



Crl.R.C.No.1047 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 19.08.2025

CORAM:

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

Crl.R.C.No.1047 of 2023

Pondicherry Radhika @ Radhika

... Petitioner

Vs.

State by the Inspector of Police,
Criminal Investigation Department,
“Q” Branch, Nagapattinam.
(Crime No.1/2013)

... Respondent

PRAYER: Criminal Revision has been filed under Section 397(1) & 401 of Cr.P.C., praying to call for the entire records in connection with C.A.No.12 of 2020 on the file of the learned Principal Session Judge, Nagapattinam, and set aside the conviction and sentence imposed by the learned Principal Sessions Judge, dated 27.02.2023 in C.A.No.12 of 2020 confirmed the conviction and sentence imposed by the learned Judicial Magistrate No.II, Nagapattinam, in C.C.No.95 of 2014 dated 09.09.2020.

For Petitioner : Mr.V.Parthiban

For Respondent : Mr.A.Gopinath
Government Advocate (Crl. Side)



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ORDER

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The Criminal Revision has been preferred as against the judgment dated 27.02.2023 passed by the learned Principal Session Judge, Nagapattinam, in C.A.No.12 of 2020, confirming the order dated 09.09.2020 passed by the learned Judicial Magistrate No.II, Nagapattinam, in C.C.No.95 of 2014, thereby convicting the petitioner for the offence punishable under Sections 420 & 120B of IPC.

2. The case of the prosecution was that there are totally seven accused and they had close contacts with each other. They had continuously sent persons to foreign countries from the Srilankan refugee camps through illegal human trafficking. The complainant and others are living in Thoppukollai refugee camp and all are Srilankan citizens. Under various circumstances, in person and over phone, all the accused persons had given false information in a persuasive manner and have illegally conspired and collected money from the victims to the tune of Rs.2,00,000 to Rs.3,00,000/- per head for sending them to Australia and also for obtaining the employments. Believing the words uttered by the accused 1 to 3, the complainant paid a sum of Rs.1,20,000/- per head.

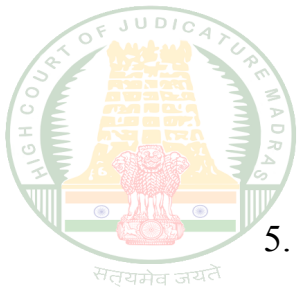


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3. On 22.06.2020, all the accused persons had shown one boat and had shown food items and other facilities for their journey. On that day, the sixth accused had received a sum of Rs.1,80,000/- from one Viknaraj and the second accused had received a sum of Rs.1,80,000/- from one Arulsingam and the third accused had received a sum of Rs.1,20,000/- from one Sukanthan, thereby cheating the above said persons. In fact, they also received a sum of Rs.1,50,000/- as commission for staying in the seventh accused's boat illegally.

4. In the first week of July 2012, the first accused contacted the complainant over phone to bring the amount to Velankanni. As directed by the first accused, the complainant along with his family members made arrangements on 06.07.2018 and went to Velankanni with money to the tune of Rs.3,60,000/- to meet the first accused. The accused 1 to 3, 5 & 6 had collected the money and directed them to wait for boat to go to Australia. Thereafter, they were not taken to Australia as assured. On the complaint, the respondent registered the FIR in Crime No.01 of 2013 for the offences punishable under Section 120B & 420 of IPC. After completion of investigation, the respondent filed final report and the same was taken cognizance in C.C.No.95 of 2014 by the trial Court.



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5. In order to bring the charges to home, the prosecution had examined P.W.1 to P.W.34 and marked documents in Ex.P.1 to Ex.P.66. The prosecution also produced material objects in M.O.1 to M.O.14. On the side of the accused, no one was examined and no documents were marked. On perusal of the oral and documentary evidences, the trial Court found the accused 1, 3,5,6 & 7 guilty for the offences punishable under Sections 420 & 120B of IPC and sentenced them as follows :-

Accused	Sentence	Conviction
Accused 1, 3, 5 & 6	420 of IPC	To undergo rigorous imprisonment of two years and to pay a fine of Rs.2,000/-, in default, to undergo simple imprisonment for six months.
Accused 1, 3, 5, 6 & 7	120 B of IPC	To undergo rigorous imprisonment of six months and to pay a fine of Rs.1,000/-, in default, to undergo simple imprisonment for one month.

The above sentences are ordered to run concurrently. Aggrieved by the same, the petitioner preferred an appeal and the same was also dismissed by confirming the conviction and sentence imposed by the trial Court. Hence, the petitioner filed the present revision.

