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CrI.R.C.No.826 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.02.2023

CORAM:

**THE HON'BLE Mr. JUSTICE P.VELMURUGAN**

Criminal Revision Case No.826 of 2020

and

CrI.M.P.No.6209 of 2020

Karunakaran

... Petitioner

Versus

State Represented by  
Inspector of Police,  
Udumalpet Police Station,  
Tiruppur District,  
Crime No.49 of 2005.

... Respondent

Criminal Revision Case filed under Sections 397 and 401 of Criminal Procedure Code to set aside the judgment dated 26.8.2020 made in C.A.No.11 of 2015 on the file of the III Additional District and Sessions Judge, Dharapuram confirming the judgment dated 12.01.2014 made in C.C.No.464 of 2008 on the file of the Judicial Magistrate No.I, Udumalpet.

For Petitioner : Mr.V.Ramamurthy

For Respondent : Mr.S.Sugendran  
Additional Public Prosecutor



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## **ORDER**

The Criminal Revision Case is arising out of the judgment dated 26.8.2020 made in C.A.No.11 of 2015 by the learned III Additional District and Sessions Judge, Dharapuram, confirming the judgment dated 12.01.2014 made in C.C.No.464 of 2008 by the learned Judicial Magistrate No.I, Udumalpet.

2. The case of the prosecution is that the petitioner/accused joined in the Government Service as a Village Administrative Officer in the year 1999 and at the time of joining duty he submitted his 10<sup>th</sup> mark sheet. When the same was sent for verification, it was found that the mark sheet produced by the petitioner is a forged and fabricated one. As the petitioner by producing the forged and fake mark sheet joined duty as a Village Administrative Officer and cheated the appointing authority as if the mark sheet produced by him is a genuine one, the accused has committed the offences under Sections 465, 468, 471 and 417 IPC. Hence, P.W.1/*defacto* complainant lodged a complaint/Ex.P1.



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3. On the complaint given by the *de-facto* complainant, the respondent/Police registered a case in Crime No.49 of 2005 against the petitioner for the offences under Sections 465, 468, 471 and 417 IPC. On completion of the investigation, the respondent/Police laid a charge sheet before the learned Judicial Magistrate No.I, Udumalpet and the same was taken on file in C.C.No.464 of 2008 and charges were framed against the petitioner for the aforesaid offences.

4. In order to prove its case before the trial Court, on the side of the prosecution, as many as 9 witnesses were examined as P.W.1 to P.W.9 and 8 documents were marked as Exs.P1 to P8 and no material objects were exhibited.

5. After examining the prosecution witnesses, the incriminating circumstances culled out from the evidence of the prosecution witnesses were put before the accused and he was questioned under Section 313 Cr.P.C., wherein he denied all the incriminating circumstances as false and pleaded not guilty. On the side of the defence, no oral evidence was adduced and no documentary evidence was produced.



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6. The Court below, after hearing the arguments advanced on either side and also considering the materials available on record acquitted the petitioner/accused for the offence under Section 417 IPC and he was found guilty for the offences under Sections 465, 468 and 471 IPC and convicted and sentenced as under:

| <i>Offence</i>  | <i>Sentence</i>                                                                                                                                                     |
|-----------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Section 465 IPC | to undergo rigorous imprisonment for a period of two years and to pay a fine of Rs.1,000/-, in default, to undergo simple imprisonment for a period of one month.   |
| Section 468 IPC | to undergo rigorous imprisonment for a period of three years and to pay a fine of Rs.1,000/-, in default, to undergo simple imprisonment for a period of one month. |
| Section 471 IPC | to undergo rigorous imprisonment for a period of two years.                                                                                                         |

7.Challenging the said conviction and sentences, the petitioner preferred an appeal before the learned Principal District and Sessions Judge, Dharapuram, which was taken on file in Crl.A.No.11 of 2015 and made over to the learned III Additional District and Sessions Judge, Dharapuram. By



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judgment dated 26.8.2020, the learned Additional Sessions Judge dismissed the appeal, confirming the judgment of the trial Court. Aggrieved over the same, the petitioner has filed the present revision before this Court.

