers. Due to faulty investigation, the real culprits who have sold fake stamp papers as genuine to gullible public has been left free and innocent document writers are held guilty. While the Sub-Registrar himself was not initially in a position to distinguish genuine and fake stamp papers, which were presented to him for registration, the document writers who prepare the document on the stamp papers given by the parties cannot be held responsible, just because some of the witnesses had deposed that they received the document from the accused persons before presentation for registration.

13. Per contra, the learned Government Advocate appearing for the state would submit that it is a part of larger conspiracy to circulate fake stamp papers throughout the country and in the course of the said conspiracy this revision petitioner who is a document writer, knowing fully well has purchased the fake stamp papers for a price much less the face value of the document. He mixed it with genuine stamp papers, prepared the sale deeds and presented for registration. The

mixing and layering of fake document along with genuine stamp papers has been cleverly done by this accused/petitioner. For the said purpose, he has misused the name of genuine stamp vendors or defunct stamp vendors. When the document by itself proves that the fake document was present by this accused/revision petitioner for registration, it is for him to explain how he got the possession of the fake stamp papers. Having failed to satisfactorily explain the possession, the Courts below have rightly held him guilty for offence under Section 260 of I.P.C.

14. Heard the respective counsels for the revision petitioners and Mrs.Kritika Kamal, the learned Government Advocate (Crl.Side) appearing for the state.

15. Before adverting to the merits of their arguments, it is appropriate to extract the observation of the Hon'ble Supreme Court in Joti Parshad Vs. State of Haryana reported in 1993 Supp (2) SCC 497 which has dealt with an identical facts relating to fake stamp papers.

> 4. The possession and sale of various counterfeit stamps by the appellant who was a stamp vendor is beyond dispute. Then the important question is whether he had knowledge or reason to believe that the stamps which he had in possession and was selling, were counterfeit of the stamps issued by the Government.
>
> 5. Under the Indian penal law, guilt in respect of almost all the offences is fastened either on the ground of "intention" or "knowledge" or "reason to believe". We are now concerned with the expressions "knowledge" and "reason to believe". "Knowledge" is an awareness on the part of the person concerned indicating his state of mind. "Reason to believe'" is another facet of the state of mind. "Reason to believe" is not the same thing as "suspicion" or "doubt" and mere seeing also cannot be equated to believing. "Reason to believe" is a higher level of state of mind. Likewise "knowledge" will be slightly on higher plane than "reason to believe". A person can be supposed to know where there is a direct appeal to his senses and a person is presumed to have a reason to believe if he has sufficient cause to believe the same. Section 26 I.P.C. explains the meaning of the words "reason to believe" thus:
>
> > 26."Reason to believe" - A person is said to have "reason to believe" a thing, if he has sufficient cause to believe that thing but not otherwise.

> In substance what it means is that a person must have reason to believe if the circumstances are such that a reasonable man would, by probable reasoning, conclude or infer regarding the nature of the thing concerned. Such circumstances need not necessarily be capable of absolute conviction or inference; but it is sufficient if the circumstances are such creating a cause to believe by chain of probable reasoning leading to the conclusion or inference about the nature of the thing. These two requirements i.e. "knowledge" and "reason to believe" have to be deduced from various circumstances in the case. In the context of the circumstances obtaining in the instant case namely that the appellant admittedly was a licensed stamp vendor and he was found in possession of counterfeit stamps, the explanation of the accused also becomes relevant and important in assessing and appreciating whether he had such knowledge or reason to believe that the stamps were counterfeited. Admittedly he used to purchase stamps from the treasury and all such transactions are duly recorded in the official registers. There is absolutely no material whatsoever to show that the counterfeit stamps were in fact purchased by him from the treasury. A bare allegation by way of an explanation by the accused-appellant that he purchased all the stamps including the counterfeit ones from the treasury appears on the face of it to be false, as he has neither produced registers maintained by him nor did he make even an effort to summon the treasury records. There is no material whatsoever even to probablise such a plea. In these circumstances the only inference that can be drawn is that he had "knowledge" and "reason to believe" that the stamps which he had in his possession and which he was selling or offering to sell, were counterfeit ones. These ingredients of the two provisions of law are fully established. Therefore the convictions are correct. The offence also is a serious one and the sentence awarded is not excessive. The appeal is therefore dismissed.

16. The evidence of PW.1 Mr.S.N.Mani, Sub Registrar of Redhills indicates that the documents presented by revision petitioners for registration were suspected to be written on fake stamp papers so he gave the complaint. Ex.P.19 is the scientific expert report pertaining to 24 stamp papers sent for analysis. The expert report indicates that those 24 stamp

papers were not genuine. Thus the documents presented by the revision petitioners containing fake stamp papers been proved. The burden to prove that they had no culpable mental state regarding the ingenuity of the stamp paper is on the accused. Unfortunately in this case, both the revision petitioners have not proved that they had no culpable mental state regarding the genuineness of the stamp paper. For that purpose, the evidences of PW.3 and PW.4 as far as the A3 Mohana is concerned is very much relevant. The prosecution through this witness have positively proved that Mohana had the culpable mental state of mind regarding the fake stamp paper, that is a reason why she has requested PW.4 to sign as the document writer though she herself is a qualified document writer.

Section 260 of the I.P.C reads as below:

> 260. Using as genuine a Government stamp known to be a counterfeit.—Whoever uses as genuine any stamp, knowing it to be counterfeit of any stamp issued by Government for the purpose of revenue, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

17 The knowledge and reason to believe that the stamp paper used by her is a fake stamp paper could be very well inferred from the evidence of PW.1, PW.3 and PW.4.

18. Similarly the revision petitioner Meganathan had presented seven deeds which contains several fake stamp papers has not discharged his burden that he never had the knowledge or reason to believe those stamp papers were fake stamp papers. The vendor Kalyani the stamp paper has been examined as PW.7. She has categorically deposed that he has not sold any of the stamp papers which were later found to be fake and sold in her name. No doubt prosecution would have recovered the genuine seals used by Kalyani for comparison. But failure on the part of the prosecution to do so will not automatically inure the benefit of doubt to this accused because it is not only fake stamp papers alleged to have been sold by Kalyani but also few more stamp papers were alleged to have been sold by Thyagarajan a defunct stamp vendor were also been used by this revision petitioner.

19. In the said circumstances, this Court finds that the Courts below on facts and law had properly appreciated the evidence before it and had convicted them for offence under Section 260 of I.P.C. According to the gravity of the crime, the Appellate Court has also modified the period of sentence. No further indulgence is required in respect of the period of sentence.

20. In the said circumstance, this Criminal Revision Cases are dismissed. The respondent police is directed to secure the petitioners and commit him to prison to undergo remaining period of sentence.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

bsm

To,

1. The Learned Judicial Magistrate,
   FTC No.II, Ponneri.

2. The Chief Judicial Magistrate,
   Tiruvallur. (For Information)

3. The Learned Additional District and
   Sessions Judge F.T.C.No.4,
   Ponneri.

4. The Inspector of Police,
   CB CID (C.C.Wing), Chengalpattu East,
   Chengalpattu District.

5. The Inspector of Police,
   CB CID, Chennai.

6. The Public Prosecutor,
   Madras.

+1cc to Mr.P.K.Ilavarasan, Advocate, S.R.No.20241
+1cc to Mr.R.C.Paul Kanagaraj, Advocate, S.R.No.20811

Crl.R.C.Nos.282 & 423 of 2012

VSN II(CO)

RRS(04/04/2019)