IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.06.2024

CORAM

THE HONOURABLE MRS. JUSTICE **R.HEMALATHA**

Crl.R.C. No.558 of 2018 &
Crl.M.P. No. 6608 of 2018

Jansi Rani ...Petitioner

Vs.

State represented by
Inspector of Police
Crime Branch CID,
Chennai ...Respondent

Prayer: Criminal Revision Case filed under Section 397 & 401 Cr.P.C. praying to set aside the judgment and orders dated 28.03.2018 passed in C.A. No.70/2016 by the VI Additional District and Sessions Judge, Chennai, confirming the judgment and orders dated 28.01.2016 passed in C.C. No.9229/2010 by the XI Metropolitan Magistrate Judge, Saidapet, Chennai.

For Petitioner : Mr. V.T.Narendiran

For Respondent : Mr.S.Rajakumar
Additional Public Prosecutor

ORDER

The petitioner is the 1st accused in C.C. No.9229/2010 on the file of the XI Metropolitan Magistrate, Chennai, and she has been convicted and sentenced as follows:

Sl. No.	Conviction	Sentence
1.	466 IPC	Rigorous Imprisonment for one year and a fine of Rs.500/-, in default, to undergo Simple Imprisonment for four weeks.
2.	465 IPC	Rigorous Imprisonment for one year.
3.	468 IPC	Rigorous Imprisonment for one year and a fine of Rs.500/-, in default, to undergo Simple Imprisonment for four weeks.
4.	471 r/w 468 IPC	Rigorous Imprisonment for one year and a fine of Rs.500/-, in default, to undergo Simple Imprisonment for four weeks.
5.	420 r/w 511 IPC	Rigorous Imprisonment for one year and a fine of Rs.500/-, in default, to undergo Simple Imprisonment for four weeks.
The aforesaid sentences were ordered to run concurrently.		

Sl. No.	Conviction	Sentence
The period of sentence already undergone shall be set off under Section 428 Cr.P.C.		

2. On an appeal filed by the present petitioner/accused, in C.A. No.70/2016 before the VI Additional Judge, City Civil Court, Chennai, the conviction and sentence passed by the trial court Judge for the offences punishable under Sections 465, 466, 468, 471 r/w 468 IPC were confirmed. However, the appellate court set aside the conviction and sentence passed by the trial court against the petitioner for the offence punishable under Section 420 r/w 511 IPC, vide his judgment and orders dated 28.03.2018.

3. Aggrieved over the conviction and sentence passed by the VI Additional Judge, City Civil Court, Chennai, in C.A.No.70/2016, the present Criminal Revision Case is filed.

4. The case of the prosecution in a nutshell is as follows:

4.1. The petitioner Jansi Rani (A1) was working as an Assistant

Section Officer in Tamil Nadu Public Service Commission. She approached a Flat Promoter by name Vinod Krishnan (P.W.8) for purchase of a flat constructed by him at Anakaputhur. She also entered into an agreement of sale with him. She wanted to avail a housing loan from ICICI Bank, Santhome, Chennai, and approached one Suresh (P.W.9), an agent of ICICI Bank. She submitted a loan application form (Ex.P10) along with her pay slip (Ex.P11 series), Form 16 (Ex.P12), Identity Card and PAN card (Ex.P13 series), Family Card (Ex.P14), Statement of Accounts of Canara Bank, in which she has an account (Ex.P15 series) and an undated cheque (Ex.P16) drawn in favour of ICICI Bank towards processing fee. Similarly Dayanullah (A2 and since deceased), who was working as a mazdoor in the office of the Tamil Nadu Public Service Commission also submitted documents to ICICI bank for obtaining housing loan.

