



Crl.RC. Nos.1288, 1383 & 1278 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : **08.08.2023**

CORAM :

THE HONOURABLE Dr. JUSTICE **G.JAYACHANDRAN**

Crl.RC. Nos.1288, 1383 & 1278 of 2023

1.S.Somasundaram @ Somu (A-8)

2.Malaysian Social Services (A-10)
Rep. by its President, Smt. Vatsala

.. Petitioner in all Cases

Vs.

State by:

Inspector of Police,
Central Bureau of Investigation (CBI),
Anti-Corruption Branch,
Chennai.

..Respondent in all cases

COMMON PRAYER : Criminal Revision Petitions have been filed under sections 397 & 401 of Criminal Procedure Code to set aside the conviction and sentence passed against the Petitioners in Crl.A. Nos.131, 132 & 111 of 2019, dated 25.04.2023 on the file of the IV Additional Sessions, Chennai confirming the judgment in C.C. Nos.24, 25 & 26 of 2010 dated 12.02.2019 passed by the Additional Chief Metropolitan Magistrate, Egmore, Chennai.



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For Petitioners : Mr.S.Santhanakrishnan
For Respondent : Mr.K.Srinivasan,
Special Public Prosecutor (CBI)

COMMON ORDER

These three Revision Petitions are directed against concurrent findings of the Courts below held the Revision Petitioners guilty of offence under Sections 120-B, 419, 468 r/w 471 IPC.

2. This is a case of kidnapping of three minor children for giving adoption to childless couples in foreign. Malaysian Social Services (shortly known as 'MSS') is an organization for taking abandoned children and give them for adoption to foreign couples. They are supposed to follow the procedures laid under the Central Adoption Resource Agency (CARA) guidelines. However to keep their business profitable, they have engaged agents who could kidnap children and create fake documents as if they are abandoned or their biological parents are ready to give adoption.

3. In the said process, Revision Petitioner S.Somasundaram @ Somu who is an associate to the MSS organization, had monitored the kidnapping of hapless children and made fake documents of surrender



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certificate, took the children to pediatrician Doctor to get health certificate and also created affidavit in the non-judicial stamp paper to make the process of adoption in compliance with CARA guidelines.

4. The crime came into light when a Writ Petition filed before this Court alleging that children are illegally given in adoption to foreign parents floating CARA guidelines. A Division Bench of this Court vide order dated 04.09.2007 in a batch of HCP directed CBI, Southern Zone, to investigate whether any fraud committed on the Court by way of impersonation or by creating false and fabricated documents and to file final report. As a consequence, CBI had conducted investigation, filed three final reports wherein, the first petitioner and the 2nd petitioner are arrayed as accused. These three final reports were taken up for trial in C.C. Nos.24 of 2010, 25 of 2010 and 26 of 2010. It is suffice to states that in all the three cases, the petitioners were found guilty and convicted.

5. The modus operandi in all these cases are one and the same. 15 days old infant born to Saidabanu @ Jabin (mother) was named as 'Sundari' and handed over to MSS organization/the second petitioner.



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The first petitioner created forged surrender deed for the child and then the child was given adoption to one Mr.Martin Willet Bridgestock and Mrs.Vicki Le Anne Bridgestock, a citizen of Australia, taking Rs.2,57,024/- as donation. It is a subject matter of C.C. No.24 of 2010.

6. On 18.02.1999, a male child by name Subash, aged about one year nine months playing in front of his house was kidnapped and brought in the house of one Varadarajan, who turned as approver. A surrender certificate was prepared in the name of Noorjahan and the first petitioner Somasundaram @ Somu has signed in the surrender deed as Noorjahan. He prepared fake documents and got necessary orders from the Court by assigning a new name to the child as 'Asraf' and given in adoption to Mr.Mathew Manthe and Ruthe Manthe of Manitowoc, USA. This is a subject matter of CC No. 25 of 2010.

