

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 16.04.2019

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.Nos.236,254 of 2018 and

1601 of 2017 and

Crl.M.P.No.2389 of 2018

1. C. Kamalakkannan : Petitioner in Cr.Rc.No.1601 of 2017/A2
2. T. Vijayakumar : Petitioner in Cr.Rc.No.236 of 2018/A6
3. Palani : Petitioner in Rc.No.254 of 2018/A3

-Vs-

State by:

Inspector of Police,

C.B.C.I.D., Chennai

(Crime No.2172 of 1996 ... Respondent

Prayer in 1601 of 2017: Criminal Revision Case filed under Sections 397 and 401 of Cr.P.C. to set aside the conviction order passed against the accused-2/appellant in C.C.No.279 of 2011 on the file of the Judicial Magistrate No.1, Thiruvallur dated 25.10.2016 partly allowed in C.A.No.47 of 2017 on the file of Principal Sessions Judge at Thiruvallur dated 23.10.2017 and acquit the accused-2/appellant.

Prayer in 236 of 2018: Criminal case filed under Sections 397 and 401 of Cr.P.C. against the Judgment dated 23.10.2017 passed by the learned Principal District Sessions Judge, Tiruvallur in C.A.No.84 of 2016 confirming the conviction and sentence imposed by the learned Judicial Magistrate No.1, Tiruvallur by Judgment dated 25.10.2016 in C.C.No.279 of 2011.

Prayer in 254 of 2018: Criminal case filed under Sections 397 and 401 of Cr.P.C. against the Judgment passed by the learned Principal District Sessions Judge, Tiruvallur in C.A.No.83 of 2016 dated 23.10.2017 confirming the sentence passed in C.C.No.279 of 2011 dated 25.10.2016 passed by the Learned Judicial Magistrate, No.1, Tiruvallur.

In all Revision petitions

For Petitioners

: Mr.L.Mouli
in Crl.RC.236/2018
Mr.R.Rajasekaran
in Crl.RC.1601/2017
in Crl.RC.254/2018

For Respondent : Mr.R. Ravichandran
Goverment Advocate

C O M M O N O R D E R

Challenging the common Judgment dated 23.10.2007 passed by the Principal District and Sessions Judge, Thiruvallur in C.A.No.47 of 2017, 83 of 2016 and 84 of 2016, confirming the sentence imposed by the learned Judicial Magistrate No.1, Thiruvallur vide Judgment dated 25.10.2016 in C.C.No.279 of 2011, the present revisions have been filed by the accused 2,6 and 3 respectively.

2. It is the case of the prosecution that the mark sheet of one Amudha is a forged one. It is also stated that the said Amudha obtained only 767 marks, whereas, the document produced by the said Amudha for securing medical college seat, the said mark sheet shows that marks obtained by her is 1120 out of 1200. A specific overt act attributed against the accused is found to be true.

3. The punishment imposed by the Lower Court for the Accused Nos.2, 6 and 3 in C.C.No.279 of 2011 dated 25.10.2016 are extracted hereunder:

a. In respect of petition in Criminal R.C.No.1601 of 2007 for A2/C.Kamalakannan, the Lower Court acquitted the accused U/s 428 of Cr.P.C and convicted him for the offences U/s 120(b) of Cr.P.C and imposed fine of Rs.1,000/- and for Section 468 of Cr.P.C imposed Rs.1,000/- as fine and for Section 471(2 counts) of Cr.P.C imposed fine of Rs.2,000/-, failing which the accused should undergo 2 months simple imprisonment.

b. In respect of petition in Criminal R.C.No.236 of 2018 for A6/T.Vijayakumar the Lower Court found guilty U/s 120(b) of Cr.P.C and imposed fine of Rs.1,000/- and for the offences U/s 468 and 471 of Cr.P.C and sentenced him to undergo 1 month simple imprisonment and also imposed a fine of Rs.1,000/-, failing which the accused should undergo 2 months simple imprisonment.

c. In respect of petition in Criminal R.C.No.254 of 2018 for A3/T.Palani the Lower court acquitted the accused U/s 428 of Cr.P.C and found guilty for the offences U/s 120(b) of Cr.P.C and imposed fine of Rs.1,000/- and for Section 468(2counts) of Cr.P.C imposed fine of Rs.2,000/-. and for the offence U/s 471 of Cr.P.C imposed a fine of Rs.1,000/-, failing which the accused should undergo 2 months simple imprisonment.

