



Crl.R.C.Nos.193 & 207 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 06.02.2024
PRONOUNCED ON : 3.09.2024

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.Nos.193 & 207 of 2024 and
Crl.M.P.Nos.1639 & 1796 of 2024

Crl.R.C.No.193 of 2024:

Manoharan

... Petitioner

Vs.

The State Rep. by,
The Inspector of Police,
CCB, Wing 5,
Veppery, Chennai-07.

... Respondent

Crl.R.C.No.207 of 2024:

Manoharan

... Petitioner

Vs.

The State Rep. by,
The Inspector of Police,
CCB, Wing 5,
Veppery, Chennai-07.

... Respondent



Crl.R.C.Nos.193 & 207 of 2024

PRAYER in Crl.R.C.No.193 of 2024: Criminal Revision Petition filed under Sections 397 r/w 401 of Criminal Procedure Code, to call for the records in Crl.M.P.No.51860 of 2023 dated 07.12.2023 in C.C.No.3484 of 2020 on the file of learned Metropolitan Magistrate, Exclusive Trial of CCB & CBCID Metro Cases, Veppery, Chennai-8 and to set aside the same.

PRAYER in Crl.R.C.No.207 of 2024: Criminal Revision Petition filed under Sections 397 r/w 401 of Criminal Procedure Code, to call for the records in Crl.M.P.No.24070 of 2023, dated 07.12.2023 in C.C.No.3484 of 2020 on the file of learned Metropolitan Magistrate, Exclusive Trial of CCB & CBCID Metro Cases Veppery, Chennai-8 and to set aside the same.

For Petitioner
in both revisions : Mr.R.Ganesan

For Respondent
in both revisions : Mr.C.E.Pratap,
Government Advocate (Crl. Side)

COMMON ORDER

Crl.R.C.No.207 of 2024 has been filed to set aside the impugned order, dated 07.12.2023 in Crl.M.P.No.24070 of 2023 in C.C.No.3484 of 2020 passed by the learned Metropolitan Magistrate for exclusive trial of CCB Cases (relating to cheating cases in Chennai) and CBCID Metro Cases, Egmore, Chennai.



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2.Crl.R.C.No.193 of 2024 has been filed to set aside the impugned order, dated 07.12.2023 in Crl.M.P.No.51860 of 2023 in C.C.No.3484 of 2020 passed by the learned Metropolitan Magistrate for exclusive trial of CCB Cases (relating to cheating cases in Chennai) and CBCID Metro Cases, Egmore, Chennai.

3.Crl.M.P.No.24070 of 2023 in C.C.No.3484 of 2020 filed by the petitioner/A5 under Section 239 Cr.P.C seeking discharge from the charges under Sections 120(B), 465, 468, 471, 472, 420 r/w 34 of IPC in C.C.No.3484 of 2020. Crl.M.P.No.51860 of 2023 in C.C.No.1311 of 2020 filed under Section 25 r/w 301 & 302 of Cr.P.C questioning the counter affidavit filed by the Holding Investigating Officer and not filed by the Assistant Public Prosecutor.

4.Since both the criminal revision cases arise out of dismissal of common impugned order, dated 07.12.2023 and the petitioner and the respondent are one and the same, this Court disposes both the revisions by way of common order.



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5.The brief facts of the case in C.C.No.3484 of 2020 is that Ms.G.Vijayalakshmi/LW1, Deputy Planner of Chennai Metropolitan Development Authority, Egmore, Chennai (CMDA) lodged a complaint to the respondent Police and a case in Crime No.192 of 2015 registered against seven accused for offence under Sections 120(B), 465, 468, 471, 472, 420 r/w 34 of IPC. The petitioner is A5 of M/s.Muthukumaran Educational Trust, K.K.Nagar West, Chennai/A1 (In short 'Trust'). The Trust was formed by one A.N.Radhakrishnan/A2, Founder of the Trust and Gomathi/A3, Managing Trustee and other Trustees viz., Kothandaram and Meenakshiammal. The Trust to construct Medical College approached the Medical Council of India (MCI) and submitted forged documents as though building permission was obtained from the CMDA. A2 to A7 conspired together and created forged documents. One Rajasekaran, Executive Engineer's signature and seal were forged as though signed by one Rajasekaran, retired Executive Engineer, Anna University. This documents projected as though it has been verified and approved by CMDA Officials forging the signature of the Member Secretary. The forged documents contained Approval No.82 of 2007 Letter C1-4060/2004, dated 05.11.2007.



Without getting planning and building permission from CMDA, the signature, seal of CMDA officials forged. The petitioner/A5, Karunanithi/A6 and Natarajan/A7 knowing that the documents are forged had presented the same to Indian Bank, Thousand Lights Branch, Chennai and obtained loan.

