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*Crl.M.P.Nos.904 and 2338 of 2024
in Crl.R.C.No.111 of 2024*

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.02.2024

CORAM:

THE HON'BLE MR.JUSTICE **M. NIRMAL KUMAR**

Crl.M.P.Nos.904 and 2338 of 2024
in
Crl.R.C.No.111 of 2024

M.Ravi

... Petitioner/Accused

Vs.

Sub Inspector of Police (Crime),
G-3, Kilpauk Police Station,
Kilpauk, Chennai – 600 010.
Crime No.1214/2005.

... Respondent

PRAYER: Criminal Miscellaneous Petitions filed under Sections 389(1) & 482 of Cr.P.C to suspend the sentence imposed in C.A.No.296 of 2022 on the file of the XXII Additional Sessions Judge, City Civil Court, Chennai dated 04.09.2023 confirming the judgment in C.C.No.2124 of 2007 on the file of the II Metropolitan Magistrate Court, Egmore, Chennai under Section 420 r/w 471 IPC sentencing him to undergo simple imprisonment for a period of one year and also to pay a fine of Rs.3,000/- in default of which to undergo simple imprisonment for a period of one month under Section 279 IPC, dated 03.10.2022 and grant bail to the petitioner pending disposal of the above Criminal Revision and to exempt the petitioner from surrendering before the Lower Court.



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For Petitioner : Mr.V.Krishnakumar

For Respondent : Mr.C.E.Pratap
Government Advocate (Crl. Side)

COMMON ORDER

These Criminal Miscellaneous Petitions have been filed by the petitioner, seeking to suspend the sentence of imprisonment imposed on him in C.C.No.2124 of 2007 by a judgment dated 03.10.2022 passed by the learned II Metropolitan Magistrate, Egmore, Chennai and confirmed by the learned XXII Additional Sessions Judge, City Civil Court, Chennai made in Crl.A.No.296 of 2022 dated 04.09.2023 and enlarge the petitioner on bail pending disposal of the above revision and to exempt the petitioner from surrendering before the trial court pending disposal of the above revision.

2.The petitioner/A1 in C.C.No.2124 of 2007 was convicted by the Trial Court by judgment dated 03.10.2022 for offence under Sections 420 r/w 471 of IPC and sentenced him to undergo one year rigorous imprisonment and to pay a fine of Rs.3,000/-. Aggrieved against the same, he preferred an appeal before the learned XXII Additional Sessions Judge, City Civil Court, Chennai in Crl.A.No.296 of 2022. The learned Sessions Judge, by judgment dated 04.09.2023, dismissed the appeal confirming the conviction and



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sentence passed by the trial Court, against which, the petitioner/accused filed Crl.R.C.No.111 of 2024 along with the instant miscellaneous petitions seeking suspension of sentence and bail.

3.The case of the prosecution is that PW1/Ramachandran, Special Officer/Cooperative Sub Registrar had lodged a complaint that the petitioner and other accused Mallika were employed as packers in Kilpauk Women's Consumer Cooperative Stores. For their employment, the required qualification is that they should have completed 8th standard. On scrutiny of the records it was found that the petitioner discontinued 8th standard and his school certificate dated 23.07.1996/Ex.P1 on verification confirmed the same. The petitioner had studied in St. George Matriculation School upto 8th standard and the other accused completed up to 5th standard in Corporation High School, Shenoy Nagar, Kilpauk, Chennai. Thereafter, enquiry under Section 81 of Cooperative Societies Act (in short 'the Act') was caused. During the enquiry, the statement of the petitioner and other accused have been recorded. The enquiry report confirmed the petitioner cheating the society by producing forged documents. The Investigating Officer took up investigation, examined witnesses, collected documents and filed charge



4.During trial, on the side of the prosecution, PW1 to PW8 examined and marked Exs.P1 to P21. On the side of the defence, no witnesses examined and no documents marked. On conclusion of the trial, the Trial Court on the evidence of witnesses and the materials produced, had convicted the petitioner as stated above, which was confirmed by the Appellate Court.

