



Bail Slip in CrI.R.C.No.402 of 2019

Petitioner viz R.Dharmalingam, S/o.Rangasamy was granted bail in and by the order of this Court dated 08.05.2019 made in Criminal M.P.No.6379 of 2019 in Criminal R.C.No.402 of 2019.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 22.09.2021

PRONOUNCED ON : 07.01.2022

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

CrI.R.C.No.402 of 2019
and CrI.M.P.No.6379 of 2019

R.Dharmalingam ...Petitioner/Appellant
/Single Accused
Vs.

State rep by
The Inspector of Police,
District Crime Branch, Vellore,
Vellore District.
(Crime No.51 of 2012)

...Respondent/Respondent/
/Complainant

Criminal Revision Case filed under Sections 397 read with Section 401 of Cr.P.C., to call for the records on the file of the learned Additional District Judge, (Fast Track Court), Vellore, Vellore District in CrI.A.No.76 of 2018 dated 24.01.2019 by confirming the conviction and sentence in C.C.No.486 of 2015 on the file of the learned Judicial Magistrate No.II, Vellore, Vellore District, dated 05.04.2018 and set aside the judgment dated 24.01.2019.

For Petitioner : Mr.E.Kannadasan

For Respondent : Mr.J.C.Durairaj
Government Advocate (CrI.side)

O R D E R

This Criminal Revision Case is filed to set aside the judgment passed by the learned Additional District Judge, (Fast Track Court), Vellore, Vellore District in CrI.A.No.76 of 2018 dated 24.01.2019 by confirming the conviction and sentence passed in C.C.No.486 of 2015 by the learned Judicial Magistrate No.II, Vellore, Vellore District, dated 05.04.2018.



2. In the affidavit, it has been stated that the respondent police registered a case against the petitioner in Crime No.751 of 2012 for the offence under Sections 465, 466, 468, 471 and 420 IPC. After completion of investigation, the respondent police laid a charge sheet before the learned Judicial Magistrate No.II, Vellore. The learned Magistrate taken the charge sheet on file in C.C.No.468 of 2015 and after trial, the learned Magistrate held that the accused was found not guilty for the offence under Sections 465(7 counts), 466(7 counts), 468 (7 counts), 471(6 counts) and 420(6 counts) of IPC and acquitted for the offence under Section 248(1) of Cr.P.C and further held that the accused was found guilty for the offence under Section 471(1 count) of I.P.C., and convicted and sentenced to undergo Rigorous Imprisonment for a period of two years and for the offence under Section 420(1 count) of I.P.C., convicted and sentenced to undergo Rigorous Imprisonment for a period of two years and to pay fine amount of Rs.2,000/- in-default to undergo Simple Imprisonment for further period of five months. Challenging the said judgment of conviction and sentence, the accused filed an appeal before the Principal District and Sessions Judge, Vellore in CrI.A.No.76 of 2018. The learned Principal District and Sessions Judge, after taking the appeal on file and made over to the Additional District Judge, (Fast Track Court) Vellore, Vellore District, for dismissal in accordance with law.

3. After hearing the arguments, the Additional District Court, is a final Court of fact finding, has re-appreciated the entire evidence and dismissed the appeal and confirmed the judgment of conviction and sentence passed by the trial Court. Challenging the said dismissal of the appeal, the accused has filed the present Criminal Revision Case before this Court.

4. The case of the prosecution is that the petitioner was an ex-President of Nimmiyambattu Village and he cheated the witnesses viz., Bharathi, Pappammal, Unnamalai, Muniyammal, Selagayee, Vijaya and Kulli, who are examined as P.W.2 to P.W.6 and P.W.11 by handing them the orders for payment of old age pension alleged to have signed by P.W.1/Special Tahsildar, Vaniyambadi. The said order contained forged signature of the Special Tahsildar P.W.1 and the petitioner had fraudulently and dishonestly represented to the witnesses that they would get old age pension and had induced them to pay a sum of Rs.2,000/- by way of cash. One of the witnesses viz., Bharathi had paid a sum of Rs.1,000/- and other witness had paid a sum of Rs.5,00/- each. The petitioner had forged the signature of the Special Tahsildar/PW.1 and issued the order as genuine and cheated the



witnesses. On knowing the facts, the de-facto complainant/Special Tahsildar/P.W.1 gave a complaint before the Superintendent of Police, Vellore District and the same was forwarded to the respondent police and on receipt of the complaint, the respondent police registered a case in Crime No.51 of 2012 for the offence under Sections 465, 466, 468, 471 and 420 IPC.