6.On the complaint of LW1, the respondent Police registered a case, conducted investigation and filed charge sheet against the accused listing witnesses and documents. The petitioner filed the above said discharge petition and filed a petition questioning the counter affidavit filed by the Holding Investigating Officer and not by the Assistant Public Prosecutor. The Trial Court *vide* impugned common order, dated 07.12.2023 dismissed both the petitions. Against which the present criminal revision cases.

7.The grounds raised by the learned counsel for the petitioner is that in this case, the Investigating Officer not filed the counter and it is the Holding Inspector one Ms.Chithra filed the counter not signed by the



Assistant Public Prosecutor. Hence, it cannot be considered as counter affidavit and the objections filed is without any authority of law. He further submitted that the Trial Court dismissing the discharge petition as matter of routine giving a finding that the grounds raised can be decided only after full-fledged trial is not proper. The Trial Court failed to consider that out of the seven accused except the petitioner/A5 and A3/Gomathi, all other accused are no more. The charges against A2, A4, A6 and A7 stands abated. The Trial Court failed to consider that the petitioner/A5 and A6/Karunanithi were employees of the Trust/A1. The petitioner/A5 is the paid servant of A1 to A4 in capacity of Manager.

8.The learned counsel further submitted that the Investigating Officer not conducted the investigation as per the procedure laid down. The investigation in respect of connivance of CMDA with MIC not carried out. In fact similar anonymous petition sent to the Central Bureau of Investigation (CBI) against the Trust/A1. The CBI conducted preliminary enquiry and gave opinion that the College and Trust/A1 suppressed the original facts and furnished false and fake plan approvals purported to have been issued by CMDA authorities to the MCI officials for obtaining



approval, then only LW1 gave a complaint to the respondent Police. LW1 is not a expert to depose in respect of the documents submitted by A1 to A4.

The other witnesses who played active role in commission of offence are cited as witnesses. The Investigating Officer failed to consider the role played by similarly placed persons and listed them as witnesses without following the procedure contemplated under Section 306 Cr.P.C. The Investigating Officer had taken the role of a Judge and made the other similarly placed person as witnesses.

9.He further submitted that the entire case rest on preparation of forged documents by forging the signature of CMDA Officials and seals. The specimen signatures of the witnesses not obtained and documents not forwarded to the forensic examination. In a case of forgery, forensic report is essential, based on which, the case can proceed. In this case, admittedly, no document forwarded to the forensic examination and no report obtained. In such circumstances, the case against the petitioner is not proper. In support of his submissions with regard to filing of counter affidavit by the Holding Inspector and for selective prosecution, the learned counsel for the petitioner relied on the decisions of this Court in the cases of “*Sathyavani*



Ponrani Vs. Samuel Raj and Ors. reported in **2010 (4) CTC 833** and

A.V.Bellarmin and Ors. Vs. Santhakumaran Nair reported in **2015 (4)**

MLJ (Crl) 436". Making the above submissions and relying on the decisions, the learned counsel for the petitioner prays for setting aside the impugned order.

10.The learned Government Advocate (Crl. Side) appearing for the respondent Police vehemently opposed the petitioner's submissions and submitted that the petitioner/A5 is the Manager of the Trust/A1. As Manager, he plays pivotal role in the Trust, Administration of the Trust, educational institutions, coordinates with various officials for getting permission and approval and submitting documents and report as and when it is required. In this case, the Trust/A1 is said to have approached the Medical Council of India, obtained preliminary approval, one of the document submitted forged building and plan approval of CMDA. Further using these forged documents obtained loan from the Bank. Later, an anonymous complaint received, on verification, the signature and seal found in the building and planning permission as though it has been approved by the CMDA found forged. On the complaint, MCI caused enquiry with



CMDA officials, confirmed the documents submitted are forged. Similarly, the CBI also received the similar complaint. After preliminary enquiry, the CBI found that the College and Trust/A1 suppressed the original facts and furnished false and fake plan approvals purported to have been issued by CMDA authorities to the MCI officials for obtaining approval and directed LW1 to take appropriate action. Pursuant to that, a complaint was lodged by LW1 to the respondent Police. On receipt of complaint, FIR in Crime No.192 of 2015 registered against the accused for offence under Sections 120(B), 465, 468, 471, 472, 420 r/w 34 of IPC registered, investigation conducted and documents collected. During investigation, it is confirmed that the Trust/A1 made application for starting medical college and documents submitted are proved to be forged on the evidence of CMDA officials. The Trust/A1 officials also confirmed the active role played by the petitioner/A5 with other accused.

