



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl. A. (MD) No.382 of 2010

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State represented by,
The Inspector of Police,
Crime Branch CID,
Tirunelveli.
(Crime No.1 of 2004)

.. Appellant/Respondent/
Complainant

Vs.

1. Rompalli Buchaiah
2. G.Venkata Reddy

.. Respondents/Appellants/
Accused

Prayer : This Criminal Appeal is filed under Section 378 of Cr.P.C., to set aside the Judgment of acquittal passed by the learned Additional Sessions Judge/Fast Track Court No.2, Tirunelveli, by Judgment dated 28.06.2007 in C.A.No.93 of 2007 confirm the conviction and sentence imposed by the trial Court on both accused/respondents herein.

For Appellants : Mr.A.Robinson,
Government Advocate(Crl. Side).

For Respondents : Mr.R.Anand

JUDGMENT

The State has filed this appeal challenging the Judgment of acquittal passed by the appellate Court.

2. The case of the prosecution is that the first accused, namely, Rompalli Buchaiah wanted to join the Distance Education course conducted by Manonmaniam Sundaranar University, Tirunelveli. The first accused was originally a student of Annamalai University. He had discontinued his course in the said University. To join the course conducted by Manonmaniam Sundaranar University, the first accused needed to produce the Transfer Certificate issued by the University in which the he had originally studied. The second accused was running the Distance Education Centre, at Bellari. The second accused enrolled the first accused in the course conducted by Manonmaniam Sundaranar University. He had certified and attested that the first accused had produced the original Transfer Certificate issued by the other university before him. The document was sent to the office of the University, at Tirunelveli. When



verification was undertaken, it came to be known that the certificate is said to have been issued by the Annamalai University was not actually issued by the said institution and that forged document was submitted. Thereupon, Ex.P.1 complaint was lodged by the Professor P.Nagarajan, Registrar of Manonmaniam Sundaranar University before the Inspector of Police, Crime Branch C.I.D., Tirunelveli. Based on Ex.P.1, Ex.P.12 First Information Report in Crime No.1 of 2004 was registered for the offences under Sections 465, 466, 468, 471, 472 and 420 of I.P.C., on 08.07.2004.

3. Investigation was undertaken and final report came to be laid before the Judicial Magistrate, Tenkasi. It was later transferred to the file of the Judicial Magistrate No.5, Tirunelveli. Cognizance of the offences was taken in C.C.No.24 of 2006. Charges were framed against the accused. They pleaded not guilty and claimed to be tried. The prosecution examined as many as 9 witnesses and marked Ex.P.1 to Ex.P.12. On the side of the accused, no evidence was adduced. The learned trial Magistrate by Judgment dated 19.04.2007, found the accused guilty of the offences with which they were charged and sentenced them to undergo two years Rigorous Imprisonment for each of the offences. The sentences were run concurrently. Challenging the same, the accused filed Crl.A.No.93 of 2007 before the Sessions Court, Tirunelveli. The learned Additional Sessions Judge/Fast Track Court No.2, Tirunelveli, by Judgment dated 28.06.2007 allowed the appeal and acquitted the accused. Challenging the same, this appeal came to be filed by the prosecution.

4. Heard the learned counsel on either side and perused the evidence on record.

5. The appellate Court chose to acquit the accused primarily on the ground that the original certificate was not produced and the forensic expert did not verify the signature found in the disputed document with the original.

6. I am of the view that the appellate Court had adopted a very narrow and technical approach. It is not in dispute that the first accused wanted to get himself enrolled in the Distance Education course conducted by Manonmaniam Sundaranar University. It is also not in dispute that he submitted his document through the second accused. The Registrar of Manonmaniam Sundaranar University had lodged a complaint before the C.B.C.I.D., from which the scheme of the University has been clearly set out. Manonmaniam Sundaranar University was offering Distance Education through study Centres. One of which was located at Bellari. The centres were authorised to re-admit the students who had discontinued their studies in other colleges or universities. In other words, the object of the scheme is to give the benefit of continuity of study. But then, they will have to produce certificates from the institutions in which they were earlier studying. The same could be in the form of Transfer Certificate, Mark Statement, etc. In this case, the specific stand



of the University is that the certificate produced by the first accused Rompalli Buchaiah turned out to be fake. Before the learned trial Magistrate, the official of Annamalai University was examined as P.W.5. The official had clearly stated that the document attributed to them and said to have been produced by the first accused before the second accused was not issued by him.

7. I carefully went through the cross examination conducted by the accused. The accused have nowhere suggested that they did not join the courses run by Manonmaniam Sundaranar University. It was never their case that the document in question was never produced by them. That is why the learned trial Magistrate after going through the entire evidence on record chose to find them guilty. The appellate Court had hastily reversed the Judgment passed by the learned trial Magistrate and acquitted the accused on flimsy grounds.

8. The Judgment of the learned trial Magistrate is well reasoned and I am of the view that the same deserves to be restored. But then, in view of the lapse of time and other mitigating factors pleaded by the learned counsel appearing for the respondents, I am of the view that the conviction alone needs to be restored and that there is no need to send respondents 1 and 2 to prison at this point of time. It is seen that the accused have already remitted the fine imposed on them. Therefore, the Judgment of conviction passed by the learned trial Magistrate alone is restored. The sentence of imprisonment imposed on the respondents herein is set aside.

9. The Criminal appeal stands partly allowed, accordingly. The bail bond, if any, executed by them shall stand cancelled. No costs.

Sd/-

Assistant Registrar(CO)

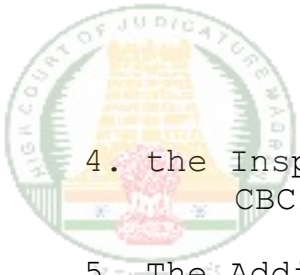
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Sub Assistant Registrar(CS)

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To

1. The Additional Sessions Judge/
Fast Track Court No.2, Tirunelveli.
2. The Judicial Magistrate No.5,
Tirunelveli.
3. The Chief Judicial Magistrate, Tirunelveli.



4. the Inspector of Police,
CBCID, Tirunelveli.

5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

6. The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court,
Madurai. (2 copies)

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