5.The contention of the petitioner is that the petitioner had been falsely implicated in this case. The case itself proceeds that the petitioner was appointed in the Fair Price Shop run by the Society by one Kumaradurai, who is the Sub-Registrar and Special Officer for societies. The petitioner was not informed about any pre-condition . The petitioner was asked to produce educational certificate. Hence, he produced the school certificate that was in the year 1996. Thereafter, the petitioner was employed and he was working without any diminish and bad remarks. While so, motivated letter had been sent to the Society which took up verification of the petitioner's education certificate and found that the petitioner had not qualified 8th standard and hence, a complaint had been lodged in the year 2005, nearly after 10 years.



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The motivated letter not produced before the Court. Further there is nothing stated in the 81 enquiry or by the Investigating Officer to find out at any point of time the petitioner had made false representation to the authorities or created any forged documents. That being so, the trial Court convicting the petitioner is not proper. PW4, the Special Officer/Cooperative Sub-Register admitted that the petitioner and other accused were employed under him and he never asked any questions or documents from the accused about their educational credentials. In such circumstances, the petitioner creating forged documents and committing forgery would not arise. The Investigating Officer merely gone by the 81 enquiry report which is yet to get final approval. Further submitted that the petitioner has arguable points and fair chance of success in this revision. Hence, he prays for granting suspension of sentence to the petitioner.

6.The learned Government Advocate (Crl. Side) on the other hand filed his counter, which reads as follows:

“6.It is submitted that during the course of investigation, the then Inspector of Police examined the witnesses and recorded their statements. Based on the witnesses statement altered the offences under section from u/s.420, 467 IPC @ u/s.465,468,r/w.464, 471



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IPC and filed a charge sheet before the Learned II Metropolitan Magistrate Court, Egmore, Chennai and the same was taken on file and assigned C.C.No.2124 of 2007.

7.It is submitted that in order to prove the case of the prosecution, the prosecution has examined 8 witnesses and marked 21 exhibits and no material objects has been marked. On the defence side no witnesses were examined and no exhibits were marked.

PROSECUTION WITNESSES:-		
Rank of Witnesses	Witnesses	Gist of the Deposition
P.W.1	Tr.Ramachandiran/ Defacto Complainant	Deposed that the accused persons produced a fake created school certificate and joined a job and lodged a complaint before the respondent police and A-1 and A-2 produced a fake certificate [Ex.P.1 & Ex.P.2] Then the officers produced a letter to action against the accused [Ex.P.3 & Ex.P.4] and gave a report to higher officials [Ex.P.5] Then he received a letter to investigate the case [Ex.P.6] and I received the letter and issued memo to both the accused [Ex.P.8 & Ex.P.9] and they gave a reply letter [Ex.P.10 & Ex.P.11]. Then both were examined and their statements were recorded [Ex.P.12 & Ex.P.13] and dismissed both of them [Ex.P.15 & Ex.P.16] and lodged a

Inspector of Police
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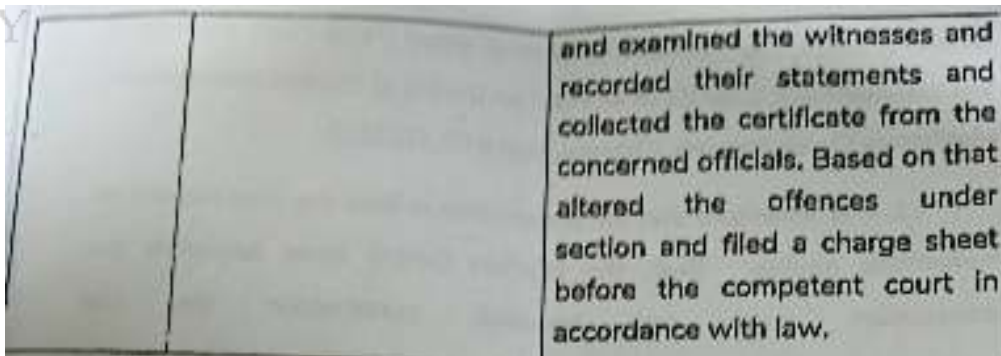
P.W.2	Tmt.Kasthuri Vasudevan / Director of Co-operative Society	Deposed that corroborated the same version of P.W.1
P.W.3	Tr.Juliyana S Lucas / Head Mistress	Deposed that she analysis the accused fake certificate and confirm that the certificate is fake [Ex.P.17]
P.W.4	Tr.Narayanan / Sub Register, Co-operative Society	Deposed that corroborated the same version of P.W.1
P.W.5	Tr.Selvaraj / Sub Registrar	Deposed that he received the complaint about the accused and instructed him to take action against the accused [Ex.P.5 & Ex.P.17] and he requested the Head Mistress and collected the certificate of accused persons [Ex.P.18]
P.W.6	Tr.Lali Jhon/ Head Master	Deposed that he analysis the accused fake certificate and confirm that the certificate is fake
P.W.7	Tr.Sudhakar / Head Master	Deposed that he analysis the accused fake certificate and confirm that the certificate is fake
P.W.8	Tr.Mannan / Inspector of Police	Deposed that he received the complaint and registered the case in Cr.No.1214 of 2005 [Ex.P.19]

