



Crl.R.C(MD)No.73 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.03.2023

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.R.C(MD)No.73 of 2018

Karthikeyan

... Petitioner/Appellant/Sole Accused

Vs.

State rep by
The Sub Inspector of Police,
District Crime Branch,
Pudukottai.
(Crime No.15 of 2009)

...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 of the learned Sessions Judge, Mahila Neethimandram, Pudukkottai, in Crl.A.No.6 of 2017 by its judgment dated 16.11.2017, by which confirming the conviction and sentence imposed by the learned Judicial Magistrate, Alangudi, in C.C.No.220 of 2010 by the judgment dated 29.09.2016.

For Petitioner : Mr.D.Ramesh Kumar

For Respondent : Mr.K.Sanjai Gandhi
Government Advocate (Criminal Side)



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ORDER

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The revision has been filed to set aside the Judgment passed in Crl.A.No.6 of 2017, dated 16.11.2017, on the file of the learned Sessions Judge, Mahila Neethimandram, Pudukkottai, arising from C.C.No.220 of 2010, dated 29.09.2016 on the file of the learned Judicial Magistrate, Alangudi, and acquit the petitioner from all the charges levelled against him.

2.The case of the prosecution is that the petitioner herein had given a false assurance to get a job in abroad and collected a sum of Rs.1,10,000/- from 6 victims through bank transactions. Thereafter, the petitioner failed to get any job in abroad as assured by him. In order to repay the said amount, he also issued the cheques. The said cheques were presented for collection and the same were also returned as 'dishonoured'. Hence, the victims lodged a complaint. On receipt of said complaint, the respondent police registered a case in Crime No.15 of 2019 for the offence under Sections 406, 420 and 506 (i) of IPC. After completion of the investigation, they filed a final report before the learned Judicial Magistrate, Alangudi, and the same has been taken cognizance in C.C.No.220 of 2010.



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3.In order to prove the case, the prosecution had examined P.W.1 to P.W.13 and marked Exs.P.1 to P.22 and on the side of the accused, no one was examined and no exhibit was marked.

4.On perusal of the oral and documentary evidence, the trial Court found the petitioner guilty for the offences under Sections 406 & 420 of I.P.C. For the offence under Section 406 IPC, he was sentenced to undergo 6 months Rigorous Imprisonment and for the offence under Section 420 IPC, he was sentenced to undergo 1 year Rigorous Imprisonment and imposed a fine of Rs.2,000/-, in default to pay the fine, shall undergo 1 month Simple Imprisonment. Aggrieved by the same, the petitioner preferred an appeal in C.A.No.6 of 2017 on the file of the learned Sessions Judge, Mahila Neethimandram, Pudukkottai, and the Appellate Court also confirmed the conviction and sentence imposed by the trial Court and dismissed the appeal. Hence, the present revision.

5.The learned counsel appearing for the petitioner would submit that now the petitioner is willing to settle the amount and prayed for suspend the sentence alone.

6.It is seen that the petitioner given a false assurance to get a job to the victims in abroad and collected a sum of Rs.6,60,000/- to send them to abroad for suitable employment. After receivign the



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said amount, the petitioner failed to send them to abroad and also refused to return the money, which was collected by him. On several demands, the petitioner issued cheques to the victims. All the cheques were presented for collection. However, no cheque was honoured in favour of any one of the victim. Therefore, they lodged a complaint. All the victims including the Bank Manager were also examined as P.W.1 to P.W.10. They categorically deposed that the petitioner received money through bank and they were also marked as Ex.P1 to Ex.P.13. In fact, with regard to return of cheque, Return Memo of the Bank also marked as Ex.P.19. Therefore, the prosecution proved its case beyond any doubt and the Courts below rightly convicted the petitioner for the offences under Sections 406 & 420 of I.P.C.

7.However, if the petitioner pay the entire amount, which received from the victims, this Court is inclined to set aside the sentence alone.

8.In view of the above, the conviction passed by the trial Court for the offences under Sections 406 & 420 of I.P.C, is hereby confirmed. In so far as the sentence for the offence under Section 406 & 420 of I.P.C, is concerned, it is modified as compensation. Hence, the petitioner is directed to pay a sum of Rs.6,60,000/-



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(Rupees Sixty Lakhs and Sixty Thousand Only) by way of Demand Draft to the victims directly and produce the receipt before the respondent on or before 24.04.2023, failing which, the sentence imposed by the Court below is hereby restored and the respondent is directed to secure the petitioner and send him for serving remaining period of sentence.

9. Accordingly, this Criminal Revision Case is partly allowed.

23.03.2023

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

dss

To

- 1.The Sessions Judge, Mahila Neethimandram,
Pudukkottai.
- 2.The learned Judicial Magistrate,
Alangudi.
- 3.The Sub Inspector of Police,
District Crime Branch,
Pudukottai.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Order made in
Crl.R.C(MD)No.73 of 2018

23.03.2023