



CrI.R.C(MD)No.840 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 06.12.2024

Pronounced on : 12.12.2024

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CORAM :

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

CrI.R.C(MD)No.840 of 2023

K.Subramanian @ A.K.Subbu

... Petitioner/Appellant/Accused No.1

Vs.

The State rep by
The Inspector of Police,
CBI/ACB/Chennai.
FIR No.RC 56(A)/06
Dated 29.11.2009

... Respondent/Respondent/
Complainant

PRAYER: Criminal Revision filed under Section 397 r/w 401 of the Criminal Procedure Code, to call for the records and set aside the judgment of conviction and sentence passed in C.C.No.1 of 2016 on the file of the learned Chief Judicial Magistrate, Tiruchirappalli, dated 30.01.2020, confirming the said judgment passed by the learned Sessions Judge, Mahila Court, Tiruchirappalli, in C.A.No.16 of 2022, dated 29.04.2023.

For Petitioner : Mr.M.Jegadeesh Pandian

For Respondent : Mr.M.Karunanithi
Special Public Prosecutor for CBI



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ORDER

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The appeal has been filed to set aside the judgment of conviction and sentence passed in C.C.No.1 of 2016 on the file of the learned Chief Judicial Magistrate, Tiruchirappalli, dated 30.01.2020, confirming the said judgment passed by the learned Sessions Judge Mahila Court, Tiruchirappalli, in C.A.No.16 of 2022, dated 29.04.2023.

2. The brief facts of the case as follows:

The petitioner (A1) was practicing as an Advocate in Tiruchirappalli Courts and dealing MCOP Cases. A2 is a Railway Employee working as Senior Technician (Diesel Fitter) in Railway Workshop in Golden Rock. A3 is a private individual. A4 was working as Sub Inspector of Police, Thiruverumbur Police Station. In the year 2001, a road accident case was registered by the Inspector of Police, Jeeyapuram Police Station, Trichy, in Crime No.204 of 2001 and final report was also filed in C.C.No.108 of 2002 before the learned Judicial Magistrate No.III, Tiruchirappalli and the same was disposed of on 23.10.2002. The National Insurance Company and other Insurance Companies noticed that there was lot of fake insurance claims filed in various Courts and hence, filed Writ Petitions before this Court in W.P.Nos.7389, 39956 and 39968 of 2005 seeking CBI investigation. By the



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order dated 01.03.2006 & dated 08.11.2006, this Court allowed the above said petitions. Consequently, the cases, which were registered in Crime No. 300 of 2001 on the file of the Lalgudi Police Station, Crime No.179 of 2001 on the file of the Trichy Cantonment Traffic Investigation Wing, Crime No. 204 of 2001 on the file of the Jeeyapuram Police Station and Crime No.1051 of 2001 on the file of the Thiruverumbur Police Station were entrusted to CBI for investigation. During investigation, CBI found that the involvement of the vehicle bearing Reg.No.TN-45-E-4116 in all the above said accident cases and A3 had clear knowledge that she was not hit by the said vehicle but she had lodged a false complaint before the A4 Police Station and A4 created false records and filed final report in Cr.No.1051 of 2001, Thiruverumbur Police Station before the Judicial Magistrate Court No.VI, Tiruchirappalli, and further found that the petitioner and the other accused are said to have conspired together and executed false Road Traffic Accident Cases before the Courts below by impersonating and forging & creating the documents with an intention to cheat the Insurance Companies and hence, they committed the offence punishable under Sections 120B r/w 182, 471, 420 r/w 511 IPC and Section 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988. Thereby, CBI registered a case against the petitioner and others in FIR.No.RC56(A)/06 on 29.11.2006.



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2.1. After completion of investigation, they filed final report before the II Additional District Court for CBI Cases, Madurai, and the same was taken on file in C.C.No.10 of 2007. Thereafter, the case was split up against A4 and he died. On the petition filed by the petitioner, the case was transferred to the learned Chief Judicial Magistrate, Tiruchirappalli, and renumbered as C.C.No.1 of 2016 as against A1 to A3.

