



Bail Slip

1. The Petitioner/Accused Viz., Mr.Pachaiappan, Male/Aged, 71 years, S/o.Rama Gounder was released on bail as per order of this Court dated 26/07/2019 in Crl.M.P.No.9799 of 2019 in Crl.R.C.No.1021 of 2018 on the file of this Court.

2. The Petitioner/Accused Viz., Mr.P.Kumar, Male, Aged 55 years, S/O Pazhani was released on bail as per order of this Court dated 26.07.2019 in Crl.M.P.No.9798 of 2019 in Crl.R.C.No.995 of 2018 on the file of this Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 10.03.2022

PRONOUNCED ON : 26.05.2022

CORAM

THE HON'BLE Mr. JUSTICE G.CHANDRASEKHARAN

CRL.R.C.Nos.995 & 1021 of 2018

P.Kumar

...Petitioner in
Crl.R.C.No.995 of 2018

Pachaiappan

...Petitioner in
Crl.R.C.No.1021 of 2018

Vs.

State Represented by
Inspector of Police,
CBI / SCB / Chennai
Crime No.02 of 2015

...Respondent in
both Crl.R.C's.

Common Prayer:- Criminal Revision Cases are filed under Section 397 r/w 401 of Code of Criminal Procedure, to call for the records and set aside the judgment passed in Crl.A.No.19 of 2017 dated 13.08.2018 passed by the learned II Additional Sessions Judge, Puducherry, confirming the order of conviction made in judgment dated 18.05.2017 in C.C.No.71 of 2015 passed by the learned Chief Judicial Magistrate, at Puducherry.

In Crl.R.C.No.995 of 2018

For Petitioner : Mr.Sundermohan

For Respondent : Mr.K.Srinivasan,
Special Public Prosecutor
for CBI cases.



In Crl.R.C.No.1021 of 2018

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For Petitioner : Mr.S.Sathish Rajan
For Respondent : Mr.K.Srinivasan,
Special Public Prosecutor
for CBI cases.

COMMON ORDER

These petitions have been filed to set aside the order of conviction of the petitioners made in Crl.A.No.19 of 2017 by the II Additional Sessions Judge, Puducherry, confirming the order of conviction made in a judgment dated 18.05.2017 in C.C.No.71 of 2015 by the learned Chief Judicial Magistrate, at Puducherry.

2.The respondent filed final report against the petitioners and other accused alleging that first accused Danusu @ Danassou B.Charles, son of second accused Pachaiyappan, maternal uncle of first accused, third accused P.Kumar and accused 4 and 5 namely, Jhon Baskar and Marie Stella Rene entered into the criminal conspiracy during the period between 2006 and 2007 at Puducherry and other places and in furtherance of the conspiracy Danusu @ Dannassou impersonated as B.Charles furnished fake school record sheet purported to have been issued by K.Mannavan Government Middle School, Karaikal, Puducherry Civil Supplies Ration Card as genuine documents before the French Consulate DE France authorities and obtained passport bearing No.07CV30181 by means of cheating. Investigation revealed that, Danusu @ Dannassou impersonated as B.Charles, created fake date of birth certificate purported to have been issued by Deputy Tahsildar, Nagapattinam by mentioning his name as Charles S/o. Baskar and Marie Stella Rene, giving date of birth as 20.01.1989 born at Condarettypaleom, Puducherry. His original father is second accused Pachaiappan and mother's name is Rany. A3 and A4 had shown only two children namely S.Sherly and Master Thanesh Cardzen in their ration card bearing No.001763. Accused Danusu @ Dannassou's name was inserted as B.Charles at later point of time. In furtherance of the conspiracy, A4 and A5 executed their marriage registration deed on 21.06.2006 at Oulgaret Municipality, Puducherry and showed Danusu @ Dannassou as B.Charles as their legitimate son, knowing fully well that he is not their real son, but the son of accused Pachaiapan. Thus, the accused have committed offences punishable under Sections 120B I.P.C. r/w 419, 468 r/w. 471, 420 & 181 I.P.C.

