



Crl.R.C(MD)No.46 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.06.2023

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

**Crl.R.C(MD)No.46 of 2019
and
Crl.MP(MD)No.1316 of 2019**

A.Vasu Balan ... Petitioner/Appellant/1st Accused
Vs.

State by
The Inspector of Police,
District Crime Branch,
Thanjavur.

Crime No.4 of 2005. ... Respondent/Respondent/Complainant

PRAYER: Criminal Revision Case filed under Section 397 r/w 401 of the Code of Criminal Procedure, to call for the records in C.A.No.48 of 2018 on the file of the Principal Sessions Judge, Thanjavur, by partly allowed the appeal against the judgment of conviction passed in C.C.No. 48 of 2010 dated 24.04.2018 on the file of the learned Judicial Magistrate No.I, Thanjavur and allow the appeal.

For Petitioner	: Mr.G.Karnan
For Respondent	: Mr.M.Vaikkam Karunanithi Government Advocate (Crl.Side)

ORDER

This Criminal Revision Petition has been filed to quash the proceedings in C.A.No.48 of 2018 on the file of the Principal Sessions Judge, Thanjavur.



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2.The case of the prosecution is that the petitioner/first accused is the brother of the fourth accused, who was a licensed Stamp Vendor as per License No.9/1993. The second accused is also a licensed Stamp Vendor as per License No.9/1997. The third accused is the friend of the first accused. All the accused persons conspired together to sell counterfeit stamp papers and made an agreement for doing an unlawful act of selling counterfeit stamp papers in order to commission of the act of selling counterfeit stamps. The petitioner used the license of his brother, who is the fourth accused and cheated by pretending to be of Srivijayan and purchased low value stamps from the treasury by using the chitta belongs to A4 and sold high value denomination counterfeit stamp papers to the value of Rs.58,000/- to various persons. The fourth accused intentionally aided to the petitioner. The second accused sold counterfeit stamps to the value of Rs.17,000/- to various persons through the petitioner. On the complaint lodged by the District Registrar (Administration), Thanjavur, the respondent police registered a case in Crime No.4 of 2005 for the offences punishable under Sections 120(B), 419, 258, 259, 260 r/w 420 IPC. After completion of investigation, final report was filed before the learned Judicial Magistrate No.I, Thanjavur, and the same was taken on cognizance in C.C.No.48 of 2010. Since the



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third accused was absent before the trial Court, the trial was conducted only as against the petitioner and the accused No.2 and 4.

3.On the side of the prosecution, they had examined as P.W.1 to P.W.27 and marked Exs.P.1 to P.37. On the side of the petitioner, no one was examined and no document was marked.

4.On perusal of the oral and documentary evidence, the trial Court found the petitioner guilty for the offences punishable under Sections 258, 259, 260, 419 & 420 of IPC and sentenced him to undergo 3 years Simple Imprisonment and imposed a fine of Rs.500/-, in default,, to undergo 1 month Simple Imprisonment for the each offence and directed to serve concurrent sentence.

5.Aggrieved by the same, the petitioner preferred an appeal in C.A.No.48 of 2018 before the Principal Sessions Judge, Thanjavur. The Appellate Court has acquitted the petitioner from other four charges under Sections 258, 259, 260 and 420 of IPC and confirmed the conviction and sentence under Section 419 of IPC. Hence, the present Revision.

6.The learned counsel for the petitioner submitted that except the petitioner all the accused persons were acquitted from all



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charges and the petitioner is also stand in the same footing and as such he is entitled to same acquittal. When the Appellate Court found that the other accused persons not guilty under the other offences, the petitioner alone cannot be convicted for the offence only under Section 419 of IPC. In fact, the prosecution failed to prove that the petitioner had purchased the stamp papers under the license of fourth accused namely, his own brother after 1995. Though, the prosecution has produced the chitta stand in the name of the fourth accused reveals that the petitioner purchased the stamp papers under the license of the fourth accused. No one was examined in order to prove that the petitioner only purchased the stamp papers under the license of the fourth accused. Therefore, the conviction and sentence imposed on the petitioner cannot be sustained and prayed for acquittal.