2.2. The learned trial Judge issued summons to the accused and on their appearance, served the copies under Section 207 Cr.P.C. and framed the necessary charges and questioned the accused. Both the accused pleaded not guilty and stood for trial.

2.3. The prosecution, to prove the case examined P.W.1 to P.W.26 and exhibited 39 documents as Ex.P.1 to Ex.P.39. The learned trial Judge questioned the accused under Section 313 of Cr.P.C., proceedings by putting the incriminating evidence available from prosecution witnesses and documents. The accused denied the same as false and the case was posted for examination of the witnesses on the side of the appellant. On the side of the petitioner, no one was examined and no document was marked.



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2.4. The learned learned Chief Judicial Magistrate, Tiruchirappalli, after full-fledged trial, convicted the petitioner for the offences under Sections 120(b), 471, 420 r/w 511 and 182 of IPC, and sentenced him to undergo 5 years Rigorous Imprisonment and also to pay a fine of Rs.1,000/- (Rupees One Thousand Only) in default to undergo 1 year Simple Imprisonment for an each offences except the offence under Section 182 of IPC and sentenced him to undergo 6 months Rigorous Imprisonment and to pay a fine of Rs.1,000/- (Rupees one Thousand Only) in default to undergo 1 month Simple Imprisonment. The sentences were ordered to run concurrently.

2.5. Challenging the above said conviction and sentence, the petitioner preferred the Criminal Appeals before the learned Sessions Judge, Mahila Court, Tiruchirappalli, in Crl.A.No.16 of 2022. By the order dated 29.04.2023, the first appellate Court has dismissed the appeal by confirming the conviction and judgment passed by the learned Chief Judicial Magistrate, Tiruchirappalli, dated 30.01.2020.

3. Aggrieved over the above said conviction and sentence, imposed by the Courts below, the petitioner preferred the present Revision Case.



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4.1.The contention of the learned counsel for the petitioner is that the petitioner is a practicing Advocate filed MCOP petitions as per the instructions and proof given to him, there is no incriminating evidence against him for any conspiracy. He would submit that Crime No.204 of 2001, culminated into C.C.No.108 of 2002, which was disposed of by the learned Judicial Magistrate No.II, Tiruchirappalli, on 23.10.2002 since the accused therein pleaded guilty, thereafter reopening the same case is not permissible in law. The High Court had only given direction to CBI to conduct further investigation in Crime No.204 of 2001 and once the said case disposed of, there is no question of further investigation. The Insurance Company and others suppressed the fact before this Court that Cr.No.204 of 2001 has been disposed of, thus for already concluded case there cannot be any further investigation. He further submitted that earlier, the District Crime Branch filed a case in Cr.No.18 of 2004 for the offence under Section 420 IPC, the said case is pending and in such circumstances, there cannot be any direction to investigate Crime No. 204 of 2001 of Jeeyapuram Police Station.

4.2. He further submitted that in the search conducted in the office of A1, some documents were seized which is projected against him failing to consider that A1 is sharing the office space with other Advocates and Clerks.



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Further, the CBI suppressed the fact that the brother of A1, who is a Financier was also sharing the same space. Further, the documents recovered are unfilled forms, which cannot be straightaway projected as though they were kept for filing false MCOP cases.

4.3. He further submitted that A1 has withdrawn MCOP cases filed by him after doubts were created about the genuineness of the claim. Further, the vakalat and other documents filed before the learned Judicial Magistrate No.II, Trichy seeking certified copies of documents in Cr.No. 204 of 2001 by A1 cannot be projected against the petitioner/A1 as it is the usual practice by the Advocates to collect particulars and signature through instructing Advocates or from the Clerks and thereafter file the same before the concerned Court and therefore, the petitioner had only acted with bonafide. He further submitted that the A1 is practicing in the District Court, Trichy for the past 22 years with an established office with reputation. The petitioner concentrates on criminal and MCOP cases and in his practice, it is engaging lawyers who used to give particulars and entrust the signed copies of the petition and necessary documents to the petitioner to file it before the appropriate Court. Except for an Omni bus charge against the petitioner, no specific incident or material is produced to show that the petitioner had



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cheated any of the Insurance Company by filing false claims. The Trial Court as well as the Lower Appellate Court failed to consider that the overlapping or negligence in filing such petitions might be due to the unverified instructions by the Juniors and Clerks due to inadvertence and nothing more.

