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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 27/02/2023

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The Hon'ble Mr.Justice **G.ILANGO VAN**

Cr1.RC(MD)Nos.638 of 2021 and 434 of 2022

(1)Cr1.RC(MD)No.638 of 2021:-

Kaliyaperumal : Petitioner/Appellant/A3

Vs.

The Inspector of Police,
District Crime Branch,
Thanjavur.

(Crime No.13 of 2000) : Respondent/Complainant/
Complainant

PRAYER:- This Criminal Revision has been filed under section 397 r/w 401 of the Criminal Procedure Code, to call for the records pertaining to the order, dated 30/04/2021 passed in C.A No.126 of 2018 on the file of the II Additional District and Sessions Judge, Thanjavur, partly allowing the order passed by the Judicial Magistrate No.1, Thanjavur, in CC No.135 of 2022, dated 24/09/2018 and set aside the same and pass such further or other orders.



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For Petitioner : Mr.R.Alagumani
For Respondent : Mr.K.Sakthi Kumar
Government Advocate
(Criminal side)

(2)Cr1.RC(MD)No.434 of 2022:-

Ramadoss : Petitioner/Appellant/A1

Vs.

State rep. by Inspector of Police,
District Crime Branch Police Station,
Thanjavur District.
(Crime No.13 of 2000)

PRAYER:- This Criminal Revision has been filed under section 397 r/w 401 of the Criminal Procedure Code, to call for the records and set aside the judgment passed in CC No.135 of 2002 on the file of the Judicial Magistrate No.1, Thanjavur, dated 24/09/2018, which was confirmed by the Additional District Sessions-cum-Fast Track Court in Thanajuavur in C.A No.127 of 2018, dated 30/04/2021 and acquit the petitioner by allowing this revision.



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For Petitioner : Mrs.P.Kalaiyarasi Bharathi
For Respondent : Mr.K.Sakthi Kumar
Government Advocate
(Criminal side)

COMMON ORDER

These Criminal Revision has been filed seeking in order to set aside the judgment of conviction passed by the courts below.

2.The facts in brief:-

The complainant filed a complaint under section 156(3) Cr.P.C before the Judicial Magistrate No.2, Trichy with the following allegations:-

His father namely Maruthaipillai was owning property in TS No.3018, he executed a registered Will, dated 26/06/1996 in favour of his wife, son and himself. After the death of his father, they became the owners of the property and enjoying the same. The first accused demanded the above said property stating that it may be plotted into house sites, so that it can be sold. But the complainant refused and intended to sell the same for



higher price. On 25/06/1975, a document was created as if Maruthaipillai leased out the property and the above said fake document was created with the help of A2 to A4. They also forged the signature of his father. In the above said document, A2 to A4 signed as witnesses and later, a suit in O.S No.592 of 1999 was filed by A1 before the District Munsif Court, Thanjavur. Stating that all the accused persons have committed the offences punishable under sections 465, 471 and 109 IPC, the complaint was filed and it was forwarded to DCB for enquiry and investigation, as the case may be, by order, dated 23/11/2020. Later, the investigation was undertaken and the final report was filed making allegations as stated above, charge sheeting the accused persons for the offences under sections 465, 468, 471 r/w 34 IPC.

3.After appearance of the accused and after completing the formalities of charge framing due to pleading of not guilt by the accused, the trial started.

4.On the side of the prosecution, 13 witnesses examined, 18 documents marked. On the side of the accused, none was examined and no document was marked.



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5. At the conclusion of the trial process, A1 and A3 were convicted under section 465 r/w 34 IPC and sentenced them to undergo 2 years simple imprisonment and imposed a fine of Rs.500/- each with default clause; for the offence under section 468 r/w 34 IPC, sentenced them to undergo 2 years simple imprisonment and imposed a fine of Rs.500/- with default clause; for the offence under section 341 r/w 34 IPC, sentenced them to undergo 2 years simple imprisonment and imposed a fine of Rs.500/- with default clause. Pending trial, A2 and A4 died, the charges framed against them abated.

6. Against the above said judgment of conviction and sentence, A1 filed C.A No.127 of 2018 before II Additional District and Sessions Judge, Thanjavur and that came to be dismissed. In respect of the appeal filed by A3 in C.A No.126 of 2018, it was partly allowed and the conviction for the offences under sections 465, 468 r/w 34 IPC was confirmed. So far as the offence under section 471 r/w 34 IPC is concerned, he was acquitted. Some spelling mistakes occur in the judgement of the trial court.



7. Against the concurrent findings, A1 filed CrI.RC(MD)No.434 of 2022 and so far as A3 is concerned, he filed CrI.RC(MD)No.638 of 2021. Both were heard together and a common judgment is passed.

8. At the time of hearing both the revisions, the learned counsel appearing for the petitioner would submit that the conviction may be confirmed, but the sentence period may be reduced, considering the age of both the revision petitioners.

9. Now according to him, the first accused is aged about 65 years, when the above said criminal revision was filed. His exact present age is not available. But so far as A3 is concerned, it has been stated that he is aged about 74 years on the date of filing of the criminal revision. The actual date is not known.

10. So the question, which arises for consideration is whether any modification can be entertained.



11. On going through the entire records, findings of the trial court as well as the appellate court, it has been clearly established on the side of the prosecution to the effect that the document has been forged for the purpose of claiming some legal right. So, I find absolutely no ground is made out even as per the argument advanced by the petitioners that the conviction is liable to be confirmed in both the matters.

12. Since only a limited request has been made, I am not discussing about the manner of commission of the offence and other circumstances. The only mitigating circumstance that is available in favour of the petitioners is their age.

13. A report has been called from the trial court as well as from the appellate court. Only the appellate court namely the II Additional District and Sessions Judge, Trichy, sent a reply stating that the first accused was in custody for **22** days from 06/10/2005 till 27/10/2005 subsequent to the judgement of the trial court. After disposal of the appeal by the appellate court, he was remanded back to the custody on 17/06/2022



and till 27/09/2022, he was in custody. Totally he was in custody for **124 days**. So far as A3 is concerned, he was arrested on 01/04/2022 and till 21/07/2022, he was in custody for **111 days**. So it appears that for more than 3 months, they were in custody.

14. So considering the age of the petitioners, the sentence, which was passed by the trial court is modified to the period already undergone. In respect of the fine amount, it is confirmed.

15. With the above said, these criminal revisions are partly allowed as indicated above.

27/02/2023

Index: Yes/No
Internet: Yes/No

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To,

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- 1.The Additional District and Sessions Judge,
Thanjavur.
- 2.The Judicial Magistrate No.1,
Thanjavur.
- 3.The Inspector of Police,
District Crime Branch,
Thanjavur.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGOVAN, J

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