7. Likewise another child by name Sathishkumar born to Kathirvel and Nagarani was kidnapped in the night of 8th March 1999, with a help of approver Varadharajan, fake records were created by this petitioner and given in adoption to a foreigner. This is subject matter of C.C. No.26 of 2010.



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8.The petitioner was party to the scheme of conspiracy to do the illegal act of kidnapping the children and giving them in adoption by changing their identity of birth and name including parentage. The second petitioner organization was able to illegally give in adoption of Indian children to foreigners circumventing the illegal process. The trial Court held these petitioners and sentences them to undergo sentence of 6 months Simple Imprisonment for offences under Sections 120B, 419, 468 r/w 471 IPC and 1 year Simple Imprisonment for offence under Section 468 r/w 471 IPC with Rs.1000/- fine in default 3 weeks Simple Imprisonment each for all the three cases and A10/2nd appellant to pay a fine of Rs.10,000/- each for all the three cases.

9. Being aggrieved by the conviction of the trial Court, appeal been filed before the Sessions Judge and the Session Judge after giving thorough scrutiny of the documents has found no merits in the appeal and confirmed the judgement of the trial Court in Crl.A. Nos.131,132 & 111 of 2019 dated 25.04.2023.

10. The Revision is filed against the concurrent finding of the trial Court, on the ground that the prosecution is launched on an erroneous



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premises, while the alleged crime being done purportedly by the persons engaged by the Chairman of MSS organization but he was not prosecuted and the overt act basically against the other accused and the approver, the first petitioner Somu who is arrayed as A8 in CC No.24 and 25 and A2 in C.C. No.26 of 2010 was only a paid employee under the organization and he is not aware of the alleged fabrication of documents or kidnapping.

11. The learned Special Public Prosecutor appearing for the State submits that the first petitioner herein been revealed to the kidnapping till adoption to foreigners. He had forged the surrender certificates as if the biological parents had surrendered the child to the MSS organization and agreed to give the child for adoption. He has taken photographs of children with fake parents and he has taken children to the Doctor to get health certificate. The affidavits and surrender certificates prepared in the non-judicial stamp papers are purchased from the stamp vendor identified as the person who purchased the stamp papers to create fake documents. For the gravity of the offence, the Courts below had imposed Rigorous Imprisonment for only one year and also ordered to run concurrently and therefore there is no perversity or error apparent in the



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order of the Courts below. By way of the Revision, neither the conviction nor the sentence need be interfered in the light of the gravity of the offence.

12. This Court after going through the records finds that non prosecution of the other accused who are equally contributed to the crime need not be a reason to interfere the conviction of this petitioner who had actively participated in the crime. The records and evidence placed before this Court indicates that due to the intervention of the Division Bench order, the crime which has been prevailing unabatedly had come to the notice of the law enforcing agency and after sustained investigation by the CBI, illegal transportation of children across the border despite stringent guidelines and Rules been going on unabatedly.

13. These three cases which have been tried pursuant to the direction of this Court and the final report filed by CBI is only a tip of the iceberg wherein, mafia involved in child trafficking had abused the legal process by creating fake documents for getting Court orders and made it apparently a genuine adoption.



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14. In this case, prosecution has proved beyond doubt that these three children were given in adoption by the 2nd petitioner's organization were not born to the persons who surrendered the children to this organization. The surrender certificate itself is a forged document which has been created by the first petitioner herein and handwriting expert has identified his specimen signature with the signature found in the surrender certificates and having actively participated in the crime of child trafficking. This Court finds no reason to interfere the concurrent findings of the Courts below for any reason, hence these Revisions Petitions are dismissed.

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Internet : Yes/No

Index: Yes/No

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To

1. The IV Additional Sessions Judge,
Chennai.
2. The Additional Chief Metropolitan Magistrate,
Egmore, Chennai.
3. The Inspector of Police,
Central Bureau of Investigation (CBI),
Anti-Corruption Branch, Chennai.
4. The Public Prosecutor,
High Court of Madras,
Chennai.



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Dr.G.JAYACHANDRAN, J.

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