



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.12.2021

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CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY
Crl.R.C.No.1295 of 2014

C.Venkatesan ... Petitioner/Accused No.1

Versus

State By:
Inspector of Police,
Team XII,
Central Crime Branch,
Egmore, Chennai. ... Respondent/Complainant
(Crime No.448 of 2002)

Criminal Revision Petition filed under Section 397 and 401 of Criminal Procedure Code, to call for the records in C.A.No.116 of 2013, on the file of the Learned XVII-Additional Judge, City Civil Court, at Chennai, and made in C.A.No.116 of 2013, dated 04.12.2014, confirming the Judgment of conviction and modifying the sentence passed by the Learned III Metropolitan Magistrate, George Town, Chennai in C.C.No.12271 of 2004, dated 29.05.2013.

For Petitioner : Mr. Sasikumar

For Respondent : Mr.L.Bhaskaran,
Government Advocate (crl.side)

ORDER

This Criminal Revision Case is filed by the petitioner/first accused, aggrieved by the Judgment dated 29.05.2013 passed by the Learned Judicial Magistrate No.III, George Town, Chennai, in C.C.No.12271 of 2014, thereby, convicting the accused/petitioner for the offences under Section 406 and 420 of IPC., and imposing a sentence of one year Simple Imprisonment for each of the offences and also fine amount of Rs.1,000/- for the offence under Section 420 of IPC., in default to undergo Simple Imprisonment for a period of one month, which was confirmed by the Judgment of the learned XVI - Additional Judge, City Civil Court, Chennai in Crl.A.No.116 of 2013, but modifying the sentence of imprisonment alone as six months instead of one year imposed by the Trial Court.



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2. On 12.06.2002 the complaint given by PW.1/ Govindammal was forwarded by the Assistant Commissioner of Police to the Central Crime Branch, Egmore. Upon which, PW.16/Gopalakrishnan, registered a case in Crime No.448 of 2002 for the alleged offences under Sections 420 and 120(b) of IPC., against the petitioner viz., C.Venkatesan, his mother Rani Chinnasamy, his wife Prabhavathi, one Santhi and Vijaya. After investigation, PW.17/Balasubramanian, laid a charge sheet against the accused before the Learned Metropolitan Magistrate No.III, George Town, Chennai, proposing all the five accused guilty for the offences under Sections 406, 420 & 120(B) of IPC., and the same was taken on file as C.C.No.12271 of 2004.

3. Upon being questioned, the accused denied all the charges against them as false and stood for trial. The prosecution examined PW.1/Govindammal, the first informant as PW.1 and 14 other individuals, as who participated in the Chit, run by the accused persons and lost their money, as PW.2 to PW.15. The Sub-Inspector of Police, who registered the First Information Report was examined as PW.16 and the Investigation Officer as PW.17. The complaint lodged by PW.1 was marked as Ex.P1; The complaint lodged by PW.13 is marked as Ex.P2 and the complaint lodged by PW.15 is marked as Ex.P3. The First Information Report is marked as Ex.P4 and the prosecution rested its case.

4. Upon question with reference to the evidence let in against the accused and the incriminating circumstances, all the accused denied the same as false evidence. No evidence was let in on behalf of the defence.

5. The Learned Metropolitan Magistrate, proceeded to hear the arguments of the Learned Assistant Public Prosecutor and the Learned Counsel for the accused and by Judgment dated 29.05.2013, found that there is clear evidence as far as the first accused is concerned and since the second accused viz., Rani, the mother of the first accused died pending trial the charges against her are abated. The Trial Court further found that PW.1 to PW.15 have not clearly spoken about the role of the other accused 3 to 5 and therefore acquitted them. The Trial Court found the petitioner/ first accused alone guilty. It had found that a total sum of Rs.4,94,365/- (Rupees Four Lakhs Ninety Four Thousand and Three Hundred and Sixty Five only) has been defrauded by the petitioner/first accused by conducting a Chit and failing to repay the innocent public who participated in the Chit namely PW.1 to PW.15 and imposed sentence of one year



imprisonment each for the offence of Sections 420 & 406 of IPC., and with fine of Rs.1,000/- for the offence under Section 420 of IPC.,

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6. Aggrieved by the same, the first accused / petitioner herein filed an appeal in Crl.A.No.116 of 2013 before the Learned XVII - Additional Judge, City Civil Court, Chennai and by Judgment dated 04.12.2014, the Learned Appellate Judge independently appreciated the evidence on record and found that from the evidence of PW.1 to PW.15, the charges against the accused/petitioner herein stood proved. And the arguments advanced by the learned counsel for the petitioner that all the evidence are contradictory and there is no documentary evidence to prove the charges were rejected, as without any merits and conviction was confirmed. However, the Lower Appellate Court reduced the sentence of imprisonment alone from one year to six months.