3.On the basis of the final report the trial Court framed charges against the accused under Section 120B I.P.C. and under



Section 419, 468, 471, 420 & 181 I.P.C. r/w. 34 I.P.C. The accused denied the charges and claimed to be tried.

4. The prosecution examined P.W.1 to P.W.18 witnesses and produced Ex.P1 to Ex.P.31 documents. On the basis of oral and documentary evidence, the Trial Court convicted the accused for the offences under Sections 120B I.P.C. and under Section 419, 468, 471, 420 & 181 I.P.C. r/w. 34 I.P.C.

S.No .	Name of the accused	Convicted under	Sentence imposed
1	Pachaiyappan (A1)	120 B I.P.C	Simple Imprisonment for six months
		419 I.P.C r/w. 34 I.P.C.	Simple Imprisonment for one year
		468 I.P.C. r/w. 34 I.P.C.	Simple Imprisonment for one year and to pay a fine of Rs.500, in default to undergo simple imprisonment for one month
		471 I.P.C. r/w 34 I.P.C.	Simple Imprisonment for one year and to pay a fine of Rs.500, in default to undergo simple imprisonment for one month.
		420 I.P.C. r/w. 34 I.P.C	Simple Imprisonment for one year and to pay a fine of Rs.500, in default to undergo simple imprisonment for one month



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		181 I.P.C. r/w. 34 I.P.C	Simple Imprisonment for one year and to pay a fine of Rs.500/-, in default to undergo Simple Imprisonment for one month
2	P.Kumar (A2)	120 B I.P.C	Simple Imprisonment for six months
		419 I.P.C r/w. 34 I.P.C.	Simple Imprisonment for one year
		468 I.P.C. r/w. 34 I.P.C.	Simple Imprisonment for one year and to pay a fine of Rs.500, in default to undergo simple imprisonment for one month
		471 I.P.C. r/w 34 I.P.C.	Simple Imprisonment for one year and to pay a fine of Rs.500, in default to undergo simple imprisonment for one month.
		420 I.P.C. r/w. 34 I.P.C	Simple Imprisonment for one year and to pay a fine of Rs.500, in default to undergo simple imprisonment for one month



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		181 I.P.C. r/w. 34 I.P.C	Simple Imprisonment for one year and to pay a fine of Rs.500/-, in default to undergo Simple Imprisonment for one month
3	Marie Stella Rene (A3)	120 B I.P.C	Simple Imprisonment for six months
		419 I.P.C r/w. 34 I.P.C.	Simple Imprisonment for one year
		468 I.P.C. r/w. 34 I.P.C.	Simple Imprisonment for one year and to pay a fine of Rs.500, in default to undergo simple imprisonment for one month
		471 I.P.C. r/w 34 I.P.C.	Simple Imprisonment for one year and to pay a fine of Rs.500, in default to undergo simple imprisonment for one month.
		420 I.P.C. r/w. 34 I.P.C	Simple Imprisonment for one year and to pay a fine of Rs.500, in default to undergo simple imprisonment for one month