8. The learned counsel for the petitioner submitted that according to the prosecution Ex.P6 mark sheet is not a genuine one and the registration No.462896 mentioned in Ex.P6 belongs to one Muthuselvi and she was not examined as a witness by the prosecution. Non-examination of Muthuselvi is fatal to the case of the prosecution. Further, the original certificate of Muthuselvi has not been produced, which creates doubt on the prosecution. As it is claimed by P.W.7 that the mark sheet with registration No.462896 pertains to one Muthuselvi and the same is very well available in the Secondary School Education Department, but the prosecution failed to produce the same to prove its case. P.W.7 stated that she cancelled Ex.P6 mark sheet by making an endorsement on it, however, if it is a bogus certificate, the same cannot be cancelled by simply making an endorsement on it. Before cancelling the said document, there must be a proceedings to that effect. He further submitted that there is a possibility of error in issuing



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the mark sheet Ex.P6 and TMR/Ex.P5 with identical register numbers is not ruled out. The registration numbers found in Ex.P6 and Ex.P5 are one and the same, but TMR Code only differs, however, the same has not been properly explained by the prosecution. The evidence of forensic witness is highly doubtful and it is not a conclusive one. Further, in this case, the documents have been seized by one Vaidyalingam, however, he has not been examined as a witness, which will affect the case of the prosecution. There are discrepancies in the evidence of the prosecution witnesses regarding the alleged forged mark sheet Ex.P6 and the same has not been proved in the manner known to law. Therefore, the prosecution without proving the same, simply cancelled the mark sheet and registered the case against the petitioner is against law. Both the Courts below have failed to appreciate the fact that Ex.P6 was not forged by the petitioner for the purpose of getting employment. In the absence of the same, the judgment of conviction and sentence rendered by the both the Courts below are liable to be set aside and the revision may be allowed.

**9. The learned Additional Public Prosecutor for the respondent**



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submitted that the petitioner joined as a Village Administrative Officer, in the year 1999 by producing 10<sup>th</sup> mark sheet. On verification, it was found that the mark sheet produced by the petitioner is a forged and fake one and the particulars mentioned in the mark sheet belongs to one Muthuselvi. He further submitted that the signature of the petitioner along with the mark sheet were sent to forensic examination. Ex.P4 report given by P.W.6 handwriting expert proved that the mark sheet submitted by the petitioner is a forged one. The prosecution witnesses are official witness and they had no animosity against the petitioner to falsely implicate him. The prosecution has proved its case beyond reasonable doubt. Both the Courts below have rightly scrutinized the evidence and records and come to the right conclusion and convicted the petitioner/accused. As there is no merit in the revision, the same is liable to be dismissed.

**10.** Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondent and also perused the materials available on record.

**11.** In order to substantiate the case of the prosecution the *de-facto*



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complainant was examined as P.W.1 and he has lodged the complaint/Ex.P1.

P.W.3 is the then Deputy Tashildar who had sent the mark sheet of the petitioner to the Sub Collector and subsequently, the same has been sent to the Board of Secondary School Examination for verification. P.W.4 is the witness, who states about the service and salary particulars of the petitioner. P.W.5/Heard Master of Udumalpet Government High School has stated that there was no documents available in the school to prove that the petitioner has appeared for examination in their School in the year 1992. P.W.6/hand writing expert from the Forensic Department has given his report Ex.P4. P.W.7 Senthamilselvi, who verified the mark sheet of the petitioner states that the registration number mentioned in Ex.P6 was allotted to one Muthuselvi and the same was not allotted to the petitioner/Karunakaran and the forged mark sheet of the petitioner has been cancelled and the extract of TMR is marked as Ex.P5. P.W.8 is the witness in whose presence the specific signature of the petitioner was obtained. P.W.9 is the Sub Inspector of Police, who received the complaint and registered a case in Crime No. 49 of 2005 for the offences under Sections 465, 468, 471 and 417 IPC and the



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First Information Report was marked as Ex.P7.

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**12.** The defence taken by the learned counsel for the petitioner is that the prosecution has not examined Muthuselvi as a witness and they have not produced the original mark sheet of Muthuselvi before the Court below. He further added that as to the secretary, who signed Ex.P6 has not been investigated. However, P.W.7 in her evidence has deposed that when she was working in the Schools Examination Council in the year 2004, she received a letter dated 07.04.2004 from the District Revenue Officer, Coimbatore requisiting to verify the veracity of the mark sheet which was sent by him. The mark sheet was verified with TMR Register maintained in the office of the Secondary School Examination and found that the Register No.462896 was not allotted to the petitioner/Karunakaran and it was allotted to one Muthuselvi. To substantiate the evidence of P.W.7, the extract of TMR was marked as Ex.P5. Ex.P5 reveals that Register No.462896 pertains to TMR Code No.A127760 and Certificate Serial No.AA1034714, whereas, Ex.P6 mark sheet produced by the appellant reveals that TMR



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Code number is A382818 and the Certificate Serial number is AA1087975.

