



Crl.R.C.(MD)Nos.865, 940 and 1010 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
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Reserved on : 26.02.2025 & 07.04.2025

Pronounced on : 30.04.2025

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

Crl.R.C.(MD)Nos.865, 940 and 1010 of 2022

and

Crl.M.P.(MD)Nos.11591 and 11594 of 2022 and 7768 of 2024

1.Karuppiah

2.Sudalai

... Petitioners in
Crl.R.C.(MD)No.
865 of 2022

Sasi

... Petitioner in
Crl.R.C.(MD)No.
940 of 2022

Seyad Akbar

... Petitioner in
Crl.R.C.(MD)No.
1010 of 2022

Vs.

State represented by,
The Inspector of Police,
CBCID (Counterfeit Currency Wing),
Madurai.
(Crime No.1 of 2009)

... Respondent in all
the petitions



Crl.R.C.(MD)Nos.865, 940 and 1010 of 2022

Prayer in Crl.R.C.(MD)Nos.865 and 1010 of 2022 : These Criminal Revision Cases filed under Section 397 & 401 Cr.P.C., to call for the records and set aside the conviction and sentence imposed by the Court of Additional District and Sessions Judge, Virudhunagar in Crl.A.Nos.22 of 2016 and 62 of 2017 on 28.07.2022 in confirming the conviction and sentence imposed by the Assistant Sessions Court, Virudhunagar in S.C.No.152 of 2012 on 23.02.2016 and allow these criminal revision petitions.

For Petitioners : Mr.K.Bharathi for P1
Mr.M.Vivek Kumar for P2
in Crl.R.C.(MD)No.865 of 2022
Mr.M.Jothi Basu
in Crl.R.C.(MD)No.1010 of 2022

For Respondent : Mr.B.Thanga Aravindh,
Government Advocate (Crl. Side)
in both the petitions

Prayer in Crl.R.C.(MD)No.940 of 2022 : This Criminal Revision Case filed under Section 397 r/w 401 Cr.P.C., to call for records and set aside the conviction and sentence imposed by the learned Additional District and Sessions Judge, Virudhunagar District in Crl.A.No.23 of 2016 by the judgment dated 28.07.2022, by modifying the conviction and sentence imposed by the Assistant Sessions Court, Virudhunagar in S.C.No.152 of 2012 by the judgment dated 23.02.2016.

For Petitioner : Mr.P.Prakash

For Respondent : Mr.B.Thanga Aravindh,
Government Advocate (Crl. Side)



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COMMON ORDER

These Criminal Revisions are directed against the common judgment of conviction dated 28.07.2022 made in Crl.A.Nos.22 of 2016, 23 of 2016 and 62 of 2017 on the file of the Additional District and Sessions Court, Virudhunagar, confirming the judgment of conviction passed in S.C.No.152 of 2012 dated 23.02.2016 on the file of the Assistant Sessions Court, Virudhunagar.

2. The petitioners are the accused 5, 6, 7 and 3 in S.C.No.152 of 2012 on the file of the Assistant Sessions Court, Virudhunagar.

3. The case of the prosecution is that

(a) on 13.02.2009 at about 11.00 a.m., during the raid, based on a reliable information, P.W.2 Dharmalingam-the then Sub Inspector of Police, CBCID, Counterfeit Currency Wing, Madurai and his party arrested the first accused Ameer Amsa and the second accused Manoharan near Meenambigai Bungalow Stop, Virudhunagar in the presence of P.W.1 Rajendran-Village Administrative Officer and his



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Assistant Thennarasu, that on interrogation, both the accused 1 and 2 gave confession statements and recovered 80 Nos. of counterfeit currency notes in the denomination of Rs.500/- and 135 Nos. of counterfeit currency notes in the denomination of Rs.100/- each from the accused 1 and 2 under the cover of seizure mahazars under Ex.P.2 and Ex.P.4 respectively, on the basis of which, P.W.2 registered a case in Crime No.1 of 2009 for the offences under Sections 489-B and 489-C IPC and prepared a FIR under Ex.P.10, that P.W.10 Ponnarasu-the then Inspector of Police, CBCID, Counterfeit Currency Wing, Madurai took up the investigation on the same day and on the basis of the confession statement given by the first accused, he arrested the third accused Syed Akbar at Coronation Bus Stop, Sivakasi at about 15.00 hours on 13.02.2009 in the presence of P.W.1 and his Assistant and recorded a confession statement and also recovered 80 Nos. of counterfeit currency notes in the denomination of Rs.500/- and 135 Nos. of counterfeit currency notes in the denomination of Rs.100/-, that on the basis of the confession given by the third accused, P.W.10 arrested the fourth accused Vellaichamy in front of Ganesh coffee bar, Sivakasi at about 16.30 hours on the same day, that on interrogation, the fourth accused gave a confession statement and the same came to be



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recorded by P.W.10 and P.W.10 has then recovered counterfeit currency notes to the value of Rs.53,500/- under the cover of seizure mahazar from the fourth accused.