4. The Appellate Court confirmed the Judgment passed by the Lower Court, in C.C.Nos. 83, 84 of 2016 and 47 of 2017 dated 23.10.2017, but modified the fine amount to Rs.600/- from Rs.1,000/- for the fine imposed U/s 120(b), 468, 471(2 counts) for all the accused.

5. The learned counsel for the petitioners would submit that the prosecution has not proved the case beyond reasonable doubt and the Lower Court and Appellate Court erred in appreciating the evidence. Hence, prays to allow this petition.

6. The learned counsel for the respondents would submit that the prosecution has proved the case with cogent reasons and one Vasanthi/P.W.2 Controller of Examinations has clearly spoken about the involvement of the revision petitioners in the offence and further submitted that the mark list of Amudha was a forged one. She also further submitted that they have intimated to the Medical college that the certificate produced by Amudha was not issued by them. In view of the clear evidence let in by PW.2, no interference is warranted with the Judgment passed by the Courts below.

7. Heard the learned counsel appearing on either side and perused the materials available on record.

8. This Court exercising the power conferred u/s 397 of the Cr.P.C cannot assume the Jurisdiction of the Appellate Court and reassess the entire evidence. The scope of interference is very limited while exercising the Revisional jurisdiction. A bare perusal of materials on record categorically proves that the marklist is a forged one which has not been issued by the Controller of the Examinations. In my considered view the finding rendered by both the Courts below does not call for any interference in as much as the fact finding Court has correctly appreciated the evidence on record. This Court does not find any perversity in the Judgment of the Courts below. These Criminal Revision petitions are devoid of merits and are accordingly dismissed. No Costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-IV)

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True Copy

Sub Assistant Registrar

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To

1. The Judicial Magistrate No.1,
Thiruvallur.

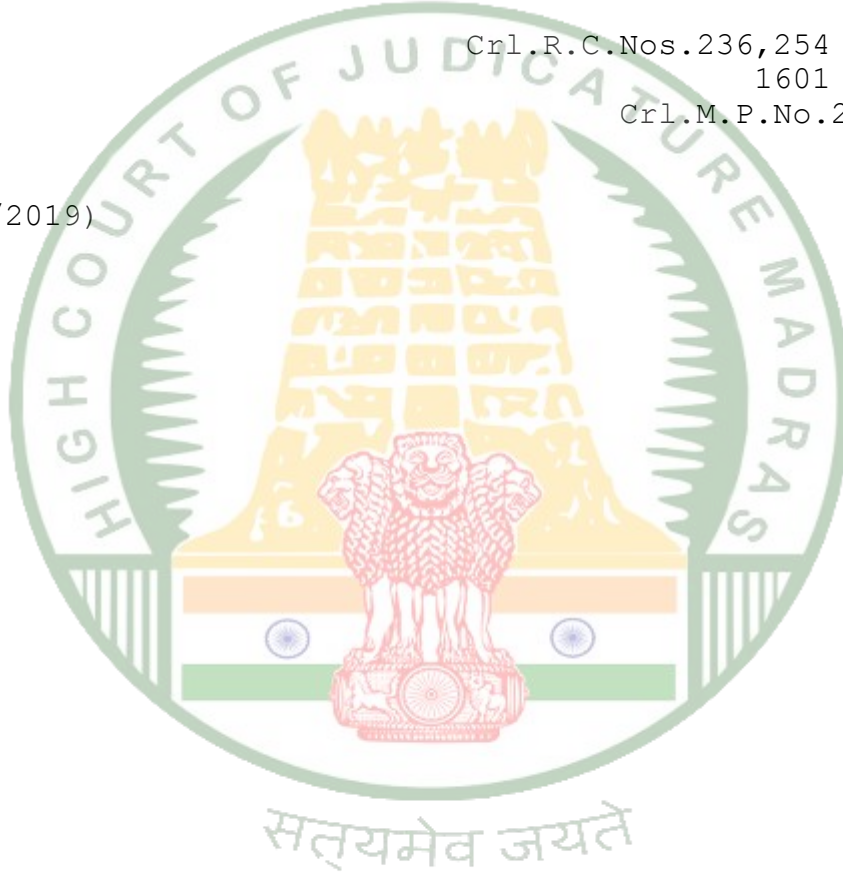
2. The Principal Sessions Judge,
Thiruvallur.

+1cc to Mr.L.Mouli, Advocate, SR.No.38283.

+1cc to Mr.R.Rjasekaran, Advocate, SR.No.37924.

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1601 of 2017 and
Crl.M.P.No.2389 of 2018

BP (CO)
CSR(31/12/2019)



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