Inspector of Police
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Chennai-600 010.



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8.It is submitted that after conducting due trial, the learned II Metropolitan Magistrate Court, Egmore, Chennai by its judgment dated 03.10.2022 in C.C.No.2124 of 2007 convicted the petitioner/accused on the following offences:-

<i>A-1 & A-2 u/s.420, r/w. 471 IPC</i>	<i>Sentenced them to undergo 1 year Rigorous Imprisonment with fine Rs.3000/- i/d to undergo one moth simple imprisonment</i>
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The sentences were directed to run consecutively.

9.It is submitted that aggrieved over the above said conviction and sentence, the petitioner/accused-1 filed Criminal Appeal in C.A.No.296/2022, before the learned XXII Additional Sessions Judge, City Civil Court, Chennai is dismissed and the conviction and sentence passed by the trial Court in C.C.No.2124 of 2007 dated 03.10.2022 is confirmed.”



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7.He further submitted that the petitioner was employed from the year 1996 to 2005, received salaries and their employment was only on the ground that petitioner as packers ought to have completed 8th standard. Admittedly, in this case, the petitioner is 8th standard fail. In view of the same, both the Trial Court as well as the Appellate Court had rightly convicted the petitioner. Hence, prays for dismissal of the petition.

8.Considering the submissions made and on perusal of the materials available on record, it is seen that the petitioner employed as packer and had produced the educational certificate as required by the employer, the then Special Officer, Kumaradurai. From the evidence of other witnesses it is seen that no witnesses have stated that petitioner had knowingly created documents with false particulars and submitted the same while securing the employment. The said Kumaradurai has not been examined. In view of the same, this Court finds that the finding of the Courts below needs to be reconsidered. Further taking note of the fact that there are arguable points involved in this revision and it would take some time for the revision to be taken up for final hearing, this Court is inclined to suspend the sentence imposed on the petitioner.



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9. Accordingly, the reliefs of suspension of sentence, exemption from surrendering and bail are granted on the following conditions till the disposal of the above Criminal Revision:

(a) The petitioner/accused is ordered to be enlarged on bail, on condition that he shall execute a bond for a sum of Rs.10,000/- (Rupees Ten thousand only) with two sureties, each for a like sum to the satisfaction of the learned XXII Additional Sessions Judge, City Civil Court, Chennai.

(b) The petitioner/accused and the sureties shall affix their photographs and Left Thumb Impressions in the surety bonds and the learned Sessions Judge may obtain a copy of their Aadhaar Cards or Bank Pass Books to ensure their identities.

(c) The petitioner shall appear before the Trial Court once in three months at 10.30 a.m. on the first working day of the month, until the disposal of the revision and if he is not able to appear before the Trial Court on that day, he shall make arrangements to file an application under Section 317 Cr.P.C. and



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shall appear before the Trial Court on any other day
in lieu of the date of his absence as directed by the
Trial Court.

10. Accordingly, these Criminal Miscellaneous Petitions are ordered.

12.02.2024
(2/2)

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To

- 1.The Sub Inspector of Police (Crime),
G-3, Kilpauk Police Station,
Kilpauk, Chennai – 600 010.
- 2.The XXII Additional Sessions Judge,
City Civil Court, Chennai.
- 3.The II Metropolitan Magistrate Court,
Egmore, Chennai.
- 4.The Public Prosecutor,
High Court, Madras.



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M. NIRMAL KUMAR, J.

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