(b) Based on the confession statement of the fourth accused, P.W.10 arrested the fifth accused Karuppaiah and the sixth accused Sudalai at about 08.00 a.m. on 19.02.2009 at Mattuthavani Bus Stand, Madurai in the presence of P.W.3 Vivekanandan-Village Administrative Officer and recorded their confession statements separately and recovered counterfeit currency notes to the value of Rs.27,500/- and Rs.65,000/- respectively and on the basis of the confession statement of the fifth accused, all of them proceeded to Thiruvananthapuram and while on the way, P.W.10 arrested the seventh accused Sasi, eighth accused Ravi and ninth accused Jelastin Lopas of Kerala at about 06.00 p.m. on the same day at Kaliyakavilai bus stand and that the accused 7 to 8 gave their confession statements and on that basis, P.W.10 recovered a black color pulsar motorcycle bearing Registration No.KL-20-A-3198 and 200 Nos. of counterfeit currency notes in the denomination of Rs.500/- to the value of Rs.1 lakh from the seventh accused, 135 Nos. of counterfeit currency notes in the denomination of Rs.500/- to the value of Rs.67,500/- from



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the eighth accused and subsequently, P.W.10 recovered computer and other accessories from the ninth accused at his residence.

(c) The Investigating Officer P.W.10, after remanding the accused, filed an application before the jurisdictional Magistrate for custodial interrogation of the seventh accused and in pursuance of the orders of the learned Magistrate, the seventh accused was taken into police custody and at that time, he gave a confession statement voluntarily and the same came to be recorded in the presence of Village Administrative Officer Murugesan and his Assistant Paramasivam and thereafter the seventh accused was sent to judicial custody.

(d) P.W.11 Ramachandran-Inspector of Police had taken up the case for further investigation and sent a requisition to the jurisdictional Magistrate Court to send the currencies for examination to forensic expert and after receiving the report, completed the investigation and laid the charge sheet against 10 accused including the present accused for the offences punishable under Sections 120B, 489-A, 489-B, 489-C and 489-D IPC.

4. During trial, the prosecution examined 11 witnesses as P.W.1 to

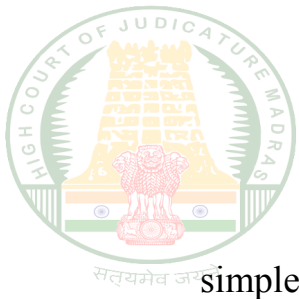


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P.W.11, exhibited 36 documents as Ex.P.1 to Ex.P.36 and marked 30 material objects as M.O.1 to M.O.30. The accused have not adduced any evidence.

5. The learned trial Judge has found all the accused guilty and convicted the accused 3, 5 and 6 for the offences under Sections 120B, 489-B and 489-C IPC and sentenced them to undergo 1 year simple imprisonment and to pay a fine of Rs.1,000/-, in default, to undergo 3 months simple imprisonment for the offence under Section 120B IPC, to undergo 7 years simple imprisonment and to pay a fine of Rs.5,000/-, in default, to undergo 1 year simple imprisonment for the offence under Section 489-B IPC and to undergo 7 years simple imprisonment and to pay a fine of Rs.5,000/-, in default, to undergo 1 year simple imprisonment for the offence under Section 489-C IPC and convicted the seventh accused for the offences under Sections 120B, 489-A, 489-B, 489-C and 489-D IPC and sentenced him to undergo 1 year simple imprisonment and to pay a fine of Rs.1,000/-, in default, to undergo 3 months simple imprisonment for the offence under Section 120B IPC and to undergo 7 years simple imprisonment and to pay a fine of Rs.5,000/-, in default, to undergo 1 year



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simple imprisonment for each of the offences under Sections 489-A, 489-B, 489-C and 489-D IPC. Challenging the said judgment of conviction, the accused 5, 6, 7 and 3 preferred appeals and the learned Additional District and Sessions Judge, Virudhunagar in Crl.A.Nos.22 of 2016, 23 of 2016 and 62 of 2017, considering the materials available on record and on hearing the arguments of both the sides, has passed the impugned common judgment, confirming the conviction and sentence imposed on the accused 3, 5 and 6 and also confirmed the conviction and sentence imposed on the seventh accused for the offences under Sections 120B, 489-B and 489-C IPC and set aside the conviction and sentence for the offences under Sections 489-A and 489-D IPC imposed on the seventh accused. Challenging the impugned common judgment, the present revisions came to be filed.

