



Crl.A.No.278 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.06.2025

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.A.No.278 of 2023
and Crl.M.P.No.3867 of 2023

Kajan

... Appellant

Vs.

The State by
The Inspector of Police,
Nagapattinam,
Q Branch, CID,
Nagapattinam.
(Crime No.2 of 2012)

... Respondent

PRAYER: Criminal Appeal filed under Section 374(2) of Cr.P.C., to set aside the judgment of the learned Chief Judicial Magistrate/Special Court, Thiruvarur, made in Spl.C.C.No.01 of 2017 dated 26.12.2022 convicting the appellant for offences under Sections 120B, 468 and 471 of IPC and under Section 12(2) of the Passport Act.

For Appellant : Mr.R.Vijendran

For Respondent : Mr.S.Rajakumar
Additional Public Prosecutor



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JUDGMENT

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This Criminal Appeal has been filed as against the order dated 26.12.2022, passed by the learned Chief Judicial Magistrate/ Special Court, Thiruvavarur, in Spl.C.C.No.01 of 2017, thereby convicting the petitioner for the offence punishable under Sections 120B, 468 and 471 of IPC and under Section 12(2) of the Passport Act.

2. There are totally 11 accused persons in which, the appellant was arrayed as A10. The case of the prosecution is that all the accused were part of a network engaged in procuring Indian passports for Srilankan nationals viz., A4, A5, A10, using forged documents. A1 viz., Indirajith, is the resident of Kooppachikottai, operated the passport racket from the Passport Application Collection Centre at the Thiruvavarur District Collector Office. He was assisted by A2-Ayya @ Sundarrajan of Padappaikadu village and A3-Prabhakaran of Thiruppur, his brother-in-law. A4, A5, and A10 are Srilankan nationals who received the fake passports through A1 to A3. A6-Ashokan, A1's maternal uncle from Chennai, instigated and guided the illegal operation. A7-Ravichandran, working as an Assistant at the District Crime Records Bureau, Thiruvavarur, bypassed official procedures and handed the applications



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directly to A8-Ashokkumar, data entry operator, who forwarded them to A9-Loganathan, Special Sub-Inspector of Police, Paravakkottai, who forged the required police signatures. A11- Maharajan was working as a postman of Alangottai Village who delivered the Indian Passports. After completion of investigation the respondent filed final report and the same has been taken cognizance in Spl.C.C.No.01 of 2017 of the file of the learned Chief Judicial Magistrate, Tiruvarur.

3. To bring the charges to home, the prosecution had examined P.W.1 to P.W.38 and marked documents in Ex.P.1 to Ex.P.76. The prosecution also produced material objects in M.O.1 to M.O.6. On the side of the accused, D.W.1 was examined and marked documents in Ex.D.1 to Ex.D.4. On perusal of oral and documentary evidences and materials of records, the trial Court convicted the appellant for the offences under Section 120(B), 468, 471 of IPC and Section 12(2) of the Passport Act and sentenced him as follows :-

S.No.	Conviction	Sentence
1	Section 120(B) of IPC	to undergo rigorous imprisonment for a period of two years and to pay fine of Rs.1,000/-, in default to undergo simple imprisonment for two months.



S.No.	Conviction	Sentence
2	Section 468 of IPC	to undergo rigorous imprisonment for a period of three years and to pay fine of Rs.1,000/-, in default to undergo simple imprisonment for three months.
3	Section 471 of IPC	to undergo rigorous imprisonment for a period of three years and to pay fine of Rs.1,000/-, in default to undergo simple imprisonment for three months.
4	Section 12(2) of the Passport Act	to undergo rigorous imprisonment for a period of two years and to pay fine of Rs.1,000/-, in default to undergo simple imprisonment for two months.

And also ordered to run the above sentence concurrently. Aggrieved by the same, the appellant filed the present appeal.

4. The learned counsel appearing for the appellant submitted that the prosecution miserably failed to prove the charges. The appellant was convicted without any evidence as against him. There is absolutely no specific allegations as against the petitioner and he was convicted only based on the confession of the co-accused. The confession statement of the co-accused cannot be considered in conclusive nature or convicting the another accused. He further submitted that the suspension of sentence petition was not ordered and still the appellant is in the special camp at Trichy. Therefore, more than the sentence, the appellant is inside the camp.