4.2. Vinod Krishnan (P.W.8) forwarded the loan application forms of the present petitioner and Dayanullah, duly signed by them along with all the relevant documents to the concerned authorities in ICICI Bank. Thiru.Merlin Bose (P.W.10), who was working in the Loan

Department of ICICI Bank, perused the loan application form. Thereafter, the officials of ICICI Bank went to the office of the Tamil Nadu Public Service Commission, where the accused were working, for verification. They came to know that the accused had submitted false pay slips and fabricated statement of Accounts in order to get higher loan amount than what they were eligible.

4.3. According to the prosecution, the accused had forged the signature of Tmt.Vaijayanthimala (P.W.2), the then Pay Drawing Officer, in the pay slips and also fabricated the seal of the office of the Tamil Nadu Public Service Commission. P.W.2 denied her signature on the pay slips and immediately brought the same to the knowledge of Mrs. Sandhya Venugopal Sarma, I.A.S. (P.W.1), the then Controller of Examinations and Secretary of Tamil Nadu Public Service Commission.

4.4. P.W.1 after verifying the records lodged a complaint (Ex.P1) dated 28.02.2005 with the Additional Director General of Police, Crime Branch CID, who in turn referred the same to the Inspector of Police, Crime Branch CID (Control Room), Chennai, on 15.04.2005. In the complaint, P.W.1 had stated that when the officials of ICICI Bank came down to their office to verify the genuineness of salary slips produced by K. Jansi Rani (present petitioner) and Dayanullah (2nd accused), it had come to light that they have produced forged salary slips as if they were issued by the Drawing Officer, namely, the Accounts Officer in charge. After scrutinising the pay certificates produced by the accused, it was noticed that in order to fulfil the eligibility criteria fixed by the bank, they have produced false pay certificates by forging the signature of the Pay and Drawing Officer (P.W.2) to get the maximum loan amount.

4.5. Thiru. Venkatesan (P.W.25), the then Inspector of Police, CBCID, Control Room, on receipt of complaint (Ex.P1) from the Office of the Director General of Police, registered an FIR in Crime No.3/05 on 05.04.2005 against the present petitioner and A. Dayanullah for the offences punishable under Sections 465, 466, 468, 471 and 420 r/w 511 IPC. He took up investigation and recorded the statements of witnesses under Section 161(3) Cr.P.C. He arrested the present petitioner on

11.04.2005 and recorded her confessional statement in the presence of the witnesses L.Kumar (P.W.5) and Paneer (P.W.6). The arrest intimation was also sent to the office of the Tamil Nadu Public Service Commission. Thereafter, the petitioner was produced before the XI Metropolitan Magistrate,Chennai, for judicial custody.

4.6. The Investigation Officer seized the loan application form (Ex.P10), pay slips (Ex.P11 series), Statement of Accounts (Ex.P15 series) and unfilled cheque (Ex.P16), ID card and PAN Card (Ex.P13 series) submitted by the petitioner/1st accused to ICICI Bank from D. Raghu Prasad (P.W.15), the then Branch Manager, ICICI Bank, Santhome Branch, Chennai. On 23.04.2005 he recorded another confessional statement of the petitioner in the presence of the witnesses Buvaneswari (P.W.11) and Durai Kannan (not examined), the husband of the present petitioner (the admissible portion of which was marked as Ex.P17). Based on her confessional statement he recovered a Central Processing Unit (CPU) (M.O.1), which was used for the purpose of preparing the forged pay slips (Ex.P11 series), from the company by name, "Page offset", run by Baskaran (P.W.13) under the cover of a mazahar (Ex.P18) in the presence of P.W.13 and Sethumadhavan (P.W.12), who was working under P.W.13. Sample signatures of Tmt.Vaijayanthimala (P.W.2), the then Pay Drawing Officer, were also collected by the Investigation Officer and all the documents including the seals were sent to the Forensic Science Department, Chennai, for analysis.

4.7. Thiru. Kasi (P.W.22), the then Deputy Director of Forensic Science Department, Chennai, analysed the admitted signatures of P.W.2 with her disputed signatures and submitted his report Ex.P.29. In the report it is stated that the signatures of Tmt.Vaijayanthimala (P.W.2) were forged in the pay slips. It was also found that the official seal was fabricated.