11.It is further submitted that it is not in all cases forged documents to be forwarded for forensic examination. It is for the Court to decide whether the expert evidence under Section 45 of the Indian Evidence Act required. With the other material facts as per Section 73 of the Indian Evidence Act,



the Court can compare/study the signatures, writings or seals. Added to it, the offence is not of forgery alone, it includes conspiracy and common intention. In a case of conspiracy, there cannot be a direct evidence and it has to be inferred and seen on the totality of the case which can be proved only at the time of trial. For the other, counter affidavit filed by the Holding Inspector is not sustainable and proper. The Assistant Public Prosecutor acknowledged the counter affidavit and he only filed the counter before the Presiding Officer. Added to it, the Assistant Public Prosecutor not disputed the counter affidavit. The Trial Court considered the petitioner's grounds for discharge along with charge sheet and materials filed and found *prima facie* case made out. The petitioner might feel he has got a good case, but at this stage it cannot be considered. The case can be thrown out at the threshold. Hence, he prays for dismissal of the revisions.

12.This Court considered the rival submissions and perused the materials on record.

13.The contention of the petitioner questioning the counter affidavit filed by the Holding Investigating Officer is not sustainable and the same is



rejected for the reason that the Assistant Public Prosecutor acknowledged the counter affidavit and he only filed the same before the Presiding Officer.

The Trial Court not considered the counter filed by the Holding Investigating Officer but had proceeded to hear the petitioner and the Assistant Public Prosecutor and considering the charge sheet and materials filed had decided the discharge petition. Hence, the challenge by the petitioner in Crl.R.C.No.193 of 2024 is rejected.

14.As regards dismissal of discharge petition in Crl.M.P.No.24070 of 2023 which is challenged in Crl.R.C.No.207 of 2024 is concerned, the petitioner is charged for offence under Sections 120(B), 465, 468, 471, 472, 420 r/w 34 of IPC. The materials for the charge of conspiracy, evidence may not be apparent, it is to be seen and inferred taking the case as a whole. The beneficiary is the Trust/A1 and the petitioner/A5 is its Manager. The petitioner had submitted the forged documents. Knowing the same, the petitioner approached the Bank, availed loan for the Trust. The statements of MCI, CMDA and Bank officials recorded and charge sheet filed before



the Trial Court.

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15.It is not a Rule that in all cases of forgery, the documents have to be sent to forensic examination. On the statements and materials submitted, the Trial Court *prima facie* found case made out against the petitioner and cognizance taken. In the discharge petition, the points raised by the petitioner considered along with the statements and documents submitted. At this stage, the Trial Court is required to find out whether a *prima faice* case is made out against the accused or not and not to see whether it would lead to conviction. Thus, the Trial Court on analysis of statements and materials passed a detailed order. Hence, no interference of this Court is called for.

16.The issue decided in the decision relied upon by the learned counsel for the petitioner “*Sathyavani Ponrani Vs. Samuel Raj and Ors.* reported in **2010 (4) CTC 833**” is whether a victim is entitled to be heard and take part in a criminal proceeding or not. The issue decided in *A.V.Bellarmin and Ors. Vs. Santhakumaran Nair* reported in **2015 (4) MLJ (Crl) 436**” is that the Authorized office had conducted an enquiry, get



satisfied with the offence committed and found that Sections 180 and 180-B of the Railways Act not followed. Both the decisions are not applicable to the facts and circumstances of the present case.

17.In view of the above, this Court does not find any illegality or infirmity in the impugned common order, dated 07.12.2023 passed by the learned Metropolitan Magistrate for exclusive trial of CCB Cases (relating to cheating cases in Chennai) and CBCID Metro Cases, Egmore, Chennai and the same is hereby confirmed. Accordingly, both the criminal revision cases are dismissed. Consequently, connected criminal miscellaneous petitions are closed.

3.09.2024

Neutral Citation: Yes/No
Speaking Order/Non Speaking Order
Index: Yes/No

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To

- 1.The Metropolitan Magistrate for exclusive trial of CCB Cases
(relating to cheating cases in Chennai) and CBCID Metro Cases,
Egmore, Chennai.
- 2.The Inspector of Police,
CCB, Wing 5,
Veppery, Chennai-07.



Crl.R.C.Nos.193 & 207 of 2024

3. The Public Prosecutor,
High Court, Madras.



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CrI.R.C.Nos.193 & 207 of 2024

M.NIRMAL KUMAR, J.

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PRE-DELIVERY ORDERS IN
CrI.R.C.Nos.193 & 207 of 2024

3.09.2024