



Crl.R.C.No.1163 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders Reserved on : 23.07.2025

Pronounced on : **31.07.2025**

CORAM:

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

Crl.R.C.No.1163 of 2023

and

Crl.M.P.Nos.9120 & 9122 of 2023

1. S. Venkatesh

2. M. Venkatachalam

... Petitioners

Versus

State rep.by,
The Sub-Inspector of Police,
R-2, Perur Police Station,
Coimbatore – 641 010.

... Respondent

PRAYER: Criminal Revision Case is filed under Sections 397(1) r/w 401 of Criminal Procedure Code, 1973, to call for the records and set aside the conviction and sentence in Crl.A.No.104 of 2022 dated 03.06.2023 from the file of the First Additional District and Sessions Judge at Coimbatore in confirming the Judgement passed by the learned Judicial Magistrate No.I at Coimbatore in C.C.No.224 of 2015 in Crime No.179 of 2015 on the file of the respondent.



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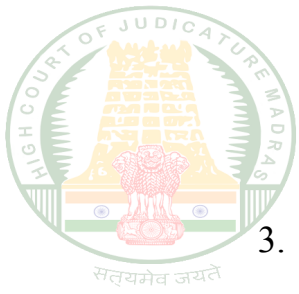
Crl.R.C.No.1163 of 2023

For Petitioner No.1 : Mr. R. Krishnamoorthy
For Petitioner No.2 : Mr. A. Nagarajan
For Respondent : Mr. A. Gopinath,
Government Advocate (Crl. Side)
: Assisted by Ms. D. K. Amrutha

ORDER

This revision has been filed against the judgement passed in Crl.A.No.104 of 2022 dated 03.06.2023 on the file of the District and Sessions Court, Coimbatore, thereby confirming the conviction and sentence imposed by the Trial Court in C.C.No.224 of 2015 on the file of the Judicial Magistrate No.1, Coimbatore, dated 28.09.2022 for the offence under Sections 420, 471 r/w 465 of IPC.

2. The case of the prosecution is that both the petitioners/accused produced fake certificates intentionally and used it as genuine documents to secure jobs as 'main entrance watchman' and 'night watchman' respectively in Arulmigu Pateeswaraswamy Temple, Perur, Coimbatore, which falls under the H.R.&C.E department. Upon receiving a complaint from one Suganthapriya/P.W.1, the respondent police registered a complaint in Crime No.179 of 2015 for the offence under Sections 420, 465 and 471 of IPC.

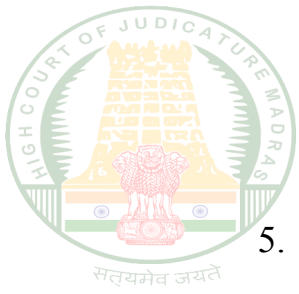


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3. After filing of the final report, the same was taken cognizance in

WEB C.C.No.224 of 2015 by the Judicial Magistrate No.1, Coimbatore. To bring home the charges, the complainant examined as P.W.1 and other witnesses were examined as P.W.2 to P.W.11. The documents marked on the prosecution side were Exs.P1 to P21. On the side of the petitioners/accused, one Mr. Radhakrishnan was examined as D.W.1 and no document was marked.

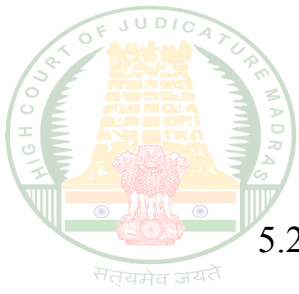
4. After perusing the oral and documentary evidence, the Trial Court found guilty of the petitioners/accused for the offence under Section 420 of IPC, and sentenced them to undergo simple imprisonment for two years each and to pay a fine of Rs.3,000/- each, in default of the payment of fine, to undergo simple imprisonment for three months each; and additionally, for the offence under Sections 471 r/w 465 of IPC., they were sentenced to undergo simple imprisonment of one year each and to pay a fine of Rs.2,000/- each and in default to pay the fine, to undergo simple imprisonment for three months. Both sentences shall run concurrently. Aggrieved by the same, the petitioners/accused preferred an appeal in C.A.No.104 of 2022 before the I-Additional District and Sessions Court, Coimbatore. The Appellate Court also dismissed the appeal, confirming the order of conviction and sentence imposed by the Trial Court. Hence, the present revision.