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		181 I.P.C. r/w. 34 I.P.C	Simple Imprisonment for one year and to pay a fine of Rs.500/-, in default to undergo Simple Imprisonment for one month
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5.Learned counsel for the petitioners appearing in CrI.R.C.No.995 of 2018, Mr.Sundermohan led the argument on the side of the petitioners ably supported by learned counsel Mr.S.Sathish Rajan, appearing for petitioner in CrI.R.C.NO.1021 of 2018. It is submitted by the learned counsel for petitioners that there are totally five accused in this case. A1 and A4 were absconding and the trial was conducted against A2, A3 and A5. The allegation against these petitioners is that they, in conspiracy with the other accused created fake documents like birth certificate of A1, family ration card, school record sheet and marriage certificate of A4 and A5 for getting French passport to first accused Danusu @ Dannassou. So far as these petitioners are concerned, they are no way involved in any of these allegations. They only attested the marriage certificate of A4 and A5 as witnesses for identifying the couple. They are not aware of allegations made against the first accused and 5th accused. The charges are false and it is omnibus charge. The marriage certificate is in french and petitioners are not aware of the contents of the marriage certificate. The contents of the marriage certificate are not read over to them and understood by them. There is absolutely no materials to frame charge against the petitioners for the offence under Section 120B I.P.C. and under Sections 419, 468, 471, 420 & 181 I.P.C. r/w. 34 I.P.C. Only the Sub-Registrar can give the complaint for the offence committed under Section 181 Cr.P.C. under Section 195 Cr.P.C. and 34 I.P.C. There is no material to show that petitioner P.Kumar is related to first accused Danusu @ Dannassou. Therefore, taking cognizance for the offence under Section 181 I.P.C is not legally sustainable. There are no grounds made out even for framing charges against other accused, let alone recording conviction under these Sections. Both the Courts below have clearly erred in appreciating the factual and legal aspects in this case. Thus, learned counsel for petitioners prayed for setting aside the judgment of the Courts below and for acquitting the petitioners.

6.In response, learned Special Public Prosecutor for C.B.I cases, submitted that in order to help the first accused to get a french passport, all the accused had connived and conspired



together, created fake, forged documents to show that first accused Danusu @ Dannassou's name as B.Charles, he is the son of accused A4 and A5 and helped him in getting french passport bearing No.07CV30181. Every accused had clear knowledge about the illegal act committed by each. In conspiracy with each other they actively participated in the commission of the offence. Towards the common object and getting a passport to first accused illegally. Both the Courts have, on the basis of the evidence available, rightly convicted and sentenced the petitioners. The concurrent finding of the Courts below is unassailable and requires no interference. The scope of revision against a criminal appeal is very limited. Only when the legal evidence is omitted to be considered and inadmissible evidence was considered for reaching the conclusion, the Revisional Court can interfere with the judgment of the first Appellate Court. There is no instance or reason for such a cause, giving raise to filing of these revisions. Both the Courts have properly appreciated the evidence and applied the law and recorded their findings and decision. Thus, the learned Special Public Prosecutor for C.B.I. cases, prayed for dismissal of both the petitions.

7.Considered the rival submissions and perused the records.

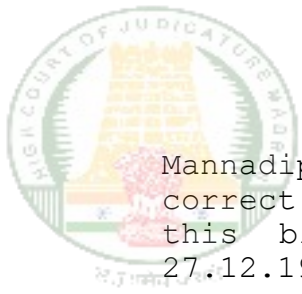
8.The points for consideration,

i)Whether the judgment of the Court below is liable to be set aside in the light of the submissions made by the learned counsel for the parties?

ii)Whether these Criminal Revision Petitions can be allowed?

9.As narrated above, the case of the prosecution is that the second accused, the biological father of the first accused; third accused the maternal uncle of the first accused along with A4 and A5 conspired together, created the school certificate and birth certificate of the first accused, entered the name of the first accused in the ration card of A4 and A5 without any authority and A4 and A5 showed the name of the first accused as their son in the marriage registration certificate, all with a view to get a french passport to first accused. Admittedly, the first accused is in France now and he is evading the prosecution in this case. A4 is also absconding. Therefore, the case was split up against the absconding accused. The trial was conducted in respect of A2, A3 and A5. As already stated, the trial Court convicted for the charges framed against them and sentenced them.

10.During the trial, P.W1 to P.W18 were examined and Ex.P1 to Ex.P31 were marked. P.W.1 was working as Assistant in



Mannadipet Commune Panchayat during 2014. Ex.P1 is the original correct birth certificate of accused Danusu @ Dannassou. As per this birth certificate, Danusu @ Dannassou was born on 27.12.1977 at Condarettypaleom to Pachaiappan and Rany. P.W.5 was working as Deputy Tahsildar in 2014. As per the request of the respondent he verified the register, with regard to the birth certificate of B.Charles S/o. Bhaskar. This birth certificate was marked as Ex.P.5. It shows that one Charles was born on 20.01.1989 at Kuthalam to the parents Bhaskar and Marie Stella Rene. According to P.W.5, Ex.P.5 birth certificate showing that Charles S/o.Bhaskar was born on 20.01.1989 was not registered in 1989 birth register of Kuthalam village.