4.4. He further submitted that there is no material to prove the conspiracy with the other accused. The relationship between the petitioner and A3 is professional communication only. From the evidence of the witnesses, it is clear that they have not at all stated anything about the role of the petitioner in preparing or presenting the document. Hence, the offence under Section 120(B) of IPC would not be attracted against the petitioner.

4.5. He further submitted that even though, the vehicle bearing Reg.No.TN-45-E-4116 was used for all the five cases, which were arising out of various occurrences on various dates, the petitioner had no role or knowledge about the same because his role is find out the place only after presenting MCOP petition before the concerned Court. Therefore, it is clear that the petitioner has not forged any document in order to attract the offence under Section 471 of IPC.



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4.6. He further submitted that the prosecution has also failed to prove the offence of cheating or deceiving any person by the petitioner. When there is no dishonesty in his act, the conviction and sentence passed by the learned trial Judge for the offence under Section 420 r/w 511 of IPC is illegal one. Hence, he prayed for setting aside the judgment of both the Courts below.

4.7. Even though, the learned counsel for the petitioner made the above said submissions, he seeks indulgence of this Court to reduce the sentence already undergone by the petitioner on the ground that the appellant is suffering from a disease of HIV, and now, the same is in an advanced stage. To that effect, he has also produced the medical documents and hence,

5.1. Per contra, the learned Special Public Prosecutor submitted that A1 used to sending agents to various hospitals to canvass and give assurance that Motor Accident Claim Petitions can be filed and the injured can be adequately compensated. The compensation amount would be shared among the conspirators. The implicated Drivers voluntarily surrendered before the Police, appeared before the Court and pleaded guilty as if they caused the accident. Subsequently, MCOP cases are filed on behalf of the injured persons, A1 handled the cases, obtained signatures of the injured persons in



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blank legal papers and using the same for filing MCOP petitions, filing vakalat, affidavits, etc. and arranged for medical insurance and other documents, thereby A1 to A4 actively taken part and committed the offence.

5.2. He further submitted that the said vehicle had been used in four other road accident cases, the vehicle is common in all the cases and the rider is common in all the four cases except one case, it is one S.Anand. The active role played by A1 instructing A4, neighbour Villager to the deceased Kandasamy to approach the legal heirs, bring them to office of A1 for filing MCOP cases. A4 had actively taken part in producing the impersonator/A3 as the rider of the vehicle. A2 purchased the vehicle and used the same in five cases facilitating A1. In this case, A2 stood as surety, executed documents before the Jeeyapuram Police Station, his personal details and documents were recovered. A2 and A3 are accused in other cases of similar nature. All the accused have taken part actively, conspired together and played their role in furtherance of their own object. Thereafter, charge sheet filed in Crime No. 204 of 2001 in C.C.No. 108/2002, the case was pending for quite sometime, periodically adjourned, suddenly A4 files an advance hearing petition, produced the accused, pleads guilty and pays fine. Thereafter, A1 files vakalat, supporting affidavit seeking certified copies of the documents in



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C.C.No.108 of 2002. This supporting affidavit and vakalat are forged since it

was filed in the name of Kandasamy, who is the deceased victim in this case.

Thus, A1 to A4 conspired, connived, created forged documents, played fraud on the Court by producing impersonators and thereafter using those documents filed a claim petition, only after CBI registering a case, investigation commenced, fearing being caught A1 withdrawn the claim petition in M.C.O.P.No.2305 of 2001. He further submitted that by withdrawing the claim petition would not absolve A1 from the offence.