7.The learned Government Advocate (Crl.Side) submitted that the prosecution categorically proved through Ex.P.36 (Chitta) that the petitioner has purchased stamp papers under the license of fourth accused and committed the offence under Section 419 of IPC. He also sold out stamp papers to various purchasers, who were examined as P.W. 1 to 21 and 24. They categorically deposed that all the accused had purchased stamp papers only from the first accused. Therefore, the



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Appellate Court rightly found him guilty for the offence under Section 419 of IPC and hence, the order of the Appellate Court, does not call for any interference from this Court. Hence, he prayed for dismissal of this petition.

8.Heard the learned counsel appearing on either side and perused the materials available on record.

9.Totally there are 4 accused. It is seen that all the other accused persons were acquitted by the Appellate Court from all the charges except the petitioner. The petitioner is the brother of the fourth accused. The fourth accused obtained license under License No.9/1993. Before the Trial Court, he made submission under Section 313 Cr.P.C that he had joined at Railway service on 12.10.1995 and thereafter, he did not continue as a licensed Stamp Vendor and he had surrendered his license before the District Registrar. However, the fourth accused failed to produce any documentary evidence to show that he surrendered his license. He also failed to substantiate the said statement by way of any oral and documentary evidence. The Appellate Court mainly relied upon Ex.P.37 chitta stands in the name of fourth accused. On perusal of Ex.P.37 reveals that it was stand in the name of the fourth accused and the petitioner had purchased the stamp papers under the license of the



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fourth accused. However, the prosecution has failed to examine anybody from the treasury to prove that the petitioner had purchased stamp papers only under the license of the fourth accused. There is no proof to show that the petitioner had purchased the stamp papers under the license of the fourth accused. Further, the prosecution has failed to prove that the petitioner had sold stamp papers for Rs.1,000/- and 5,000/- without getting permission of the fourth accused. Therefore, the appellate Court ought not have convicted the petitioner for the offence under Section 419 of IPC. There is no material on record perused by the prosecution that the petitioner purchased the stamp papers under the license of the fourth accused from the treasury. Though P.W.1 to P.W.21 and P.W.24 deposed that they had purchased the stamp papers from the petitioner, it does not mean that he only purchased the same under the license of the fourth accused. Admittedly, the petitioner is none other than the brother of the fourth accused. Therefore, they could have jointly conduct the business and the petitioner sold the stamp papers under the license of the fourth accused. Therefore, the prosecution also failed to bring the charges under Section 419 of IPC to him by proper oral and documentary evidence. Hence, the conviction and sentence imposed by the Appellate Court for the offence under Section 419 of IPC cannot be sustained as



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against the petitioner.

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10. Accordingly, the Criminal Revision Case is allowed and the Judgment passed by the learned Principal Sessions Judge, Thanjavur, dated 24.10.2018 in C.A.No.48 of 2018, partly allowing the Judgment passed by the learned Judicial Magistrate No.I, Thanjavur, in C.C.No.48 of 2010, dated 24.04.2018 is set aside. The petitioner/accused is acquitted from the charge under Section 419 of IPC. Bail bond if any executed by the petitioner/accused shall stand cancelled and fine amount if paid is ordered to be refunded to the appellant/accused forthwith. Consequently, the connected miscellaneous petition is closed.

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NCC : Yes/No
Index : Yes/No
Internet : Yes
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G.K.ILANTHIRAIYAN, J.

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To

- 1.The Principal Sessions Judge,
Thanjavur.
- 2.The Inspector of Police,
District Crime Branch,
Thanjavur.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Order made in
Crl.R.C(MD)No.46 of 2019
and
Crl.MP(MD)No.1316 of 2019

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