11.P.W.2 was working as clerk in Tagore Arts College. On the request made by the C.B.I., he produced the copy of the admission register of Danusu @ Dannassou. As per Ex.P.2, one P.Danusu studied in Tagore Arts College, Pondicherry from 1995 to 1998 in B.A. History. His date of birth is 27.12.1977.

12.P.W.4 was working as Head Master of K.Mannavan Government Middle School during 2014. C.B.I. sent a record sheet for the admission No.6820, of B.Charles S/o. Bhaskar, for verification of its authenticity. After verifying the records, it was found that admission No.6820 relates to one Anthonisamy. There was no student studied in this school during 1995 to 1999 in the name of Charles, S/o.Bhaskar. In this regard, he produced Ex.P4 letter intimating that B.Charles S/o. Bhaskar had neither enrolled nor studied in the school with admission No.6820. P.W.11, was also working as Head Master of K.Mannavan Government Middle School 2003-2009. It is his evidence that the record sheet dated 06.12.2007 for the admission number 6820 was not issued by him and the signature in the record sheet is not that of him.

13.P.W.3, the Tahsildar of Civil Supplies Department, Pondicherry, on the request of the respondent, verified the ration card issued to Pachaiappan in ration card No.099273 and the ration card bearing No.001763 in the name of Baskar. In ration card No.099273, the head of the family was shown as Pachaiappan, his wife was shown as Rany, sons as Rajasekaran, Danusu and daughter as Thavamani. In ration card bearing No.001763, head of the family was shown as Bhaskar, his wife Marie Stella Rene, daughter Sherly and Thanesh Cardzen. Bhaskar has not given any application for including the name of Charles. However, it is seen from Ex.P.3 that Charles name is included in the ration card as son of Bhaskar.

14.It is seen from the evidence of P.W.12 and P.W.13 that P.W.12 was working as Junior Accounts in Uzhavarkarai Municipality and was additional charge of Sub Registrar and Assistant Commissioner in connection with registration of



conducting marriages and maintaining the connected records. P.W.13 was working as Lower Division Clerk in the same Municipality. It is the evidence of P.W.12 that Ex.P7 is marriage registration certificate of Bhaskar and Marie Stella Rene. It was registered on 21.06.2006. In the application, the photos of Bhaskar and Marie Stella Rene and birth certificates of Charles, Sherly and Thanesh Cardzen were annexed. It is the evidence of P.W.13 that he had written Ex.P7. It was shown that Charles was born on 20.01.1989, at Kuthalam. Sherly was born at Karaikal on 26.02.1996 and Thanesh Cardzen was born on 25.09.1999. P.Kumar and Pachaiappan had attested this marriage certificate as witnesses. Ex.P.7 is the extract of register of marriage certificate. As said by P.W.12 and P.W.13. Bhaskar and Marie Stella Rene had shown Charles, Sherly and Thanesh Cardzen as their children. In Ex.P8 application submitted for registration of marriage, they enclosed their birth certificates and birth certificates of Charles, Sherly and Thanesh Cardzen along with copy of the ration card bearing No.001763 wherein, Charles was shown as their son. In Ex.P9 accused Pachaiappan and Kumar have signed as witnesses at the time of registration of the marriage. In Ex.P11 marriage registration application of first accused in the name of Charles Rene, has shown accused A4 and A5 as his parents.