4.8. Sivaji (P.W.16), the then Manager of Canara Bank, Koyambedu Branch, had testified the opening of Savings Bank Account by the petitioner bearing account number 1349 and issuance of cheque book containing cheque leaves bearing numbers 347891 to 347900. He denied issuance of Bank Statements (Ex.P15 series). His further contention is that the cheque leaf (Ex.P16) submitted by the petitioner to the ICICI Bank, is one of the cheque leaves issued by the bank to the accused. The Investigation Officer also obtained the statement of accounts of the accused bank account from the Manager, Canara Bank for the period from 09.06.2004 and 04.05.2009.

4.9. Lalitha (P.W.14) in her deposition had stated that she typed the salary statement as instructed by the petitioner by receiving a sum of Rs.10/- per page.

4.10. Shanmugam (P.W.23), who was working as a technical Assistant in Anna University analysed the CPU (M.O.1) and found a folder with a title TNPSC pay slip. He, however could not open the same as it was deleted. Therefore, he submitted a report (Ex.P31) to Tmt.Geetha (P.W.24), Head of the Department.

4.11. Tmt. Geetha (P.W.24), the then Professor and Head of the Department analysed 20 GB capacity CPU and found a folder named as 'TNPSC Pay slip' in the disk. She could not open it and subsequently she analysed it by using a software "Disk Investigator' and found a pay slip format containing date and month. She counter signed the report Ex.P31 along with a CD (M.O.3).

4.12. Investigation Officer (P.W.25), after recording the statements of the witnesses concluded the investigation and laid a final report against the present petitioner and Dayanullah (2nd accused) punishable under Sections 465, 466, 468, 471 and 420 r/w 511IPC before the XI Metropolitan Magistrate, Chennai, in C.C. No.9229/2010.

4.13. The learned XI Metropolitan Magistrate, Chennai, furnished copies of records to the accused under Section 207 Cr.P.C. He framed charges against the present petitioner for the offences punishable under Sections 466, 468, 471 and 420 r/w 511 IPC and against the 2nd accused under Sections 465, 466, 468, 471 and 420 r/w 511 IPC.

4.14. In order to bring home the guilt of the accused, the prosecution examined 25 witnesses and marked 32 documents and 3 Material Objects.

4.15. When the petitioner/accused was questioned under Section 313 Cr.P.C., with regard to the incriminating circumstances appearing in evidence against her, she denied of having committed any offence. However, no oral and documentary evidence was marked on the side of the accused.

4.16. The second accused namely, Dayanullah, died at the time of trial and therefore, the charges framed against him got abated.

4.17. The trial against the present petitioner continued and the learned XI Metropolitan Magistrate, Chennai, after full trial, convicted and setenced the present petitioner as stated in paragraph No.1.

4.18. On an appeal filed by the present petitioner, in C.A.No.70/2016 before the VI Additional Judge, City Civil Court,Chennai, the same was partly allowed as stated in Paragraph No.2.

4.19. The Present Criminal Revision case is filed challenging the conviction and sentence passed by the appellate court.

5. Heard Mr. V.T.Narendiran, learned counsel for the petitioner and Mr.S.Rajakumar, learned Additional Public Prosecutor for the respondent.

6. This Court while exercising its powers under Section 397 Cr.PC, cannot act as a second appellate court unless it is convincingly showed that the conviction and sentence passed by both the courts below are perverse.

7. Mr. V.T.Narendiran, learned counsel for the petitioner raised the following grounds for acquitting the petitioner/accused.

I. The prosecution had wrongly clubbed the case of the present petitioner and Dayanullah (A2) though they submitted different loan application forms to ICICI bank for the purpose of availing housing loan.

II. The Investigation Officer had not seized the original documents in order to show that the signature of Tmt.Vaijayanthimala (P.W.2), was actually forged.