5.The learned counsel appearing for the petitioner would submit that the trial Court had erred in convicting the petitioner based on the evidence of hostile witness viz., P.W.2. Though P.W.1 is the de-facto complainant/ Special Tahsildar denied the signature found in Ex.P.1 to Ex.P.7, she admitted that the endorsement signature signed by her office staff which was found in Ex.P.1 to Ex.P.7. The concerned clerk who is said to have made an endorsement in the alleged forged documents was not examined. The non-examination of main and material witnesses of the said case is fatal to the case of the prosecution. The learned Magistrate has failed to consider the same and wrongly came to the conclusion that the prosecution has proved its case beyond all reasonable doubts and there is no material to show that the petitioner received Rs.1,000/- from one Bharathi and sum of Rs.500/- from the other witnesses and in the absence of the same, the learned Sessions Judge failed to re-appreciate the evidence and wrongly convicted the petitioner. Therefore, the judgment of the appellate Court is liable to be set aside and the benefit of doubt should have been extended to the petitioner and the petitioner should have been acquitted. Therefore, he prays to allow the Criminal Revision Case.

6.The learned Government Advocate (Crl.side) would submit that the petitioner was the Ex-President of the Nimmiyambattu Village and he approached the villagers, especially, the old age people viz., P.W.2 to P.W.6 and P.W.11 and to get old age pension and induced them to pay a sum of Rs.2,000/- from each and also received a sum of Rs.1,000/- from one Bharathi, who is one of the witnesses in this case and also Rs.500/- from the other witnesses and also served forged and bogus orders, as if P.W.1/ Special Tahsildar/ defacto complainant has passed the order. Since there is no knowledge of the Special Tahsildar/P.W.1 that the bogus orders have been issued, she gave a complaint to the Superintendent of Police, which was forwarded to the respondent police and registered a case. On completion of investigation, it was found that the petitioner has committed the offence. In order to substantiate the case, on the side of the prosecution before the learned Magistrate, as many as 15 witnesses were examined as P.W.1 to P.W.15 and fifty documents were marked as Ex.P.1 to Ex.P.50 and two Court documents Ex.C.1 and Ex.C.2 were marked.



7.The de-facto complainant, Special Tahsildar was examined as P.W.1 and she has clearly deposed that the alleged document said to have issued by the Tahsildar was marked as Ex.P.1 to Ex.P.7 and she stoutly denied the signature found in Ex.P.1 to Ex.P.7 are not that of her. Other witnesses viz., P.W.2 to P.W.6 and P.W.11 have stated that the petitioner approached the old age people to get old age pension and induced them to pay a sum of Rs.2,000/- from each and also received a sum of Rs.1,000/- from one witness and other witnesses paid Rs.500/- and after getting the pension they would pay the balance amount. From the aforesaid evidence that the alleged documents said to have been issued by the Special Tahsildar, was issued only by the petitioner/accused. Therefore, from the evidence given of P.W.1 to P.W.6 and P.W.11, the trial Court has come to the conclusion that the prosecution has proved its case beyond all reasonable doubts. The main contention of the petitioner is that in the said documents Ex.P.1 to Ex.P.7, P.W.1 denied her signature and also admitted that one of the Clerk, who was working in her office, made an endorsement and the said Clerk was not examined as witness. The mere non-examination of the said person as witness is not fatal to the prosecution case. Once the prosecution has proved that the alleged documents were handed over to the witnesses by the petitioner/accused and the Special Tahsildar has denied the signature found in the said documents are not that of her. Therefore, it is the exclusive knowledge of the petitioner that with the help of whom he created the said documents, and hence, the learned Magistrate has rightly appreciated the material evidence and based on the evidence, especially, P.W.1 and Ex.P.1 to Ex.P.7 and also in the forensic report clearly established that the signature found in Ex.P.1 to Ex.P.7 are not that of P.W.1, Special Tahsildar. Therefore, it is proved that Ex.P.1 to Ex.P.7 were forged documents. The petitioner has preferred an appeal before the appellate Court, which is a final Court of fact finding, has rightly re-appreciated the evidence and found that though all the charges levelled against the petitioner were not proved, however, two of the charges were proved and dismissed the appeal.

8.It is well settled proposition of law that the scope of revision is very limited. Unless, the revision Court finds that there is perversity in appreciation of evidence by both the Courts below, the Revision Court cannot sit in the arm chair of the Appellate Court and re-appreciate the entire evidence.

9.In view of the above, this Court does not find any perversity in appreciation of evidence and there is no merit in this revision. Hence, this Criminal Revision Case is liable to



be dismissed and accordingly, dismissed. Consequently, connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar (CO)

//True copy//

Sub Assistant Registrar

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To

1. The Additional District Judge,
(Fast Track Court), Vellore,
Vellore District.
2. The Judicial Magistrate No.II,
Vellore, Vellore District.
3. The Chief Judicial Magistrate,
Vellore.
4. The Public Prosecutor,
Madras High Court, Madras.
5. The Judicial Magistrate No.1,
Vellore.
6. The Judicial Magistrate,
Vellore.
7. The Inspector of Police,
District Crime Branch, Vellore,
Vellore District.

CrI.R.C.No.402 of 2019
and CrI.M.P.No.6379 of 2019

SRA (CO)
GMY (27/01/2022)