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5. The learned counsel for the petitioners submitted that the prosecution had miserably failed to prove any of the charges, and the Trial Court ought not to have convicted the petitioners for the offences under Sections 420, 471 r/w 465 of IPC. Further, he submitted that the alleged documents do not constitute an offence in the absence of proof of forgery. The prosecution failed to produce the original transfer certificates of the accused. Without proof that the certificates produced by the petitioners/accused were forged one, the prosecution's case falls apart. Further, the prosecution also failed to prove that by whom, the transfer certificates were fabricated.

5.1 The mere production of the copy of the transfer certificates that the accused fabricated and produced to join in their respective posts under H.R. & C.E department, would not constitute an offence, since the prosecution failed to compare the original transfer certificates produced by the petitioners/accused with the alleged fabricated ones to prove that they were fabricated. Therefore, the Xerox copy of the alleged fabricated transfer certificates cannot be marked as evidence and it is inadmissible. However, the Trial Court, solely on the basis of the said Xerox copy of the transfer certificates, found the petitioners/accused guilty of the offences stated supra and convicted them.

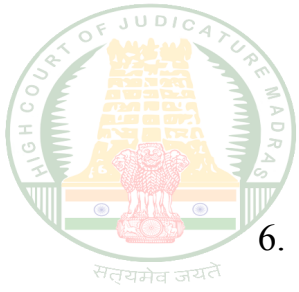


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5.2 In fact, the alleged forged transfer certificates do not contain the

signatures of the petitioners/accused or their respective parents. Furthermore, the complaint was lodged by P.W.1, who had a previous enmity with the petitioners/accused. The alleged complaint lodged on the petitioners/accused was that they had produced forged transfer certificates and secured job under HR & CE, in which, the complainant had no *locus standi* to lodge such a complaint, especially since the transfer certificates produced by the petitioners/accused were verified by the appointing authority before they joined the service. After 15 years of service from their date of joining, based on the complaint lodged by P.W.1, the prosecution has initiated proceedings against the petitioners/accused, which is unjustified.

5.3 Moreover, the Xerox copy of the document cannot form any legal basis or foundation for the prosecution case. Although it was marked as a secondary evidence, it was marked without complying with the provisions under Section 65B of the Evidence Act. Therefore, the order of conviction and sentence imposed on the petitioners/accused cannot be sustained and is liable to be set aside.

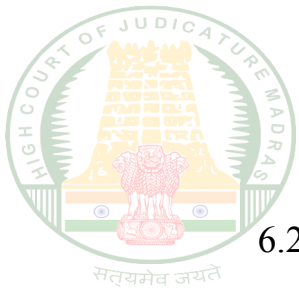


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6. Per contra, the learned Government Advocate (Criminal side)

appearing for the respondent submitted that the petitioners are arrayed as accused/A1 and A2. The allegation is that they had produced forged transfer certificates at the time of joining their respective posts at the said Temple under the HR &CE department. The original transfer certificates were verified by the appointing authority and returned to the petitioners after taking photostat copies of the same. Therefore, the original forged transfer certificates are very much available with the petitioners/accused.

6.1 It is not the case of the prosecution that transfer certificates were fabricated by someone and it was produced by the petitioners. Instead, it is alleged that the petitioners themselves fabricated the signatures of Headmasters of their respective schools, and fabricated the transfer certificates. Based on the complaint, both certificates were verified with their respective schools. The Headmasters of their respective schools were also examined by the prosecution, and they have categorically deposed that transfer certificates which were produced by the petitioners/accused were not issued by them, and the signatures found on them are not their signatures.

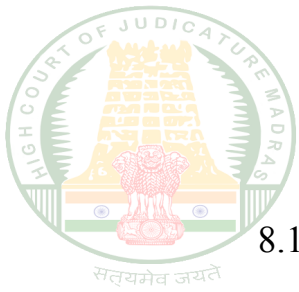


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6.2 In fact, the first petitioner's transfer certificate was issued by a higher secondary school. However, the Headmaster deposed that on the date of issuance of the alleged transfer certificate, their school was not even upgraded to a higher secondary school and was only a high school. Therefore, both certificates were fabricated by the petitioners and produced before the appointing authority. Hence, the prosecution categorically proved the charges, and the Trial Court rightly convicted them, which was also confirmed by the Appellate Court. Consequently, the concurrent findings do not require any interference of this Court.

7. I have heard the learned counsel appearing on either sides and perused the materials available on record.

8. It is seen that the petitioners were appointed as employees in Arulmigu Pateeswaraswamy Temple, Perur, Coimbatore District. The educational qualification for the said posts, as per the notification, was that the candidate should be able to read and write in Tamil. In order to fulfill the eligibility criteria, the petitioners produced their transfer certificates before appointing authority. The staff of the temple were examined as P.W.2 to P.W.5.

