



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 3RD DAY OF JUNE, 2024

BEFORE

THE HON'BLE MR JUSTICE V SRISHANANDA

CRIMINAL REVISION PETITION NO.67 OF 2015

BETWEEN:

REV. DEVARAJ BANGERA
S/O LATE SAMUEL BANGERA,
AGE 69 YEARS,
R/AT OPP: SHIVDEEP RESIDENCY,
SHIVABHAGH, MANGALORE,
D.K.DISTRICT-575 002.

...PETITIONER

(BY SRI B.V.PINTO, ADVOCATE)

AND:

STATE OF KARNATAKA
REP. BY SUB INSPECTOR OF POLICE,
MANGALORE EAST POLICE STATION,
D.K.DISTRICT-575 002.

...RESPONDENT

(BY SRI VINAY MAHADEVAIAH, HCGP)



THIS CRL.RP IS FILED UNDER SECTION 397 R/W 401 CR.P.C PRAYING TO SET ASIDE THE JUDGMENT AND ORDER DATED 09.01.2015 IN CRL.A.NO.111/2013 PASSED BY THE LEARNED I-ADDL.DIST. AND SESSIONS JUDGE, D.K., MANGALORE AND THE JUDGMENT AND ORDER DATED 15.03.2013 IN C.C.NO.119/2009 PASSED BY THE LEARNED II-SENIOR CIVIL JUDGE AND CJM, MANGALORE D.K., CONVICTING THE PETITIONER/ACCUSED FOR THE OFFENCE P/U/S 463, 468, 471 OF IPC, BY ALLOWING THIS REVISION PETITION.



THIS CRL.RP, COMING ON FOR FINAL HEARING, THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

Heard Sri B.V. Pinto, learned counsel for the revision petitioner and learned High Court Government Pleader for the respondent/State.

2. Revision petitioner is the accused in C.C.No.119/2009 on the file of II Additional Senior Civil Judge and CJM., Mangaluru, Dakshina Kannada for the offences punishable under Section 463, 468 and 471 IPC.

3. Facts in brief which are utmost necessary for disposal of the revision petition are as under:

Accused said to have manipulated his date of birth certificate as 29.06.1945 instead of 29.06.1944 so as to get the benefit of continuing head of the church for one more year. The case revolves around the documentary evidence rather than the oral evidence placed on record by the prosecution.

4. Material evidence placed on record before the Trial Court was sufficient enough to convict the accused for the offences punishable under Sections 463, 468 and 471 IPC, inasmuch as



manipulated documents have been utilized for the purpose of getting extension of his headship in the Church and therefore, the Trial Magistrate was justified in convicting the accused for the aforesaid offences.

5. Defence of the accused was total denial which was not appreciated by the Trial Magistrate.

6. Being aggrieved by the order of conviction and sentence passed by the Trial Magistrate, the accused preferred an appeal before the District Court in Crl.A.No.111/2013.

7. Learned District Judge secured the records after reconsidering and re-appreciating the material evidence on record, dismissed the appeal of the accused and confirmed the order of conviction and sentence.

8. Being not satisfied with the order passed by the learned Magistrate and learned Judge in the First Appellate Court, the accused is before this Court in this revision petition.

9. Sri B.V. Pinto, learned counsel for the revision petitioner strenuously contended that the accused is innocent of the offences alleged against him and the question of manipulation



of the date of birth certificate is a figment of imagination at the behest of the people who are nurturing the ill-will against the accused revision petitioner not only to tarnish the image of the revision petitioner, but also to see that he would not get the extension in the headship of the Church.

10. He also pointed out that the material evidence collected by the prosecution is from unknown source and therefore, the custody of the document is not properly appreciated by the learned Trial Magistrate which has been totally ignored by the learned Judge in the First Appellate Court and therefore, sought for setting aside the orders passed by the learned Trial Magistrate and learned Judge in the First Appellate Court by allowing the present revision.

11. Alternatively Sri Pinto contended that in the event of this Court upholding the order of conviction passed by both the Courts, having regard to the limited jurisdiction of this Court in the revision, the Court may consider the grant of probation having regard to the age and past conduct of the revision petitioner.



12. Per contra, Sri Vinay Mahadevaiah, learned High Court Government Pleader not only supported the judgments of the Trial Court as well as the learned judge in the first appellate court, but contended that in a matter of this nature, grant of probation would send a wrong signal to the society and therefore, sought for dismissing the revision petition.

13. Having heard the parties in detail, this Court perused the material on record meticulously. On such perusal of the material on record, it is crystal clear that the case of the prosecution hinges more on the documentary evidence rather than the oral evidence.

14. The criminal action was initiated by filing a private complaint marked at Ex.P.1. The said complaint was referred to the police under Section 156 (3) of Cr.P.C., and thereafter police registered a case and investigated the matter and filed the charge sheet.

15. The prime documents for establishing the case against the petitioner is school admission register marked at Ex.P.4 and school register marked at Ex.P.6. Date of birth found on those documents and the disputed documents do not tally, same



would prima-facie establish the allegations found in the private complaint. Prosecution thereafter placed sufficient evidence before Court to establish the same beyond reasonable doubt.

16. The defence that was put forth on behalf of the accused is that some person who is nurturing the ill will is the cause for filing of the false case.

17. In the cross-examination of prosecution witnesses namely; the head madam of the school, it has been specifically suggested that witness and other witnesses are belonging to one and the same subset of the Christian community. Witness admitted that herself and other charge sheet witnesses belonged to the same subset of the Christian community. However, she has stated that in the official capacity, she has come and deposed before the Court.

18. Material evidence on record is thus sufficient enough to record an order of conviction which has been rightly done by learned Magistrate.

19. In the Appellate Court, learned District Judge, revisited the prosecution evidence, in the light of the appeal grounds and



did not find any one of the grounds to upset the binding recorded by the learned Trial Magistrate.

20. However both the Trial Magistrate and learned Judge in the First Appellate Court failed to note the age of the accused by passing the appropriate sentence.

21. Further, taking note of the fact that the date of offence being 09.10.2004 according to the prosecution, practically 20 years have elapsed during the proceedings before different Courts. As on today, accused is aged 80 years. Trial Court has imposed fine of Rs.5000/- for the offence punishable under Section 463 of IPC and fine of Rs.10,000/- for the offence punishable under Section 468 and 471 of IPC with default sentence. For the offence under Section 463 of IPC, period of one year has imposed as simple imprisonment and three years for the offences punishable under Sections 468 and 471 of IPC.

22. Taking note of the age of the accused, enhancing the fine amount in a sum of Rs.25,000/- inclusive of already imposed fine amount of Rs.15,000/- and directing the accused to undergo simple imprisonment for a day till raising of this Court,



would meet the ends of justice, as the accused revision petitioner is before this Court.

Accordingly, following:

ORDER

- (i) Revision petition is allowed in part.
- (ii) While maintaining the conviction of the accused for the offence punishable under Section 463, 468 and 471 IPC, accused is directed to pay in all Rs.25,000/- as the fine amount, inclusive of Rs.15000/- of fine amount already imposed by the Trial Court and paid by the accused with a default sentence of simple imprisonment for six months.
- (iii) Two weeks time is granted to deposit the balance fine amount.
- (iv) The accused is present before the Court. He is directed to undergo simple imprisonment for the day, till raising of this Court for the aforesaid offences, taking note of the fact that he is aged 80 years.

**Sd/-
JUDGE**

MR