



WEB COPY



Crl.RC.No.486 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 02.01.2023

PRONOUNCED ON : 30.01.2023

Coram:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Criminal Revision Case No.486 of 2020

D.Ganaprakasam

... Petitioner

Vs.

State represented by
Inspector of Police
District Crime Branch
Thiruvarur

... Respondent

PRAYER: The Criminal Revision case is filed under under Section 397 read with 401 of the Code of Criminal Procedure, 1973 praying to set aside the order dated 24.07.2019 made in Crl.A.No.18 of 2018 passed by the Principal District cum Sessions Judge, Thiruvarur which upholds the conviction order dated 13.04.2018 made in C.C.No.211 of 2011 passed by the learned Judicial Magistrate, Thiruvarur.

For Petitioner : Mr.R.Bhagawat Krishna

For Respondent : Mr.R.Murthi
Government Advocate (Crl. Side)



Crl.RC.No.486 of 2020

ORDER

WEB COPY

The Criminal Revision cases has been filed seeking to set aside the order dated 24.07.2019 made in Crl.A.No.18 of 2018 passed by the Principal District cum Sessions Judge, Thiruvarur which upholds the conviction order dated 13.04.2018 made in C.C.No.211 of 2011 passed by the learned Judicial Magistrate, Thiruvarur.

2. The respondent police registered the case against the petitioner in Crime No.15 of 2009 for the offence under Section 406, 409, 465, 467, 468, 471, 477A IPC and after completing the investigation, laid the charge sheet before the Judicial Magistrate, Tiruvarur and the same was taken on file in C.C.No.211 of 2011. The learned Magistrate after completing the formalities, framed the charges for the offences under Sections 406, 409, 465, 467, 468, 471, 477(A) IPC. On conclusion of trial, the learned Magistrate not found the guilt of the accused for the offence under Sections 406 and 465 IPC. However, found the guilt of the accused for the offence under Sections 409, 467, 468, 471 and 477(A) IPC and convicted and sentenced him to undergo 2 years simple imprisonment and to pay fine of Rs.1,000/- in default to undergo simple imprisonment for a further period of one



CrI.RC.No.486 of 2020

month for the offence under Section 409 IPC; to undergo 2 years simple imprisonment and to pay fine of Rs.1,000/- in default to undergo simple imprisonment for further period of one month for the offence under Section 467 IPC; to undergo one year simple imprisonment and to pay fine of Rs.1,000/- in default to undergo simple imprisonment for a further period of one month for the offence under Section 468 IPC; to undergo six months simple imprisonment and to pay fine of Rs.1,000/- in default to undergo simple imprisonment for a further period of one month for the offence under Section 471 IPC; to undergo one year simple imprisonment and to pay fine of Rs.1,000/- in default to undergo simple imprisonment for a further period of one month for the offence under Section 477(A) IPC.

3. Aggrieved over the said judgement of conviction and sentence, the accused filed appeal before the Principal District and Sessions Judge, Tiruvarur. The learned Principal District and Sessions Judge taken the appeal on file in CrI.A.No.18 of 2018 and after hearing the arguments and re-appreciating the evidence, dismissed the appeal and confirmed the conviction and sentence passed by the trial Court in C.C.No.211 of 2011 dated 13.04.2018.



WEB COPY

4. Aggrieved over the said Judgment of dismissal of appeal, the appellant therein, has filed the present revision before this Court.

5. The learned counsel for the revision petitioner would submit that the petitioner was not authorised to handle any amount belongs to Nadapur Village Panchayat and the petitioner was working only as a Clerk in the said Village Panchayat. Therefore, in the absence of the President and Wise President of the said Village Panchayat, the petitioner as a clerk has no possibility or opportunity, to misappropriate the funds belongs to the Village Panchayat and falsify the accounts. Further, the absence of adding the President and Wise President of the Village Panchayath as accused in the present case, would vitiate the entire proceedings. He would submit that in order to escape from the clutches of law and illegality committed by the President and Wise President of the Village Panchayat, they purposefully implicated the petitioner as an accused in the present case on collusion. Even the confession statements given by the petitioner admitting the allegations, were obtained under the influence and coercion of the President and Wise President of the Village Panchayat. Therefore, the Judgement of both the Courts below are erroneous. Even the signatures in the alleged forged cheques,