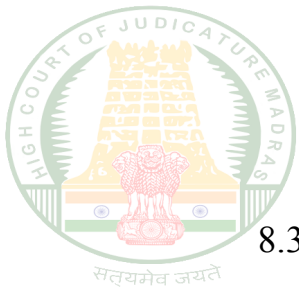


8.1 The first petitioner had joined as a night watchman on 27.09.2000

and he was appointed by the Assistant Commissioner of H.R.&C.E department.

The second petitioner was appointed as a main entrance watchman (i.e., Thalaivasal Kavalar) on 23.05.2002. The transfer certificates produced by them at the time of joining, were marked as Ex.P14 and Ex.P19. Both were appointed under a consolidated salary, and worked till 2015. Only upon the complaint lodged by the P.W.1, a practising advocate, alleging that both petitioners secured their jobs under H.R.& C.E department by fabricating their transfer certificates, the respondent registered the First Information Report.

8.2 Thereafter, the transfer certificates were sent for verification of their genuineness to their respective schools. The transfer certificate of the first petitioner was sent to Mangalam Government Higher Secondary School, and the Headmaster stated that the said certificate was not issued by the said school on 16.07.2015, as per the copy of the transfer certificate produced by the first petitioner. Likewise, the second petitioner's transfer certificate was verified with the school mentioned in the copy of the transfer certificate produced by him, and it was informed that the transfer certificate was not issued by the Irugur Government Higher Secondary School.

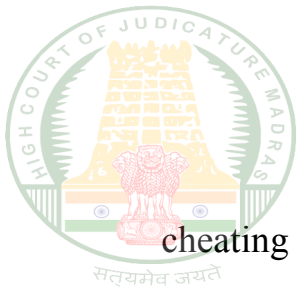


8.3 However, the prosecution failed to produce the original transfer

certificates of the petitioners to prove that the certificates produced by them are fabricated. The Trial Court convicted the petitioners only on the ground that the transfer certificates were not issued by their respective schools. In fact, one of the staff of the said Temple, who was examined as P.W.4, had clearly deposed that at the time of joining, their original certificates were verified and compared with the original transfer certificates by the appointing authority, and the originals were returned to them.

8.4 In order to bring home the charges for the offence under Section 465 of IPC., the prosecution ought to have produced the original transfer certificates to prove that they were forged by the petitioners/accused. The Trial Court rightly acquitted the petitioners for the offence under Section 465 of IPC., However, it convicted the petitioners/accused for the offences under Sections 420 and 471 read with Section 465 of IPC.

8.5 If the charge under Section 465 is not proved, then the allegation under Section 471 of IPC would fail, and since the fabrication of the original document is not proved, the allegation of the forgery would also fail. Consequently, the offence under Section 420 of the IPC would not stand, as the



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cheating cannot exist without forgery. Therefore, the prosecution failed to prove that the petitioners fabricated the alleged original certificates or that they were fabricated by someone else. In the absence of any proof as to the forgery, no conviction is rendered under Section 471 of IPC.

9. Though the prosecution specifically relied on the fact that the petitioners submitted fabricated transfer certificates and secured their jobs, the prosecution miserably failed to prove the above facts, and as such, the conviction under Sections 420 and 471 r/w 465 cannot be sustained.

10. In the result, the judgement dated 03.06.2023 passed in C.A.No.104 of 2022 passed by the I-Additional District and Sessions Judge, Coimbatore by confirming the order dated 28.09.2022 made in C.C.No.224 of 2015 passed by the learned Judicial Magistrate No.1, Coimbatore, are hereby set aside. This Criminal Revision Case is allowed. Consequently, connected miscellaneous petitions are also closed.

31.07.2025

Speaking / Non-Speaking Order
Neutral Case Citation : Yes/No
Index : Yes/No

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To

1. The First Additional District and Sessions Judge, Coimbatore.
- 2.The Judicial Magistrate No.I, Coimbatore.
3. The Public Prosecutor, High Court, Madras.
- 3.The Sub-Inspector of Police,
R-2, Perur Police Station, Coimbatore – 641 010.



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G.K.ILANTHIRAIYAN, J.

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Pre-Delivery Order in

Crl.R.C.No.1163 of 2023

and

Crl.M.P.Nos.9120 & 9122 of 2023

31.07.2025