



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl. A. (MD) No.392 of 2013

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

.. Appellant/Respondent/
Complainant

Vs.

1. Ramadevi
2. Buchapathy Viswanath
3. Khader Valli

.. Respondent/Appellants/
Accused

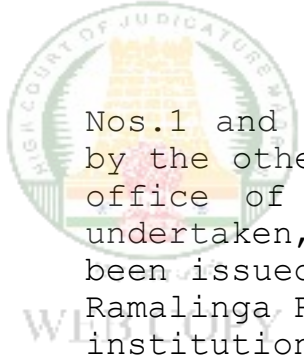
Prayer : This Criminal Appeal is filed under Section 378 of Cr.P.C., to set aside the Judgment of acquittal passed by the learned Additional Sessions Judge/Fast Track Court No.2, Tirunelveli, by Judgment dated 28.06.2007 in C.A.No.99 of 2007 confirm the conviction and sentence imposed by the trial Court on both accused/respondents herein.

For Appellants	:	Mr.A.Robinson, Government Advocate (Crl. Side).
For R-1 & R-2	:	Mr.N.Anantha Padmanaban
For R-3	:	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 accused Nos.1 and 2, namely, Rama Devi and Buchipati Viswanath wanted to join the Distance Education course conducted by Manonmaniam Sundaranar University, Tirunelveli. Accused No.1 was originally a student of Tirupati Sri Venkateswara University, while accused No.2 was a student of Eluru Sir.C. Ramalinga Reddy Autonomous College. They had discontinued their courses in the said institutions. To join the course conducted by Manonmaniam Sundaranar University, they needed to produce the Transfer Certificates issued by the universities in which accused Nos.1 and 2 had originally studied. Accused No.3 was enrolled accused Nos.1 and 2 in the course conducted by Manonmaniam Sundaranar University. He had certified and attested that accused



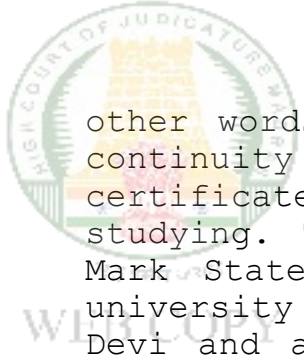
Nos.1 and 2 had produced the original Transfer Certificates issued by the other universities before him. The documents were sent to the office of the University, at Tirunelveli. When verification was undertaken, it came to be known that the certificates said to have been issued by Tirupati Sri Venkateswara University and Eluru Sir.C. Ramalinga Reddy Autonomous College were not actually issued by those institutions and that forged documents were 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.17 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.23 of 2006. Charges were framed against the accused. They pleaded not guilty and claimed to be tried. The prosecution examined as many as 13 witnesses and marked Ex.P.1 to Ex.P.17. 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.99 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 certificates were not produced and the forensic expert did not verify the signatures found in the disputed documents 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 accused Nos.1 and 2 wanted to get themselves enrolled in the Distance Education course conducted by Manonmaniam Sundaranar University. It is also not in dispute that they submitted their documents through the third accused. The Registrar of Manonmaniam Sundaranar University had lodged a complaint before the C.B.C.I.D., in 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 Cuddappah. 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 was 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 certificates produced by accused No.1 Rama Devi and accused No.2 Buchipati Viswanath turned out to be fake. Before the learned trial Magistrate, the officials of Tirupati Sri Venkateswara University as well as Eluru Sir C.Ramalinga Reddy Autonomous College were examined as P.W.7 and P.W.8. Both these officials had clearly stated that the documents attributed to them and said to have been produced by accused Nos.1 and 2 before accused No.3 were not issued by them.

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 not their case that the documents in question were 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 to 3 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)

// True Copy //

Sub Assistant Registrar(CS)

pmu

To

1. The Additional Sessions Judge/

<https://hcservices.ecourts.gov.in/hcservices/>

Fast Track Court No.2, Tirunelveli.



2. Judicial Magistrate No.5,
Tirunelveli.

3. The Chief Judicial Magistrate, Tirunelveli.

4. The Inspector of Police, 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)

+1CC TO MR.N.ANANTHA PADMANABAN, Advocate Sr. No.83655

pmu
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TR(14.10.2019) 4P 9C