6. It is pertinent to note that there is a concurrent verdict of conviction and sentence against the revision petitioner. The power and the jurisdiction of revisional Court cannot be equated with the power and the jurisdiction of the appellate Court nor the same can be treated as the second appellate jurisdiction. The powers and the jurisdiction of the



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revisional Court under Sections 397 and 401 Cr.P.C., is confined to legality, propriety and correctness of the concurrent findings of the conviction entered and sentence imposed on the accused. No doubt, while exercising the revisional jurisdiction, there is absolutely no scope for re-appreciating the entire evidence, but at the same time, when the appreciation of evidence is tainted with perversity, the same can very well be looked into and interfered with by this Court. Bearing the above legal position in mind, let us consider the case on hand.

7. The learned counsels appearing for the accused would mainly contend that the entire prosecution case was based on the arrest, confession and recovery, that the official witnesses like Village Administrative Officer, Village Administrative Officer's Assistant and Sub Inspector of Police were shown to be the witnesses for the arrest, confession and recovery, that though the places where arrest and recovery were allegedly made are public places, the Investigating Officers have not chosen to take the assistance of independent persons available in those places and the same creates genuine doubts over the prosecution case and that the prosecution has not offered any reason or explanation for not



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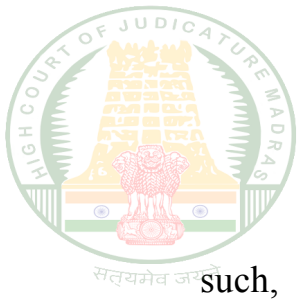
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taking assistance of independent witnesses at the time of arrest, confession and recovery.

8. As rightly observed by the learned trial Judge, relying on independent witnesses for arrest, confession and recovery can be problematic if the accused attempts to influence them. Therefore, the Investigating Officers' decision to seek assistance from public officials like the Village Administrative Officer is justified. Moreover, the evidence of a police official should not be rejected solely based on their official status unless malice or grudge is demonstrated.

9. In the case on hand, as rightly observed by the learned trial Judge, the witnesses for arrest, confession and recovery have given evidence confirming the version of the prosecution and nothing was elicited by the defence in their favour during the cross-examination.

10. The learned counsels appearing for the accused would then submit that the confession statements alleged to have taken from the accused did not lead to any recovery or discovery of new facts and as



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such, their evidence with regard to the recovery are inadmissible as contemplated under Section 27 of Indian Evidence Act.

11. At this juncture, it is necessary to refer the judgment of the Hon'ble Supreme Court relied upon by the learned Appellate Judge in ***Mehboob Ali and another Vs. State of Rajasthan*** reported in ***2015 SCC OnLine SC 1043***, wherein also, on the basis of the confession given by the arrested accused, other accused came to be arrested and fake currency notes came to be recovered and the relevant passages are extracted hereunder:-

“20. Considering the aforesaid dictums, it is apparent that there was discovery of a fact as per the statement of Mehmood Ali and Mohd. Firoz. Co- accused was nabbed on the basis of identification made by the accused Mehboob and Firoz. He was dealing with fake currency notes came to the knowledge of police through them. Recovery of forged currency notes was also made from Anju Ali. Thus the aforesaid accused had the knowledge about co-accused Anju Ali who was nabbed at their instance and on the basis of their identification. These facts were not to the knowledge of the Police hence the statements of the accused persons leading to discovery



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of fact are clearly admissible as per the provisions contained in section 27 of the Evidence Act which carves out an exception to the general provisions about inadmissibility of confession made under police custody contained in sections 25 and 26 of the Evidence Act.”

12. The above decision is squarely applicable to the case on hand. It is pertinent to note that the prosecution was not aware of the involvement in the fake currency racket by the accused 3 and 5 to 7 earlier and only on the basis of the confession taken from the accused 1, 4 and 5, they came to know about the involvement of the said accused and more importantly, they were arrested on identification by the accused referred above and counterfeit currency notes came to be recovered from them.