7. Heard Mr.Sasikumar, Learned Counsel for the petitioner, who would submit that the findings of the Trial Court and the First Appellate Court deserves to be interfered with in the revisional jurisdiction as the findings are perverse in nature. He submit that absolutely, there was no piece of paper has been seized by the investigating officer in the investigation nor it has been produced through PW.1 to PW.15 either to prove that they have paid the money to the first accused/petitioner herein or to prove that it is the petitioner who is actually conducting the Chit. Further, apart from the victim viz., PW.1 to PW.15 no independent witnesses were examined by the prosecution to prove the charges. Thirdly, the amounts said to have been lost by the victims in the Chit have not been proved. Taking into account the socio economic position in which PW.1 to PW.15 are placed, their evidence appears to be unnatural. He would further submit that as a matter of fact, there was violence committed against the petitioner/first accused and earlier a case was registered as against the persons who attacked him, but those facts were suppressed in the complaint. Therefore, PW.1 to PW.15 had motive to depose against the petitioner/first accused and their evidence should be disbelieved in the absence of corroborative documentary evidence or independent witnesses. Even from the evidence of the Investigation Officer, it would be clear that he could not recover any paper whatsoever. The petitioner was convicted without any legally acceptable evidence. The Government submits that it is a case for interference in exercise of revisional jurisdiction.



Government Advocate (crl.side) when the transactions are oral in nature no documentary evidence or any receipt can be produced by the prosecution.

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12. I also reject the arguments of the Learned Counsel for the to consider the socio economic conditions of the victims and that the transactions appear to be unnatural. The amounts are is said to have been collected by conducting Chit. It is the petitioner, who runs the Chit and depending upon the amount of Chit, the investors invested their hard earned money. As far as the earlier case is concerned, it cannot be treated as case and counter as it is not in the same course of transaction and therefore not mentioning about the same cannot in any manner affect the finding of guilt or otherwise of the petitioner. The Trial Court and the First Appellate Court have rightly convicted the petitioner/accused.

13. As far as the sentence of imprisonment is concerned, it is brought to my notice that the petitioner was arrested on 13.06.2000 and was in custody for a period of 8 days, pending trial. Similarly pending this revision, pursuant to the NBW issued against the petitioner he was in custody for 11 days.

14. Considering, the nature of the offence; the intermittent periods of incarceration undergone by the petitioner/accused; the medical condition of the petitioner that he is a chronic diabetic, which has led to paralytic attack and he is immobilised due to the effect of paralysis attack on right leg and right hand; the condition of the petitioner is such that he has to rely upon others even for his mobility; I am inclined to modify the sentence of imprisonment alone by reducing it from six months to one month and after setting off the period of incarceration that he has already undergone the petitioner /accused shall undergo the remaining period of sentence. The fine amount is confirmed.

15. Considering the request made by the Learned Counsel for the petitioner/accused by stating the medical condition of his client, fifteen days (15 days) time , from the date of receipt of a copy of this order is granted to the petitioner/first accused to surrender before the Trial Court to undergo the remaining period of sentence.



16.The Criminal Revision Case is partly allowed as indicated above.

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SD/-
ASSISTANT REGISTRAR

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SUB ASSISTANT REGISTRAR

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To

- 1.The XVII-Additional Judge,
City Civil Court,
Chennai.
- 2.The Learned III Metropolitan Magistrate,
George Town,
Chennai.
- 3.The Chief Metropolitan Magistrate,
Egmore, Chennai. (For Information)
- 4.The Inspector of Police Team XII,
Central Crime Branch,
Egmore, Chennai.
- 5.The Secretary,
Legal Services Authority,
High Court, Madras.
- 6.The Public Prosecutor,
High Court, Madras.

Copy to

The Section Officer,
Criminal Section,
High Court, Madras.

+1cc to M/s.S.Sasikumar, Advocate Sr.65048

Cr1.R.C. No.1295 of 2014

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