were not proved against the petitioner beyond reasonable doubt. The trial Court convicted the petitioner only on the basis of presumption and conjunction which is unknown to the law. The appellate Court, as a final Court of fact finding, also failed to re-appreciate the evidence and to give its independent findings and simply endorsed the views of the trial Court. Therefore, the Judgment of both the Courts are liable to be set aside. He would further submit that the President of the Village Panchayat, paid the amount which was alleged to have misappropriated by the petitioner which itself crystal clear that only for the crime committed by the President of the Village Panchayat, the petitioner was implicated in the case. The repayment of misappropriated amount itself shows that the President is the one who misappropriate the amount and subsequently, in order to escape from the clutches of law, he repaid the same. Unfortunately, both the Court below have miserably failed to appreciate and re-appreciate the same and erroneously convicted the petitioner which is perverse. Therefore, the Judgement of both the Courts below have to be set aside. The present revision has to be allowed and the petitioner has to be acquitted from the case.

6. The learned Government Advocate (Crl. Side) would submit that the petitioner is the sole accused in C.C.No.211 of 2011 on the file of the Judicial



CrI.RC.No.486 of 2020

Magistrate, Tiruvarur. The allegation against the petitioner is that the petitioner was working as a Clerk in the Nadapur Village Panchyat and during the period from 12.03.2008 to 28.10.2008, the petitioner misappropriated the said Village Panchayat funds to the tune of Rs.4,13,500/- by forging the signatures of the President and Wise President of the said Village Panchayat and also the signature of the then Block Development Officer. Therefore, a complaint was given by the subsequent Block Development Officer against the petitioner and based on the complaint, the respondent police registered the case and after thorough investigation, they laid the charge sheet before the Magistrate. He would further submit that the forged signatures along with the admitted signatures, were also sent to the Forensic Lab and the Lab report revealed that the disputed signatures and the admitted signatures are not one and the same and that the disputed signatures have been forged. He would submit that during the relevant point of time, only the petitioner was working as a Clerk of the said Village Panchayat and except him, no one was dealing with the Register of the Accounts. Therefore, it was clearly proved that the petitioner is the one who forged the signatures of the President and Wise President of the said Village Panchayat. The trial Court rightly appreciated the entire evidence and found the guilt of the petitioner and convicted



and sentenced as stated above. The appellate Court also after re-appreciating the entire evidence, confirmed the conviction and sentence passed by the trial Court.

Therefore, there is no merit in the revision and the revision is liable to be dismissed.

7. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl. Side) and perused the materials available on record.

8. The specific case of the prosecution is that the petitioner was working as a Clerk in the Nadapur Village Panchayat and during the period from 12.03.2008 to 28.10.2008, the petitioner, by forging the signatures of the President and Wise President of the said Village Panchayat in the cheques and by falsification of accounts, misappropriated the Panchayat funds to the tune of Rs.4,13,500/- and he had also forged the signature of the then Block Development Officer in the permission letter and withdrew money from the bank. On coming to know about the same to the knowledge of the President, enquiry was conducted during which, the petitioner admitted the misappropriation of Rs.3,44,000/- from the Account No.14910 and a sum of Rs.69,500/- from the Account No.14913/- and sought time to repay the same. Subsequently, he repaid a sum of Rs.1,41,000/- and the balance



amount was paid by the President of the Village Panchayat. Since, he did not repay the amount of Rs.69,500/- misappropriated from the National Rural Employment Guarantee Scheme (Account No.14913), the subsequent Block Development Officer lodged a complaint on 19.12.2009 and on the basis of his complaint, the case in Crime No.15 of 2009 was registered against the petitioner for the offences under Sections 406, 409, 465, 468, 471 and 477(A) IPC. Though the trial Court, on conclusion of trial acquitted the petitioner for the offence under Sections 406 and 465 IPC, found the petitioner guilty for the offence under Sections 409, 467, 468, 471, Section 477(A) IPC and convicted and sentenced to undergo imprisonment as stated above and the appellate Court also confirmed the judgment of the trial Court. Therefore, the present revision has been filed before this Court.

9. It is not in dispute that the petitioner was working as a Clerk in the Nadapur Village Panchayat during the period of misappropriation of funds viz., between 12.03.2008 to 28.10.2008. According to the prosecution, while the petitioner was working as a Clerk in the said Panchayat, he forged the signatures of the President and Wise President of Nadapur Village Panchayat and also the signature then Block Development Officer and by falsification of accounts,



misappropriated Panchayat funds to the tune of Rs.4,13,500/-. According to the petitioner, he did not forge anyone's signature and not misappropriated any funds of the Village Panchayat. His further contention is that his signatures were forcefully obtained in the confession documents as if, the petitioner admitted the commission of misappropriation of funds.