13. The learned counsel appearing for the seventh accused would mainly contend that the prosecution is duty bound to prove that the accused at the time of possessing the counterfeit currency notes he knows or had reason to believe that the currency was counterfeited and intended to use it as genuine notes and to circulate the same to the public but in the present case, the prosecution failed to establish the requisite *mens rea* of



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the seventh accused and that the prosecution has not produced any iota of materials to show that the accused had requisite *mens rea*.

14. The learned counsel appearing for the accused would rely on a decision of the Hon'ble Supreme Court in ***Umashankar Vs. State of Chhattisgarh*** reported in ***CDJ 2001 SC 595***,

“A perusal of the provisions, extracted above, shows that mens rea of offences under Section 489-B and 489-C is, "knowing or having reason to believe the currency-notes or bank notes to be forged or counterfeit". Without the afore-mentioned mens rea selling, buying or receiving from another person or otherwise trafficking in or using as genuine forged or counterfeit currency-notes or bank-notes, is not enough to constitute offence under Section 489-B of I.P.C. So also possessing or even intending to use any forged or counterfeit currency-notes or bank-notes is not sufficient to make out a case under Section 489-C in the absence of the mens rea, noted above. No material is brought on record by the prosecution to show that the appellant had the requisite mens rea. The High Court, however, completely missed this aspect. The learned trial judge on the basis of the evidence of P.W.2, P.W.4 and P.W. 7 that they were able to make out that currency note alleged to have been given to P.W. 4, was fake "presumed"



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such a mens rea. On the date of the incident the appellant was said to be 18 year old student. On the facts of this case the Presumption drawn by the trial court is not warranted under Section 4 of the Evidence Act. Further it is also not shown that any specific question with regard to the currency-notes being fake or counterfeit was put to the appellant in his examination under Section 313 of Criminal Procedure Code. On these facts we have no option but to hold that the charges framed under Sections 489-B and 489-C are not proved. We, therefore, set aside the conviction and sentence passed on the appellant under Sections 489-B and 489-C of I.P.C. and acquit him of the said charged [see : M.Mammutti v. State of Karnataka, AIR (1979) SC 1705.]”

15. But the learned Government Advocate (Criminal Side) appearing for the respondent would submit that the prosecution has recovered counterfeit currency notes out of which many of the currency notes are bearing same serial number and some of the items are without serial number. As rightly contended by the learned Government Advocate (Criminal Side), the serial numbers found in the recovered counterfeit currency notes will easily indicate that several notes carrying the same serial numbers, which is not possible if they were genuine. Moreover,



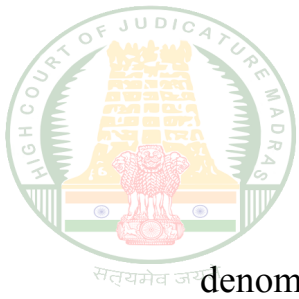
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there is ample evidence to show that the accused 7 and 8 had circulated the fake notes through the accused 1 to 6 and as such, it cannot be stated that they are not having any knowledge or reason to believe that they are counterfeit currency.

16. The next contention of the learned counsels appearing for the accused is that P.W.7 to P.W.9 were not the expertise to examine the currency notes, that the currency notes allegedly recovered were not sent for chemical examination to the Currency Notes Press, Nasik and that in the absence of any proof that the currency notes recovered from the accused are counterfeit currency notes, conviction under Section 489-B and 489-C cannot be sustained.

17. I find absolutely no merits in the said contention. As rightly contended by the learned Government Advocate (Criminal Side), P.W.7- Scientific Officer, who examined the seized currency notes, gave a report stating that M.O.1 to M.O.7 and M.O.9 are the counterfeit notes of Reserve Bank of India and that the notes in denomination of Rs.500/- could have been printed by laser printing method and the notes in



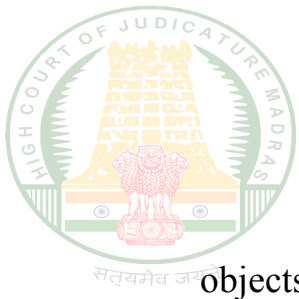
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denomination of Rs.100/- could have been printed by screen printing method and that P.W.7 during cross-examination would say that as per Section 292 Cr.P.C., Government Forensic Lab expert can examine the counterfeit currency notes also. More importantly, as already pointed out, many of the currency notes seized are bearing same serial number and some of the notes are without serial number. Considering the above, the learned trial Judge, considering the evidence available on record, has rightly come to a decision that the recovered notes are fake currency notes.