5.3. He would further submit that during investigation, search was conducted in the office of A1 from which several of the signed documents, signed blank legal papers, blank documents from the hospital, financier and others were found. When the documents were verified with the concerned persons, it was proved that no such documents handed over or executed by the concerned. A1 was in the habit of filing accident claims with forged documents, A2 purchased a two wheeler and used the same not in one case but in five cases, projected the vehicle as involved in the accident and also managed to insure the vehicle with National Insurance Company Limited and United India Insurance Limited, A3 appeared before the respondent police and admitted that he is the rider of the vehicle who caused the accident. Thus,



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the role played by each of the accused were clearly spoken to by the witnesses with contemporary documents.

5.4. He further submitted that the Trial Court by a detailed judgment discussed all the defence of the petitioner and rightly convicted the petitioner and the lower Appellate Court on independent appraisal dismissed the appeal confirming the conviction passed by the Trial Court. He further submitted that the accused were not to be shown any leniency, the accused are perpetrators of crime, who created forged documents in greed of money and to enrich themselves by cheating the Insurance Companies. The Insurance Act is a benevolent act created to benefit the needy who are injured or lost the breadwinners and the loved ones, as a compensatory for the treatment and the loss, insurance amount paid, the accused by filing such false claims, denied the rightful victims to get the compensation amount, on the other hand they got enriched themselves wrongfully. Hence, he prayed for dismissal of the petitions.

6.This Court considered the rival submissions made by the learned counsel appearing on either side and perused the materials available on record and the precedents relied upon by them.



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7.Considering the submissions made and on perusal of the materials, it is seen that A1 is an Advocate predominantly practicing in motor accident cases, filing claim petitions before the Tribunal, A2 owner of TVS 50 motorcycle bearing No.TN 45A 4116 conspired with A1 given his vehicle to be projected as though the vehicle was involved in road accident in several cases whenever A1 file claim petitions. Likewise, A3 projected himself as the rider of the vehicle who caused the accident. A4 in this case is again an Advocate who contacted the legal heirs of Kandasamy, a threat was infused to them for the reason that the said Kandasamy was cremated without informing the Police since earlier, P.W.1/son of Kandasamy lodged a complaint with Jeeyapuram Police Station in Crime No.204 of 2001 for the road accident. Taking advantage of non-disclosure of TVS 50 vehicle number and the rider name, A1 instructed A4 to collect details from the legal heirs of Kandasamy, made them to sign several of the documents, thereafter used the vehicle of A2, TVS 50 motorcycle bearing No.TN 45E 4116 and projected it as the vehicle involved in the accident. A3 was projected as the rider of the vehicle. A4 produced the vehicle of A2 and the rider of the vehicle, A3 to the Jeeyapuram Police Station. P.W.37 and P.W. 41 recorded the production of the vehicle, A3 was arrested and Station bail was granted to him. A2 stood as surety, particulars furnished by A2 and A3 would very much prove that A3



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was not the person who caused the accident and A2 identified A3 and also production of the fake vehicle confirmed. Thereafter, charge sheet filed in C.C.No.108 of 2002, waited for some time to lapse, A4 filed an advance hearing petition and the accused pleaded guilty. A1 filed a vakalat, supporting affidavit seeking certified copies of the documents for the purpose of filing M.C.O.P.No.2305 of 2001 before the learned Judicial Magistrate No.III, Tiruchirapallai. The supporting affidavit of the said Kandasamy was filed by A1 on 24.10.2002 but the said Kandasamy died on 13.07.2001 which was confirmed by P.W.3/Village Administrative Officer, thus A1 knowing well about the death of Kandasamy for the purpose of motor accident claim petition, files supporting false affidavit. A1 used A2 to A4 to accomplish creation of forged documents and using the same as genuine before the Motor Accidents Claim Tribunal for the purpose of enriching themselves with the insurance money. It was one Karuppannan who was riding the TVS 50 dashed against the said Kandasamy, Murugesan was the pillion rider which was spoken to by P.W.5 and P.W.39, who are the eyewitness to the accident.