6. The learned counsel appearing for the petitioner submitted that all the victims were examined as P.W.1 to P.W.5. Though the P.W.1 to P.W.3 deposed corroborating each other, they did not even whisper about the

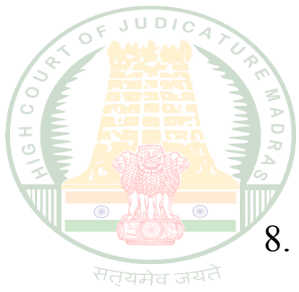


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petitioner, who is arrayed as A5. There are contradiction between the evidences

of P.W.1 to P.W.5 and the same were not corroborated with any of the other witnesses. The contradictions between the evidence of P.W.1 to P.W.5 are fatal to the case of the prosecution and as such, the prosecution failed to prove the charges beyond any doubt. He further submitted that there are totally seven accused, in which the petitioner alone preferred an appeal and the others who were convicted by the trial court did not prefer any appeal. So far, the petitioner has undergone three months simple imprisonment and as such, he prayed to allow this revision.

7. Per contra, the learned Government Advocate (Crl. Side) appearing for the respondent submitted that P.W.1 to P.W.5 are the victims and they were assured by the accused persons to send them to Australia for which the accused persons collected huge money from them. Thereafter, the accused cheated them and did not make any arrangements to send them to Australia as assured by them. Therefore, the prosecution categorical proved the charges and the trial Court rightly convicted the accused persons. Hence it doesn't warrant any interference of this Court.



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

9. The petitioner herein is arrayed as A6 out of the seven accused persons. One of the victims lodged complaint, who was examined as P.W.1. According to him, the first accused assured him that they will send them to Australia for which a sum of Rs.1,20,000/- will be the expenses per head. Believing the said words, P.W.1 and other witnesses viz., P.W.2 to P.W.5 had paid their respective amounts to the first accused. Finally, they were directed to come to Velankanni port, where they were made to stay in a pavilion arranged by the accused. Thereafter, the accused persons had cheated them by not sending them to Australia.

10. Insofar as the petitioner is concerned, P.W.1 to P.W.3 did not even whisper about the presence of the petitioner herein. P.W.4 deposed that the petitioner was also there in the pavilion and received an amount from P.W.4 to the tune of Rs.1,20,000/-. P.W.5 had also spoken about the presence of the petitioner. However, it was not corroborated by P.W.1 to P.W.3. The victims viz., P.W.1 to P.W.5 did not even whisper about the overact of the petitioner. That apart, insofar as the recovery is concerned, the respondent had recovered one hand bag and Rs.100/- note from the petitioner herein. According to P.W.4,



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the petitioner received a sum of Rs.1,20,000/-. Therefore, recovery was also not corroborated with the evidence of P.W.4 and P.W.5.

11. It also curious to note that admittedly, the victims P.W.1 to P.W.5 were in the Srilankan refugee camp at Thoppukollai Refugee Camp, Pudukottai. However, they had come to Velankanni and stayed there in the pavilion arranged by the accused persons. Therefore, they had illegally escaped from the refugee camp without any permission and had gone to Velankanni. Further, there was no evidence to show that how they possessed such a huge amount, when they were staying in the refugee camp. The prosecution also did not take any action as against P.W.1 to P.W.5 for escaping from refugee camp and staying illegally in Velankanni. The prosecution also failed to examine the concerned officials from the refugee camp at Pudukottai where, P.W.1 to P.W.5 were staying. Therefore, the prosecution failed to prove the charges beyond any doubts.

12. In criminal jurisprudence, the burden is always on the prosecution to prove its case beyond reasonable doubt. When two views are possible and the one favourable to the accused is equally plausible, the benefit of doubt must necessarily go to the accused. In the present case, the prosecution has failed to discharge its burden convincingly, and the trial Court and the Appellate Court failed to properly appreciate the infirmities in the prosecution case. Therefore,



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the conviction and sentence awarded by the trial Court in respect of all the charges against the petitioner and confirmed by the Appellate Court cannot be sustained and are liable to be set aside.

13. Accordingly, the conviction and sentence imposed on the petitioner by the judgment dated 27.02.2023 by the learned Principal Session Judge, Nagapattinam, in C.A.No.12 of 2020, and the order dated 09.09.2020 passed by the learned Judicial Magistrate No.II, Nagapattinam, in C.C.No.95 of 2014, for the offence under Sections 420 & 120B of IPC are hereby set aside. The petitioner/accused is acquitted of all charges in C.C.No.95 of 2014 on the file of the learned Judicial Magistrate No.II, Nagapattinam. Fine amount, if any paid, shall be refunded to the petitioner forthwith. Bail bonds, if any executed, shall stand cancelled.

14. Accordingly, the Criminal Revision Case stands allowed.

19.08.2025

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

To

1.The Principal Session Judge,

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Nagapattinam.

WEB COPY 2. The Judicial Magistrate No.II,
Nagapattinam.

3. The Inspector of Police,
Criminal Investigation Department,
“Q” Branch, Nagapattinam.

4. The Public Prosecutor,
Madras High Court,
Chennai.



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G.K.ILANTHIRAIYAN. J,

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