



Crl.R.C.Nos.1299 & 1370 of 2017

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DATED : 01.07.2024

CORAM

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

Crl.R.C.Nos.1299 & 1370 of 2017

A.S.Anantharaman ... Petitioner in Crl.R.C.No.1299 of 2017

S.Vetrivel ... Petitioner in Crl.R.C.No.1370 of 2017

Vs.

Sri Krishna Tiles and Potteries (Madras) Private Limited,

Represented by its Senior Administrative Officer

Mr.V.Subramaniam,

No.A1, Kumara Vijayam,

99, Royapettah High Road,

Chennai – 600 014. ... Respondent in both Crl.R.Cs

Common Prayer : Criminal Revision filed under Section 397 and 401 Criminal Procedure Code 1973 to set aside the judgment and orders dated 30.08.2017 passed in C.A.Nos.17 & 20/2014 by the VI Additional Sessions Judge, Chennai, confirming the judgement and orders dated 26.12.2013 passed in C.C.No.950/2003 by the XI Metropolitan Magistrate, Saidapet, Chennai.



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In Crl.R.C.No.1299 of 2017 :

For Petitioner : Mr.R.Sankarasubbu
For Respondent : Mr.B.Natarajan

In Crl.R.C.No.1370 of 2017 :

For Petitioner : Mr.C.S.S.Pillai
For Respondent : Mr.B.Natarajan

COMMON ORDER

Challenging the conviction and sentence passed by the learned VI Additional Sessions Judge, Chennai, in C.A.Nos.17 & 20/2014 confirming the conviction and sentence passed by the learned XI Metropolitan Magistrate, Saidapet, Chennai, in C.C.No.950/2003, against the five accused including the present revision petitioners for the offences punishable under Sections 465, 467, 468, 471, 193, 196, 420 and 120(B) IPC.

2. For the sake of convenience the parties are referred to as per their ranking in the trial court and at appropriate places, their ranks in the present revision cases would also be indicated.



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3. The revision petitioners are the accused No.3 and 1, respectively, in C.C.No.950/2003 and they have been convicted and sentenced as detailed hereunder:

<i>Conviction</i>	<i>Sentence</i>
Section 465 IPC	Simple Imprisonment for two years
Section 468 IPC	Simple Imprisonment for three years and a fine of Rs.1,000/- each, in default, to undergo simple imprisonment for two months.
Section 420 r/w.511 IPC	Simple Imprisonment for three years and a fine of Rs.1,000/- each, in default, to undergo simple imprisonment for two months.
Section 120 (B) IPC	Simple Imprisonment for one year and a fine of Rs.500/- each, in default, to undergo simple imprisonment for one month.
The aforesaid sentences were ordered to run concurrently. The period of sentence already undergone by the accused shall be set off under Section 428 Cr.P.C.	

Since the second accused died during the pendency of C.C.No.950/2003



the charges against him got abated. A discharge petition filed by the fourth accused was allowed by the trial court and he was discharged from all the offences.

4.The case of the respondent / complainant in a nutshell is as follows :

- i. The complainant is doing business in the name and style of Sri Krishna Tiles and Potteries (Madras) in which Mr.A.R.Santhanakrishnan and his family members, Mr.A.K.Muthuswamy and Mr.A.K.Shankar Prasad are shareholders. The complainant has an immovable property measuring 47 acres at No.79, Thirumangalam Village, Koyambedu. Substantial extent of land was sold in favour of several persons including Government Organizations and the remaining extent of 34.04 acres belonged to the complainant.

- ii. The company purchased the said property through different sale



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deeds dated 11.12.1958, 02.06.1971, 05.06.1971, 15.06.1972 and 04.07.1972 (Ex.P2 to Ex.P8) for valuable consideration. According to the complainant, the accused 2 and 3 had sold their respective shares in favour of the complainant through the above sale deeds. Therefore, they do not have any share in the property. However, they entered into an agreement of sale (Ex.P9 and Ex.P10) with the first accused in respect of the same property and also executed a General Power of Attorney (Ex.P11 and Ex.P12) to and in favour of the first accused in the presence of the fifth accused before the Sub Registrar, Mylapore.

- iii. The contention of the complainant was that all the accused had knowledge that the accused 2 and 3 did not have any valid title in respect of the property for which they had entered into an agreement of sale and General Power of Attorney.



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iv. Therefore, the complainant filed a private complaint before the XI Metropolitan Magistrate, Saidapet, Chennai under Section 200 Cr.P.C. against the accused for the offences punishable under Sections 465, 467, 468, 471, 193, 196, 420 and 120(B) IPC.

v. The learned XI Metropolitan Magistrate, Saidapet, Chennai, after furnishing copies of the records under Section 207 Cr.P.C. to all the accused framed charges against them which include the present revision petitioners for the offences punishable under Sections 465, 467, 468, 471, 420, 120(B), 193 and 196 IPC. Since the accused pleaded not guilty, the case was posted for trial.

vi. The complainant examined himself and marked Ex.P1 to Ex.P22.

vii. The accused, when questioned under Section 313 Cr.P.C., with regard to the incriminating circumstances appearing in evidence against them, denied of having committed any offence. The second accused examined himself and marked Ex.R1 to Ex.R10.