III. Though it is alleged that the petitioner submitted forged pay slips and bank statements to the ICICI bank, no loss was sustained by the bank and therefore convicting the present petitioner for the offences punishable under sections 466, 468, 471 and 420 r/w 511 IPC is erroneous.

8. Per contra, Mr.S. Raja Kumar, learned Additional Public Prosecutor would contend that the appellate court had, after analysing the oral/documentary evidence, rightly convicted and sentenced the accused and therefore, no interference is called for by this court and prayed for dismissal of the Criminal Revision Case.

9. **<u>Ground No.1 :</u>** In the instant case, both the present petitioner and A2 were working in the office of the Tamil Nadu Public

Service Commission and both of them submitted loan application forms duly filled up by them along with forged pay slips and bank statements. When the ICICI bank officials came down to the office of the Tamil Nadu Public Service Commission, it was found by P.W.2 that her signature was forged in the pay slips submitted by the present petitioner and Dayanullah (A2) and she immediately reported the same to Mrs.Sandhya Venugopal Sarma, I.A.S. (P.W.1), the Controller of Examination and Secretary of Tamil Nadu Public Service Commission. P.W.1 after perusing the records had lodged a complaint with the Director General of Police against the accused and an FIR was registered against them by the Investigation Officer (P.W.25). Though final report was filed against both of them, the learned Metropolitan Magistrate had framed charges against them separately and they were also questioned separately. Their plea of 'not guilty' has been recorded separately. Moreover, A2 died at the time of commencement of trial and therefore, it cannot be stated that prejudice is caused to the present petitioner by clubbing the case of another accused. This court does not also find any infirmity in the charges framed by the trial court.

9.1. **Ground No.2:** The present petitioner along with the loan application form had submitted xerox copies of the pay slips, bank statements and other documents and they were all seized by the Investigation Officer from Raghu Prasad (P.W.15). According to the counsel for the petitioner since original documents have not been recovered, the accused cannot be convicted for the offences punishable under Sections 465, 466, 468, 471 and 420 r/w 511 IPC. In fact, this plea was taken before the trial court as well as the appellate court and both the courts below had concluded that merely because the original documents have not been filed by the prosecution, the same cannot be stated to be fatal to the case of the prosecution since all the prosecution witnesses had cogently narrated the sequence of events. Furthermore, the signature of the present petitioner in the loan application form (Ex.P10) along with the other documents submitted by her were recovered from Raghu Prasad (P.W.15), the Branch Manager, ICICI Bank, and all the documents were sent to Forensic Science Department. Kasi (P.W.22), Director, Forensic Science Department, Chennai, had analysed the admitted signatures with the disputed signatures. The Forensic Science Department did not seek for the original documents for comparison and with the available evidence they were able to find out that the signature of P.W.2, the drawing officer was forged by the present petitioner. In fact, the accused had not disputed her signature on the original application form Ex.P10 and it is not her case that somebody else had forged her signature and submitted documents for the purpose of foisting a false case against her. Therefore, the findings recorded by both the courts below in this regard are perfectly in order.

9.2. **Ground No. 3*:*** The contention of the learned counsel for the accused is that since no loss is caused to ICICI Bank, the conviction and sentence passed by both the courts below cannot be sustained. This contention cannot be accepted for the simple reason that the present petitioner had forged the signature of the Pay Drawing Officer in the pay slips and submitted the same to ICICI Bank along with loan application form (Ex.P10). It is relevant to extract Section 463 and 464 IPC, which read thus:

463. Forgery.—

Whoever makes any false documents or false electronic record or part of a document or electronic record, with intent to cause damage or injury, to the public or to any person, or to support any claim or title, or to cause any person to part with property, or to enter into any express or implied contract, or with intent to commit fraud or that fraud may be committed, commits forgery.