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Further, the date of birth of the candidate mentioned in Ex.P5 of TMR Register is 15.06.1975 and in Ex.P6 the date of birth of the appellant was mentioned as 09.06.1956. From the evidence of P.W.7 the prosecution proved that the entries found in the Register No.462896, which is mentioned in Ex.P6/mark sheet produced by the appellant is not related with the other entries such as TMR code etc. and the same belongs to one Muthuselvi. She further deposed that issuing authority of the mark sheet in a State is the Secretary, Board of Secondary School Examination and she was the officer in that institution at the time of verification. Therefore, non examination of Muthuselvi and the Secretary who signed Ex.P6 will not affect the case of the prosecution.

**13.** The further defence taken by the learned counsel for the petitioner is that P.W.7 has not stated any reason for cancelling Ex.P6 and mere making an endorsement "cancelled" will not serve any purpose. It is well known fact that the Board of Secondary School Education is the authority to issue certificate to the students, who appeared in the concerned examination



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and on verification if they found any certificates are fake or forgery they can cancel the same. In the case on hand, after appointment of the petitioner in the Government service, the qualification certificate of the petitioner was sent for verification to the Directorate of Secondary School Education. P.W.7, who is the competent authority, after comparing Ex.P6 with the concerned registers maintained in her office found that the certificate, which was produced by the petitioner/accused, was not issued in favour of the petitioner and it was issued to one Muthuselvi and therefore, she cancelled the same.

**14.** On the combined reading of the entire materials, it would reveal that the alleged mark sheet/Ex.P6 was sent to the Secretary, Board of Secondary School Education for verification. On verification of the said certificate, the Educational Department found that the signature found in Ex.P6 pertaining to the Secretary, Secondary Board of Education, Tamil Nadu not belonged to any of its officials and after comparing the said document it found that the mark sheet produced by the petitioner is a fake



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and forged one. The prosecution proved that Ex.P6 mark sheet produced by the petitioner is a fake one and knowing well that the mark sheet is not a genuine one and only in order to cheat the appointing authority and to get employment he produced the fake mark sheet and that he has committed the charged offences. The trial Court after appreciating the entire materials rightly convicted and sentenced the petitioner as stated above. The appellate Court as a final Court of fact finding re-appreciated the entire evidence and dismissed the appeal.

**15.** The scope of revision is very limited. The Trial Court and the Lower Appellate Court had already appreciated and re-appreciated the entire evidence and also given findings and while exercising the revisional jurisdiction, this Court cannot sit in the arm chair of the Appellate Court and re-appreciate the evidence. However, while deciding the revision, this Court has to see whether there is any perversity or infirmity in the judgments of the Courts below.

**16.** This Court while re-appreciating the entire evidence and the



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judgments of both the Courts below finds that the prosecution proved that Ex.P6/mark sheet produced by the petitioner is a false and forged one. The petitioner knowing well that Ex.P6 is a forged one, he cheated the appointing authority by submitting the same as if it is a genuine one and got employment. Admittedly, the petitioner submitted the mark sheet/Ex.P6 in the year 1999 (i.e. at the time of appointment), but the officials not sent the same immediately for verification, they allowed the petitioner to continue his service till 2004 and subsequently, he was removed from service. Now the petitioner lost his job and he is not able to survive his life.

17. Considering the age of the petitioner and also considering the mitigating circumstances, this Court is of the opinion that the conviction and sentence imposed on the petitioner by the trial Court is liable to be modified as the sentence already undergone by the petitioner was treated as sentence of imprisonment. As the petitioner worked as a Village Administrative Officer without any qualification from 04.03.1999 to 15.09.2004, he is liable to repay the amount which was received from the



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Government by way of salary.

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**18.** With the above directions, this Criminal Revision Case is partly allowed by modifying conviction and sentence imposed on the petitioner as the sentence already undergone by the petitioner was treated as sentence of imprisonment and the petitioner is directed to remit the sum of Rs.3,51,024/- to the Government. Consequently connected miscellaneous petition is closed.

**10.02.2023**

Index: Yes/No  
Speaking Order/Non-Speaking Order  
Neutral Citation Case : Yes/No  
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To

- 1.The III Additional District and Sessions Judge,  
Dharapuram.
- 2.The Judicial Magistrate No.I,  
Udumalpet.
- 3.The Inspector of Police,  
Udumalpet Police Station,  
Tiruppur District.
- 4.The Public Prosecutor,  
High Court, Madras.



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**P.VELMURUGAN, J.**

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and  
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