10. In order to prove the charges framed against the petitioner, on the side of the prosecution, totally 18 witnesses were examined and 49 documents were marked and no material objects were exhibited. On the side of the defence, no oral and documentary evidence were produced.

11. Out of the 18 witnesses, the President of the Nadapur Village Panchayat was examined as P.W.2 and the Wise President of the said Village Panchayat was examined as P.W.6. The Block Development Officer of the said Village during the relevant period, was examined as P.W.14 and they have categorically stated that their signatures were forged by the petitioner and by falsification of accounts, the petitioner misappropriated the Panchayat funds to the tune of Rs.4,13,500/-.

12. It is not the case that the President and the Wise President of the



Village Panchayat withdrew the money from the accounts of the Panchayat and misappropriated the same with the help of the petitioner. Therefore, the contention of the petitioner that in order to escape from the clutches of law, the President and the Wise President implicated the petitioner as an accused in this case and the prosecution also failed to add the President and the Wise President in this case, is not acceptable.

13. In this case, the admitted signatures of the President, Wise President of the Village Panchayat, the then Block Development Officer and the subsequent Block Development Officer along with the disputed signatures, were sent to the Forensic Lab and lab report clearly shows that both the signatures are not one and the same. Though the opinion of the expert is not an exclusive proof, P.W.2/President and P.W.6/Wise President and P.W.14/Block Development Officer have clearly stated that the disputed signatures are not that of them and they never gave permission to the petitioner to withdraw amount from the bank accounts of the Village Panchayath. The petitioner was the only person who was working as a Clerk and no other staff was there in the said Panchyat during the relevant period. Therefore, when an expert opinion says that the disputed



signatures and the admitted signatures are not signed by the same persons and when the petitioner was the custodian of the records and dealing with the day day affairs of the accounts of the Viillage Panchayat during the relevant period, it is for him to explain the same.

14. Though the petitioner submitted that his signatures were obtained by force in the confession documents as if, the petitioner admitted the misappropriation of funds, he did not lodge any complaint that his signatures were obtained by force and the Panchayat funds were misappropriated by the President and the Wise President of the Village Panchayat, till the Block Development Officer lodges a complaint. Only after filing of the complaint and the matter was investigated, he made such a statement that his signatures were forcefully obtained. However, he has not taken any action in the manner known to law. In the absence of the same, the trial Court rightly appreciated the evidence and the role of the petitioner and found the guilt of the petitioner. The petitioner subsequently cannot say that his signatures were obtained by force in the confession documents either at the appellate stage or at the revision stage. The evidence of the prosecution witnesses clearly shows the rights, liabilities and the responsibility of the petitioner. Even he did not put any suggestion before the prosecution witnesses



Crl.RC.No.486 of 2020

that his signatures were obtained by force in the confession documents. Therefore, considering the material evidence, both the trial Court as well as the appellate Court rightly appreciated and re-appreciated the entire evidence and found the guilt of the accused as stated above.

15. It is settled proposition of law that as a revisional Court, this Court cannot exercise the powers of the appellate Court and re-appreciate the entire evidence and substitute its own views in the findings already given by the final Court of fact finding namely the appellate Court. The powers of the revisional Court is very limited. This Court while exercising revision, has to see whether there is any perversity in the appreciation and re-appreciation of evidence and illegality in the the findings of the Courts below.

16. A reading of the entire materials, this Court does not find any perversity in the appreciation and re-appreciation of evidence and illegality in the findings of the Courts below. Therefore, there is no merit in the revision and the revision is liable to be dismissed.

17. Accordingly, this Criminal Revision Case is dismissed.

30.01.2023

ksa-2

12/14



CrI.RC.No.486 of 2020

To

WEB COPY

1. The Principal District cum Sessions Judge, Thiruvarur
2. The Judicial Magistrate, Thiruvarur.
3. Inspector of Police
District Crime Branch
Thiruvarur
4. The Public Prosecutor
High Court, Madras



WEB COPY



CrI.RC.No.486 of 2020

P.VELMURUGAN, J.

Ksa-2

**Pre-Delivery Order in
Criminal Revision Case No.486 of 2020**

30.01.2023