15.The perusal of these documents and the evidence of these witnesses clearly show that first accused had fabricated the school record sheet and birth certificate. A4 and A5 had forged the family ration card and inserted the name of first accused as Charles. They had also shown first accused as their son in the name of Charles. The marriage register was signed by these petitioners as witnesses. To prove that petitioners had signed as witnesses in the marriage register, their admitted signatures and sample signatures along with the disputed signatures were sent for analysis of handwriting expert. Ex.P12 is the file containing admitted signature of A2 Pachaiappan. Ex.P13, Ex.P14 and Ex.P.15 are the admitted signatures of A3 Kumar. Ex.P19 contains the sample signature of A3 Kumar. Ex.P20 contains the sample signature of A2 Pachaiappan. When the disputed signatures were compared with the admitted and sample signature, the handwriting expert, P.W.16 was of the view that the writer of the standard signatures marked as S1 to S5 and A1 to A9 being the person responsible for writing the red encircled questioned xerox copied signatures marked as Q1 and Q3. He also found that the writer of the standard signatures marked as S6 to S10 and A10 to A12 being the person responsible for writing the red encircled question xerox copied signatures marked as Q2. S1 to S5 and A1 to A9 and Q1 and Q3 relate to accused P.Kumar. S6 to S10 and A10 to A12 and Q2 relate to accused Pachaiappan. Thus, it is clearly established from the evidence produced in this case that A4 and A5 had shown accused Danusu @ Danassou as



their son in the name of Charles while registering their marriage and the petitioner had signed the marriage register after knowing well that A1 Danusu @ Danassou is the biological son of A4, A5, the biological son of petitioner Pachiappan but, from the oral and documentary evidence produced and discussed above, it is clear that the accused in conspiracy with each other created fake, forged birth certificate and record sheet of A1, inserted the name of A1 in the ration card of A4 and A5 without any authority and showed A1 as son of A4 and A5 in the name of Charles in the marriage registration certificate, and in the marriage register. All these criminal acts have been done by the accused with the conscious intention of committing these criminal acts, only with an object of securing a french passport to first accused Danusu @ Danassou and they also succeeded in their attempt.

16. With regard to the submission of learned counsel for petitioners that only the Sub-Registrar can give a complaint for offence committed against the document, in the considered view of this Court, it is not correct for the reason that there are other offences also involved in this case. When respondent police is empowered to register case and investigate the case in respect of other offences, the registration of the case for the offence under Section 188 I.P.C. cannot be considered as illegal. Both the courts below have considered the evidence in right perspective, convicted and sentenced the petitioners for the offences committed by them. The scope of this case is limited in the revisional jurisdiction. The revisional jurisdiction is to confer power on superior criminal Courts to correct miscarriage of justice.

17. It is observed in (2018) 8 Supreme Court Cases 165 Kishan Rao Vs. Shankargouda, it is observed that,

Unless the finding of the Court, whose decision is sought to be revised, is shown to be perverse or untenable in law or is grossly erroneous or glaringly unreasonable or where the decision is based on no material or where the material facts are wholly ignored or where the judicial discretion is exercised arbitrarily or capriciously, the Courts may not interfere with decision in exercise of their revisional jurisdiction.

18. None of these incidents are present in this case. Both the Courts have rightly decided the case and it requires no interference from this Court. In this view of the matter, judgment of Crl.A.No.19 of 2017 dated 13.08.2018 passed by the learned II Additional Sessions Judge, Puducherry, confirming the judgment dated 18.05.2017 in C.C.No.71 of 2015 passed by the



learned Chief Judicial Magistrate, at Puducherry are confirmed. Criminal Revision Cases in Crl.R.C.Nos.995 & 1021 of 2018 are dismissed.

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Sd/-
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

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To

- 1.State Represented by
Inspector of Police,
CBI / SCB / Chennai
Crime No.02 of 2015
- 2.The II Additional Sessions Judge,
Puducherry,
- 3.The Chief Judicial Magistrate,
Puducherry.
- 4.The Special Public Prosecutor,
High Court, Madras.

Copy To:

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

+1cc to Mr.Sunder Mohan, Advocate, S.R.No.31720
+1cc to Mr.S.Sathish Rajan, Advocate, S.R.No.31725

CRL.R.C.Nos.995 & 1021 of 2018

SKM(CO)
SB(23/06/2022)