18. The learned counsels appearing for the accused would then submit that the prosecution has not furnished any specific date, time or place of conspiracy, that they have not produced any iota of evidence to prove the alleged conspiracy and that the Courts below only on the basis of the presumptions and assumptions have convicted the accused under Section 120B IPC.

19. As rightly observed by the learned Appellate Judge, there cannot be any direct evidence to prove the conspiracy. Criminal conspiracy can be inferred from the facts and circumstances of the case, even without direct evidence of an explicit agreement and the existence of conspiracy and its



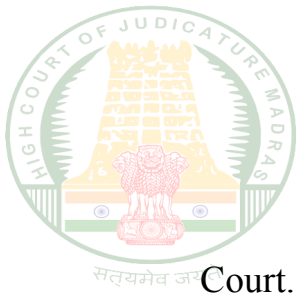
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objects are often deducted from the actions, conduct and surrounding circumstances of the case. In most of the cases, it is very difficult to get direct evidence for conspiracy and in those cases, the Court can only rely on circumstantial evidences such as the accused's actions, conduct and the overall sequence of events to infer the existence of a conspiracy. In the case on hand, the accused 7 and 8 are from Kerala State and the other accused are from different parts of Tamil Nadu. As already pointed out, the accused 7 and 8 have distributed the fake currency notes through the accused 1 to 6 and from them, also from the seventh accused, the same type of fake currency notes came to be recovered.

20. Considering the entire facts and circumstances, including the nature of the counterfeit currency notes recovered and the conduct of the accused, the learned trial Judge has rightly held that the prosecution has proved the involvement of accused 1 to 8 in a criminal conspiracy.

21. A close perusal of the judgment of the appellate Court would reveal that the learned Additional District and Sessions Judge has reassessed the evidence and gave his findings concurrent with the trial



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Court. Considering the entire materials available on record, this Court is not inclined to interfere with the findings of the appellate Court.

22. The learned counsel appearing for the accused would submit that some indulgence can be shown in the matter of punishment. They would further submit that all the accused have already served substantial portion of sentence imposed on them.

23. It is brought to the notice of this Court that as on 21.04.2025, the third accused has already undergone the period of 4 years 6 months 28 days, the accused 5 and 6 have already undergone the period of 2 years 8 months and the seventh accused has already undergone the period of 5 years 9 months and that the accused are in jail till now.

24. Taking note of all the above aspects, the sentence of simple imprisonment for seven years each under Sections 489-B and 489-C IPC is modified to that of simple imprisonment of four years each. The period already undergone by the petitioners is set off under Section 297 B.N.S.S. (428 Cr.P.C.) In all other aspects, the judgment of the appellate Court is



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confirmed. Accordingly, the impugned common judgment passed in Crl.A.Nos.22 of 2016, 23 of 2016 and 62 of 2017 dated 28.07.2022 on the file of the Additional District and Sessions Court, Virudhunagar, confirming the judgment passed in S.C.No.152 of 2012 dated 23.02.2016 on the file of the Assistant Sessions Court, Virudhunagar is modified as follows;

(i) the conviction and sentence imposed upon the petitioners by the Courts below for the offence under Section 120B is confirmed;

(ii) the sentence imposed upon the petitioners by the Courts below for the offences under Sections 489-B and 489-C IPC is reduced from seven years to four years. The sentence of fine and the default sentence shall remain the same;

(iii) the sentences are ordered to run concurrently;

(iv) period of sentence, if any, undergone by the petitioners during trial is ordered to be set off under Section 297 B.N.S.S. (428 Cr.P.C.);and

(v) the petitioners, after adjusting the period of imprisonment already undergone, shall undergo imprisonment for the remaining period. If the petitioners have completed serving the sentence and the default sentence as directed above, they shall be released-forthwith, unless they



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are required in connection with any other case.

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25. With the above modification, these Criminal Revision Cases stand partly allowed. Consequently, connected Miscellaneous Petitions are closed. No costs.

30.04.2025

NCC :yes/No
Index :yes/No
Internet:yes/No
csm

To

1. The Additional District and Sessions Judge,
Virudhunagar District.
- 2.The Assistant Sessions Judge,
Virudhunagar.



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K.MURALI SHANKAR,J.

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Pre-Delivery Common Order made in
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and
Crl.M.P.(MD)Nos.11591 and 11594 of 2022 and 7768 of 2024

Dated : 30.04.2025