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viii. After full trial, the learned trial court judge, convicted the Accused No.1, 3 and 5 for the offences punishable under Sections 465, 468, 420 r/w.511 and 120(B) IPC and sentenced them as detailed in paragraph number 3, vide his judgment dated 26.12.2013

ix. Aggrieved over the same, the accused No.1, 3 and 5 filed an appeal in C.A.Nos.17, 18 and 20/2014, respectively, before the VI Additional Sessions Judge, Chennai. The learned VI Additional Sessions Judge, Chennai after analysing the evidence on record, confirmed the conviction and sentence passed by the Trial Court Judge and dismissed the appeal, as against which the present criminal revision cases are filed by the accused No. 1 and 3.

5. At the outset, it may be observed that this Court while



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exercising its revisional jurisdiction under Section 397 Cr.P.C. cannot act as a second appellate court unless it is convincingly shown that the conviction and sentence passed by both the Courts below are perverse.

6. Heard Mr.R.Sankarasubbu, learned counsel for the revision petitioner in Crl.R.C.No.1299/2017, Mr.C.S.S.Pillai, learned counsel for the revision petitioner in Crl.R.C.No.1370/2017 and Mr.B.Natarajan, learned counsel for the respondent.

7. In the instant case, both the courts have rendered a concurrent finding and concluded that the present revision petitioners are guilty of the offences punishable under Sections 465, 468, 420 r/w.511 and 120(B) IPC.

8. It is seen from the records that Swaminathan (father of the accused 2 and 3), A.R.Rajagopal (father of A.R.Santhanakrishnan one of the directors of the company) and A.R.Krishnamoorthy (father of other directors), A.K.Muthusamy and A.K.Sankar Prasad are brothers. They



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have sold their family properties in favour of the complainant company through the registered sale deeds dated 05.06.1971 and 15.06.1972 (Ex.P4 and Ex.P6). Subsequently, the accused 2 and 3 had entered into agreements of sale on 26.12.2001 (Ex.P9 and Ex.P10) with the first accused in respect of the properties covered under Ex.P4 and Ex.P6. On 18.09.2002, two General Power of Attorney (Ex.P11 and Ex.P12) were executed in favour of the first accused by the accused 2 and 3. These facts have not been disputed by the accused 2 and 3.

9. Thus, it is clear from the records that the accused 2 and 3 had created an encumbrance in respect of the properties which they have already sold and these documents had been registered in the presence of the fifth accused. It is not the case of the accused 2 and 3 that they entered into agreements of sale with the first accused without actually knowing the earlier sale of the properties. Their contention seems to be that they have every right to sell their family properties in favour of the complainant company. However, no sale deeds were executed consequent upon the sale agreements and power of attorney (Ex.P9 to Ex.P12).



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10. It is relevant to extract Sections 463, 465 and 468 IPC

which reads thus :

Section 463 IPC

"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."

Section 465 IPC

"465. Punishment for forgery.—

Whoever commits forgery shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both."

Section 468 IPC

"468. Forgery for purpose of cheating.—

Whoever commits forgery, intending that the document or electronic record forged shall be used for the purpose of cheating, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine."

11. Both the courts below had convicted the accused 1, 3 and 5



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for the offences punishable under Sections 465, 468 IPC on the ground that the accused 2 and 3 have created an encumbrance over the properties by way of executing General Power of Attorney and sale agreements in favour of the accused even though they knew that those properties were already sold in favour of the complainant. Mere reading of the above sections would clearly go to show that the accused had not committed forgery or cheated false documents to attract the provisions of 465 and 468 IPC. It is not the case of the complainant that their directors' signatures were forged on Ex.P9 to Ex.P12. Therefore the conviction and sentence passed by both the courts below for the offences punishable under Sections 465 and 468 IPC are liable to be set aside.

12. It is admitted that no sale deeds were executed based on the power of attorney and agreement of sale. Therefore, no loss is caused to the complainant company. However, it is clear that Ex.P9 to Ex.P12 were made with the intention to cheat the complainant company and in this regard, all the accused have conspired with each other. Therefore, the



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conviction and sentence passed against the accused 1 and 3 for the offence punishable under Sections 420 r/w.511 IPC and 120 (B) is confirmed.

13. The learned counsels for the accused 1 and 3 submitted that the first accused is in coma stage and medically unfit and the third accused is aged more than 70 years and therefore, prayed for showing leniency in passing sentence against them. He also contended that since there is no financial loss for the respondent / complainant, fine amount alone may be imposed on the revision petitioners for the offences punishable under Sections 420 r/w.511 and 120(B) IPC. The medical condition and the age of the revision petitioners were admitted by the counsel for the respondent also.

14. Considering the same, the sentence passed by both the courts below is modified as under :

<i>Conviction</i>	<i>Sentence</i>
Section 420 r/w.511 IPC	A fine of Rs.1,000/- each, in default, to undergo simple



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<i>Conviction</i>	<i>Sentence</i>
	imprisonment for two months.
Section 120 (B) IPC	A fine of Rs.500/- each, in default, to undergo simple imprisonment for one month.

With the above observations, these Criminal Revision Cases stands disposed of.

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Index: Yes/No

Internet: Yes/No

Speaking/Non-Speaking order

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To

1.The VI Additional Sessions Judge, Chennai.

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2.The XI Metropolitan Magistrate, Saidapet, Chennai.

3.The Section Officer, Criminal Section, Madras High Court, Chennai.

R. HEMALATHA, J.

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