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Per contra, the learned Additional Public Prosecutor appearing for the respondent submitted that the appellant is arrayed as A10 and some of the accused absconded and as such, the case has been split up and separate trial has been conducted as against the appellant. Though the suspension of sentence was not ordered, the appellant was kept in special camp and the period in the special camp cannot be considered as imprisonment. Further the prosecution proved its case beyond any doubt. The appellant was convicted not only on the basis of the confession statement of the co-accused but the appellant himself submitted the false documents by forging the signature of the government officials. Admittedly, the appellant is a Srilankan national and he fabricated Aadhaar Card and other documents for obtaining Indian passport. Therefore, the trial Court rightly convicted the appellant and it doesn't warrant any interference by this Court.

6. Heard the learned counsel appearing on either side and perused the materials placed before this Court.



7. After splitting up the case, the trial Court conducted separate trial as against the appellant. The appellant is a Srilankan national. The case of the prosecution is that he fabricated the documents and forged the signature of the government officials and produced the documents for passport. Accordingly, he obtained an Indian passport on production of fabricated documents by committing forgery.

8. In support of the prosecution case, P.W.38 was examined and on perusal of P.W.38's deposition, it is revealed that he was staying along with his family in the first floor at Door No.262, 47th Cross Street, Thiruvallur Nagar, Chennai – 41, in which the appellant was residing in the ground floor. The appellant also assisted him in the fast food stall during the rush hours. The Aadhaar card of P.W.38 was marked as Ex.P.74. However, his Srilankan identity card was marked as Ex.P.76. He was also granted license to run road side fast food stall and the same was marked as Ex.P.75.

9. Further, the appellant also gave statement under Section 164 of Cr.P.C., and the same was marked as Ex.P.65. On perusal of his statement, it is revealed that the appellant's native place is No.17,

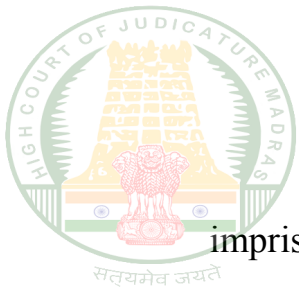


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Thiruvatkulam, Vavuniya District, Srilanka. In fact, his parents are still living in Srilanka and he studied upto twelfth standard in Srilanka.

Therefore, the prosecution proved all the charges beyond any doubt. The appellant himself was examined as D.W.1 and marked Ex.D1 to Ex.D.4. He applied passport in the name of Murali by producing forged document such as voter identity card, family card, transfer certificate with the help of accused 1 to 3. Therefore, the prosecution proved the charges under Sections 120B, 468 and 471 of IPC and under Section 12(2) of the Passport Act. Hence, this Court finds no infirmity or illegality in the order of conviction passed by the trial Court.

10. Insofar as the sentences are concerned, at the time of the registration of FIR, the appellant was arrested and remanded to judicial custody for the period of 47 days. After conviction, the trial Court suspended his sentence for the period of 30 days. Subsequently, he was kept in special camp at Trichy, since he has no right to stay in India. Though the appellant filed application for suspension of sentence in Crl.M.P.No.3867 of 2023, it was pending till now, since the appellant has been kept in special camp at Trichy. Even till today, the appellant is in special camp at Trichy. However, those period cannot be considered as



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imprisonment, since the camp itself is designated for Srilankan refugee.

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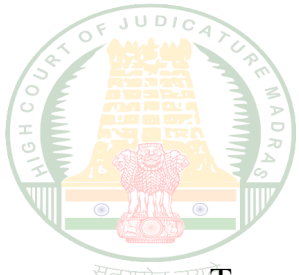
Therefore, the special camp is not a prison. At the same time, the appellant is not allowed to go out from the special camp and his family members can go and visit the camp.

11. Considering the above facts and circumstances, this Court is inclined to modify the sentence imposed by the trial Court. According, the sentence imposed on the appellant is modified to that extent of period in which, the appellant already undergone imprisonment. The appellant is set at liberty forthwith and the District Collector, Trichy is directed to take steps to deport the appellant to his country viz., Srilanka, forthwith.

12. Accordingly, the Criminal Appeal stands partly allowed. Consequently, connected miscellaneous petition is closed.

12.06.2025

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order



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To
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1. The Chief Judicial Magistrate/
Special Court, Thiruvarur.
2. The District Collector,
Trichy.
3. The Inspector of Police,
Nagapattinam,
Q Branch, CID,
Nagapattinam.
4. The Special Camp,
Srilankan Refugee,
Trichy.
5. The Public Prosecutor,
Madras High Court,
Chennai.



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G.K.ILANTHIRAIYAN, J.

rts

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