464. Making a false document. —

A person is said to make a false document or false electronic record—First — Who dishonestly or fradulently—

(a)makes, signs, seals or executes a document or part of a document;

(b)makes or transmits any electronic record or part of any electronic record;

(c)affixes any electronic signature on any electronic record;

(d)makes any mark denoting the execution of a document or the authenticity of the electronic signature,

with the intention of causing it to be believed that such document or part of document, electronic record or electronic signature was made, signed, sealed, executed, transmitted or affixed by or by the authority of a person by whom or by whose authority he knows that it was not made, signed, sealed, executed or affixed; or

Secondly — Who, without lawful authority, dishonestly or fraudulently, by cancellation or otherwise, alters a document or *an electronic record in any material part thereof, after it has been made, executed or affixed with electronic signature either by himself or by any other person, whether such person be living or dead at the time of such alteration; or*

Thirdly — Who dishonestly or fraudulently causes any person to sign, seal, execute or alter a document or an electronic record or to affix his electronic signature on any electronic record knowing that such person by reason of unsoundness of mind or intoxication cannot, or that by reason of deception practised upon him, he does not know the contents of the document or electronic record or the nature of the alteration.

In the instant case, the present petitioner/accused, who was working in the Government Department, Tamil Nadu Public Service Commission had fraudulently and dishonestly forged the signature of one of the officials of Tamil Nadu Public Service Commission in her pay slips in order to get higher loan amount form ICICI Bank than what she was eligible. Therefore, the offence of forgery is complete once the document is submitted to ICICI Bank. In fact, the appellate court had discussed this aspect also in detail. The learned appellate court judge had also set aside the conviction and sentence passed against the accused for the offence punishable under Section 420 r/w 511 IPC. Suffice it is to say that all the observations made by the appellate court are perfectly in order.

9.4. As regards the sentence, the contention of the counsel for the appellants is that petitioner was subsequently removed from service and is now aged more than 60 years and therefore, some leniency can be shown to her. The accused had submitted forged documents to the Bank unmindful of the consequences. Considering the age of the accused, the sentence passed by the appellate court, for the offences under Sections 465, 466, 468, 471 r/w 468 IPC is modified as under.

Sl. No.	Conviction	Sentence
1.	466 IPC	Rigorous Imprisonment for three months and a fine of Rs.500/-, in default, to undergo Simple Imprisonment for four weeks.
2.	465 IPC	Rigorous Imprisonment for three months.
3.	468 IPC	Rigorous Imprisonment for three months and a fine of Rs.500/-, in default, to undergo Simple Imprisonment for four weeks.
4.	471 r/w 468 IPC	Rigorous Imprisonment for three

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<tr><th>Sl. No.</th><th>Conviction</th><th>Sentence</th></tr>
<tr><td></td><td></td><td>months and a fine of Rs.500/-, in default, to undergo Simple Imprisonment for four weeks.</td></tr>
<tr><td colspan="3">The aforesaid sentences shall run concurrently.The period of sentence already undergone by her is set off under Section 428 Cr.P.C.</td></tr>
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10.In the result,

i. The Criminal Revision Case is partly allowed. Consequently, connected miscellaneous petition is closed.

ii. While the conviction passed by the appellate court is confirmed the sentence is modified as stated in paragraph No.9.4.

iii. The Revision Petitioner / accused is directed to surrender before the trial Court viz., the XI Metropolitan Magistrate Judge, Saidapet, Chennai, within fifteen days from the date of receipt of a copy of this order / uploading of the order, failing which, the trial Court shall take necessary steps to secure the presence of the accused to serve the remaining period of sentence.

10.06.2024

Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order
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To

1. The VI Additional District and Sessions Judge, Chennai.

2. XI Metropolitan Magistrate Judge, Saidapet, Chennai.

3. The Public Prosecutor, High Court, Madras.

4. The Section Officer, Criminal Section, High Court, Madras.

R. HEMALATHA, J.
bga

Crl.R.C. No.558 of 2018

10.06.2024