



Crl.R.C.(MD).No.408 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 24.04.2023

Pronounced on : 12.05.2023

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

Crl.R.C.(MD)No.408 of 2023

1.Seeniselvaraj

2.Lakshmana Kumar

... Petitioners/Petitioners/Appellants

Vs.

State represented by
The Inspector of Police,
Thattaparai Police Station,
Thoothukudi District.
(Crime No.112 of 2021)

... Respondent/Respondent/Complainant

PRAYER: Criminal Revision Petition has been filed under Section 397 and 401 of Criminal Procedure Code, to call for the entire records relating to the order of the Principal Sessions Judge, Thoothukudi dated 19.01.2023 in Cr.M.P.No.7371 of 2022 in C.A.No.126 of 2022 and set aside the same.

For Petitioners : Mr.S.Ramasamy

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



Crl.R.C.(MD).No.408 of 2023

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ORDER

This Criminal Revision is directed against the order passed in Cr.M.P.No. 7371 of 2022 in C.A.No.126 of 2022 dated 19.01.2023 on the file of the Principal Sessions Court, Thoothukudi, in dismissing the petition filed under Section 389(1) of the Code of Criminal Procedure.

2. The case of the prosecution is that the first petitioner/first accused is the father of the second petitioner/second accused, that the second petitioner has studied M.E. Computer Science and working as Assistant Professor in a private Engineering College, that on 28.12.2020, online application was preferred by the first petitioner through E-service centre seeking to include his name as joint pattadar in respect of the land Survey No.53/2, Muthusamypuram Village, Thoothukudi District in patta No.192, that the first petitioner in support of the said application had submitted registered partition deed, death certificate of the first petitioner's maternal uncle and death certificate of Seeniammal and also web copy of an order of Madurai Bench of Madras High Court in W.P.(MD)No.12299 of 2020 dated 14.12.2020, wherein, it has been stated that the High Court had



Crl.R.C.(MD).No.408 of 2023

directed L.W.4 to the inclusion of the first petitioner in the patta within four weeks, that the name of the first petitioner had been included as joint pattadar by proceedings dated 31.12.2020, that subsequently, the first petitioner had settled the said property in favour of his son/second petitioner and had preferred online application for mutation of patta in his name and subsequently, the patta was transferred in favour of the second petitioner, that while Tahsildar and Zonal Deputy Tahsildar had visited Madurai Bench of Madras High Court, they found that the order alleged to have been produced by the first petitioner is fabricated document and forged one and that on the basis of the complaint given, FIR came to be registered in Crime No.112 of 2021 on the file of the respondent police for the offences under Sections 120(B), 465, 466, 467, 468, 471 and 420 IPC and Section 65 of Information Technology Act.

3. The respondent police, after completing the investigation, has filed the final report against the petitioners and the same was taken on file in C.C.No.634 of 2022 on the file of the Special Court for Land Grabbing Cases, Thoothukudi.

4. During trial, the prosecution has examined 17 witnesses as P.W.1 to P.W.17 and exhibited 56 documents as Ex.P.1 to Ex.P.56. The defence have



Crl.R.C.(MD).No.408 of 2023

examined 1 witness as D.W.1 and exhibited 20 documents as Ex.D.1 to Ex.D.20.

4 documents have been exhibited as Court documents as Ex.X.1 to Ex.X.4.

5. The learned trial Judge, upon considering the evidence both oral and documentary and on hearing the arguments of both the sides, has passed the judgment dated 08.12.2022 convicting the petitioners for the offences under Sections 465, 468, 471 and 120(B) IPC and sentenced them to undergo 2 years Simple Imprisonment for the offence under Section 465 IPC, sentenced them to undergo 2 years Simple Imprisonment and to pay a fine of Rs.10,000/- each, in default, to undergo 1 month Simple Imprisonment for the offence under Section 468 IPC, sentenced them to undergo 1 year Simple Imprisonment for the offence under Section 471 IPC and sentenced them to undergo 1 year Simple Imprisonment for the offence under Section 120(B) IPC and the above sentences were ordered to be run consecutively. Aggrieved by the judgment of conviction and sentence, the petitioners have preferred an appeal in C.A.No.126 of 2022 and application in Crl.M.P.No.7371 of 2022 for suspension of sentence.

6. The learned Principal Sessions Judge, Thoothukudi, after enquiry, has passed the impugned order dated 19.01.2023 dismissing the petition for



Crl.R.C.(MD).No.408 of 2023

suspension of sentence. Aggrieved by the dismissal of the said petition, both the accused have preferred the present revision.

7. The learned counsel appearing for the petitioners would submit that the trial Court has failed to consider that the evidence of P.W.4-Tahsildar and P.W.17-Investigating Officer is *prima facie* false as the alleged screenshot of the forged order of this Court sent by the second petitioner to P.W.4-Tahsildar is unbelievable, that the trial Court has also failed to consider that after taking of the investigation by P.W.17, he only fabricated the sending of screenshot of the alleged forged order of this Court and whatsapp messages to P.W.4, that judicial notification was issued by the learned Chief Judicial Magistrate, Thoothukudi, dated 08.02.2022 that all the cases falls under the jurisdiction of Thattaparai Police Station transferred to Judicial Magistrate, Ottapidaram, but the trial Court convicted the petitioners in urgent manner without following the notification as well as the law, that the second petitioner is in judicial custody from the date of surrender, that the first petitioner is in prison from the date of conviction, that the first petitioner is suffering from heart ailments even today and that therefore, the petitioners may be granted relief of suspension of sentence.



Crl.R.C.(MD).No.408 of 2023

8. As rightly contended by the learned Government Advocate (Criminal Side), the learned Principal Sessions Judge, by taking note of the gravity of the offences allegedly committed by the petitioners and by observing that the possibility of delay in disposing of the appeal and the petitioners are having arguable points may not be a sufficient ground to grant suspension of sentence, has dismissed the petition.

9. It is pertinent to note that the learned Judicial Magistrate has awarded 6 years imprisonment. As rightly pointed out by the learned Government Advocate (Criminal Side), the charges allegedly proved against the petitioners are very serious as they had created forged and fabricated High Court order and on that basis, they have applied for inclusion of their name in the patta and obtained orders.

10. Considering the nature and gravity of the offence allegedly proved and also taking note of the punishment imposed by the trial Court and the period of incarceration, this Court is not inclined to grant suspension of sentence to the petitioners at this point of time and as such, this Court is not inclined interfere with the dismissal order passed by the appellate Court.



Crl.R.C.(MD).No.408 of 2023

12. In the result, this Criminal Revision is dismissed.

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12.05.2023

NCC : Yes/No
Index : Yes/No
Internet: Yes/No
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To

- 1.The Inspector of Police,
Thattaparai Police Station,
Thoothukudi District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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Crl.R.C.(MD).No.408 of 2023

K.MURALI SHANKAR, J.

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Pre-Delivery order made in
Crl.R.C.(MD)No.408 of 2023

Dated : 12.05.2023