



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

CRL.R.C.NO.397 OF 2021

AND

CRL.M.P.NOS.6392 & 6393 OF 2021

1. J.Shanthi
2. Rajasekar

... Petitioners/Appellants/
Accused

-Vs-

State Represented by
The Sub-Inspector of Police,
G-2, Periamet Police Station,
Chennai.
(Crime No.1108 of 2015)

... Respondent/Respondent/
Complainant

PRAYER:-

Criminal Revision Case filed under Sections 397 read with Section 401 of Cr.P.C. to set aside the order dated 29.03.2021 in Criminal Appeal No.42 of 2020 passed by the learned XX Additional Sessions Judge, City Civil Court, Chennai, confirming the judgment dated 10.01.2020 in C.C.1840 of 2016 passed by the learned II Metropolitan Magistrate, Egmore, Chennai, insofar as convicting the petitioners herein for the offence under Section 420 r/w 34 IPC and sentencing them to undergo six months rigorous imprisonment and to pay compensation of Rs.1,68,000/- to P.W.1 Tmt.Vijayakumari and Rs.22,000/- to P.W.4 Sunil, in default, to undergo three months simple imprisonment, total compensation Rs.1,90,000/-.

For Petitioner : Mr.K.Kannan

Respondents : Mr.S.Sugendran,
Government Advocate(Crl.Side)



O R D E R

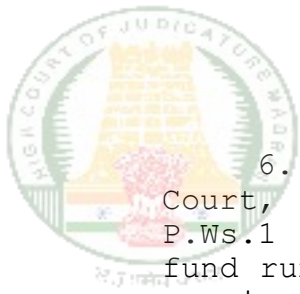
This Criminal Revision Case has been filed against judgment of conviction and sentence dated 29.03.2021 in Criminal Appeal No.42 of 2020 passed by the learned XX Additional Sessions Judge, City Civil Court, Chennai, confirming the judgment dated 10.01.2020 in C.C.1840 of 2016 passed by the learned II Metropolitan Magistrate, Egmore, Chennai,

2. The learned counsel appearing for the petitioners would submit that there were contradictions in the evidence of P.W.1 to P.W.6 with regard to the payment for alleged subscriptions made by the defacto complainant, who was examined as P.W.1. Further, P.Ws.2, 3, 5 and 6 are only hearsay witnesses and they do not have any direct knowledge about chit fund. There was inordinate delay in lodging the complaint by P.W.1. Both the Courts below have failed to appreciate the fact that there were insertions, corrections and wrong calculations found in the materials produced by the prosecution. Prosecution has failed to send the signature of the petitioners to Forensic Lab to prove the commission of offence by the petitioners. Except P.W.1 and P.W.4, no other witnesses have been examined to prove offence alleged to have committed by the petitioners. Even though there are contradictions in the evidence of prosecution witnesses and there is no corroborative evidence produced by the prosecution, both the Courts below have convicted the petitioners, which is liable to be set aside.

3. The learned Government Advocate (Crl.Side) appearing for the respondent would submit that petitioners induced the defacto complainant P.W.1 to join monthly chit of Rs.1000/- for 12 months with a promise to repay the same by adding a sum of Rs.4,000/- amounting to Rs.16,000/-. But, they have failed to act upon their promise and they did not repay the money collected from the victims. Prosecution has clearly proved its case by examining P.Ws.1 to 7 and also marked documents Exs.P1 to 15. The learned trial Judge has rightly convicted the petitioners and imposed sentence, which does not call for any interference.

4. Heard the learned counsel for the petitioners and the learned Government Advocate (Crl.Side) for the respondent and also perused the materials available on record.

5. This Court, while exercising revisional jurisdiction, cannot exercise power of the Appellate Court and this Court, being a revisional Court, cannot sit in the arm chair of appellate Court and it has no power to re-assess the evidence and substitute its views on findings of fact.



6. A careful reading of the materials placed before this Court, it is seen that the petitioners run a chit fund and P.Ws.1 and 4 have clearly stated that they joined in the chit fund run by the petitioners and they did not repay the amount as promised by them. Prosecution has proved its case beyond all reasonable doubt and the petitioners have not done anything to disprove the same. The learned Magistrate has also appreciated the evidence of prosecution witnesses and come to the conclusion that the petitioners have committed offence and the lower appellate Court has also re-appreciated the entire evidence and confirmed the judgment of the trial Court. This Court does not find any perversity in appreciating the evidence by both the Courts below and there is no merit in the revision.

7. Accordingly, this criminal revision shall stand dismissed. Consequently connected miscellaneous petitions are closed. The trial Court is directed to secure the revision petitioners to undergo remaining period of imprisonment, if any.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1. The XX Additional Sessions Judge,
City Civil Court,
Chennai.
2. The II Metropolitan Magistrate,
Egmore, Chennai.
3. The Additional Public Prosecutor,
High Court of Madras.

+1cc to Mr.K.Kannan, Advocate, S.R.No.36868

CRL.R.C.NO.397 OF 2021 AND
CRL.M.P.NOS.6392 & 6393 OF 2021

RR(CO)
PBS/27/08/2021