8. Further, Karuppannan, who caused the accident was drunk at the time of accident, fled away from the scene of occurrence, the pillion rider



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Murugesan was caught and handed over to the wife of Kandasamy along with TVS 50 which was being used by P.W.4/son-in-law of Kandasamy after removing the number plate. The falsity in the case of A1 was proved by the evidence of P.W.1, P.W.2, P.W.3, P.W.4, P.W.5 and P.W.39. The vehicle of S.Anthony Raj was purchased by A2, used the said vehicle TVS 50 bearing No.TN 45E 4116 for projecting false case by A2 is confirmed. A3 is not the rider of the vehicle, he projects himself as Karuppannan and as the driver of the vehicle is also confirmed and the active role played by A4 immediately after cremation of the deceased Kandasamy is spoken to by the legal heirs of Kandasamy and others. The act of the accused herein is nothing but fraud, suppression of facts, false particulars provided by them before the authorities as well as before the Court of law. The suppression of facts, deliberate fraud played and thereby benefited out of the same cannot be a obstacle and the perpetrators of the fraud cannot claim benefit of the same. Hence, the petitioners' contention that Cr.No.204 of 2001 culminated in C.C.No.108 of 2002 which was disposed of cannot be reopened will not hold good. Added to it, the Trial Court rightly held that on the directions of the High Court, for the purpose of finding out bogus claims made by certain of the people for greed of money to cheat the Insurance Companies and others by projecting false claims by impersonation, using forged vehicles to be unearthed,



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eradicate the illegal claims and to stop misuse of the benevolent provision of Insurance Act, the High Court ordered investigation. Based on the orders of High Court case in RC.55(A)/2006 registered by CBI, during investigation particulars of case in Crime No.204 of 2001 was unearthed. Further, it is proved from the evidence of witness and documents produced that the accused had played fraud, produced forged documents and managed some orders earlier. It is settled position that any order obtained by fraud is non-est in the eye of law. In view of the same, CBI registering a case and investigating the same is proper. As regards the conspiracy, from the evidence it is clear that A1 to A4 conspired together in a well orchestrated manner to cheat the Insurance Company by producing forged documents. Further, since the Trial Court had given a well reasoned and detailed judgment in elaborate, discussing all the aspects, addressing all the points raised by the petitioner and the Lower Appellate Court confirmed the same, this Court finds no reason in interfering with the well reasoned judgment of the Trial Court confirmed by the Appellate Court. In view of the same, this Court is not inclined to entertain this petition.

9. However, considering the incarceration of the appellant for more than 16 months and taking into account his age of 65 years and considering



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the medical complication that the petitioner is suffering from a disease of HIV and now, the same is in an advanced stage, this Court is inclined to partly allow this appeal.

10. Accordingly, this Criminal Revision Case is partly allowed on the following terms:-

i) The conviction passed by the learned Chief Judicial Magistrate, Tiruchirappalli, in C.C.No.1 of 2016 dated 30.01.2020, confirming the said judgment passed by the learned Sessions Judge Mahila Court, Tiruchirappalli, in C.A.No.16 of 2022, dated 29.04.2023, for the offences under Sections 120(b), 471, 420 r/w 511 and 182 of IPC, is confirmed and the sentence imposed against the petitioner under Sections 120(b), 471, 420 r/w 511 and 182 of IPC, is reduced to the period, which was already undergone by him.

12.12.2024

NCC : Yes/No
Index : Yes/No
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Note : Issue order copy on 12.12.2024



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K.K.RAMAKRISHNAN, J.

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To

1. The Chief Judicial Magistrate,
Tiruchirappalli.
2. The Sessions Judge,
Mahila Court, Tiruchirappalli,
3. The Inspector of Police,
CBI/ACB/Chennai.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.
5. The Section Officer, Criminal Section,
Madurai Bench of Madras High Court, Madurai.

**Pre-delivery Order made in
Crl.R.C(MD)No.840 of 2023**

12.12.2024