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2025:KER:88535

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE P. V. BALAKRISHNAN

MONDAY, THE 17TH DAY OF NOVEMBER 2025 / 26TH KARTHIKA, 1947

CRL.REV.PET NO. 1227 OF 2017

(AGAINST THE ORDER/JUDGMENT DATED 20.06.2017 IN Cr1.A NO.362 OF 2012 OF ADDITIONAL DISTRICT COURT-I KOTTAYAM ARISING OUT OF THE ORDER/JUDGMENT DATED 22.10.2012 IN CC NO.189 OF 2005 OF JUDICIAL MAGISTRATE OF FIRST CLASS -I,KANJIRAPPALLY)

REVISION PETITIONER/APPELLANT/ACCUSED NO.1:

MOHAMMED ABBAS
AGED 50, S/O.IBRAHIM, NELLIMALAYIL HOUSE,
ANITHOTTOM BHAGOM, KANJIRAPPALLY VILLAGE,
KANJIRAPPALLY TALUK.

BY ADVS.
SRI.LIJI.J.VADAKEDOM
SMT.REXY ELIZABETH THOMAS
SRI.RAJEEV JYOTHISH GEORGE

RESPONDENT/RESPONDENT/STATE:

STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT
OF KERALA, ERNAKULAM.

OTHER PRESENT:

SMT. MAYA.M.N-PP

THIS CRIMINAL REVISION PETITION HAVING BEEN
FINALLY HEARD ON 17.11.2025, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:



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P.V.BALAKRISHNAN,JJ.

CR

CrI.R.P. No. 1227 of 2017

Dated this the 17th day of November 2025

ORDER

Under challenge in this Criminal Revision Petition is the conviction and sentence rendered against the revision petitioner under Section 465 of IPC.

2. The revision petitioner is the 1st accused in CC No.189 of 2005 on the files of the Judicial First Class Magistrate Court-I, Kanjirappally. He, along with nine other accused, stood trial before that court for committing the offences punishable under Sections 420, 465, 468, 471, 472, 473, 474, 120B read with Section 34 IPC.

3. The prosecution case is that accused Nos. 1 to 3 and 9 hatched a conspiracy to forge certificates and mark lists of Kerala University, Mahatma Gandhi University, Department of Technical Education in Government of Kerala, etc., for selling the same to their customers and thereby to deceive the above institutions. The 4th accused made DTPs of the certificates and mark lists and handed over the same to the 3rd accused to make forged certificates. The 3rd accused also made counterfeit



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seals of the institutions and affixed the seals on forged certificates and mark lists. Accused Nos. 5 to 8 converted the DTPs into polymasters in their press and made fake certificates and mark lists. Accused No.10 made a false attestation of the Embassy of the Ministry of Human Resources of the United Arab Emirates in New Delhi and accused Nos. 1 to 3 and 9 distributed some of these certificates and mark lists to their customers. It is when the 1st accused who was travelling in a car driven by the 2nd accused carrying the forged certificates and mark lists, along the Kottayam-Kumali road, was apprehended by the Sub Inspector of Police, Kanjirappally, it led to the unravelling of the entire conspiracy and the crime.

4. The trial court, on an appreciation of the evidence on record found accused Nos. 2 to 6, 9 and 10 not guilty of the offences alleged and acquitted them. The case against the 7th accused was closed as abated, and the case against the 8th accused was split up and re-filed. The trial court also found the 1st accused not guilty of the offences punishable under Sections 420,468,471,472,473,474,120B read with Section 34 IPC and acquitted him thereof. But, it found the 1st accused guilty of committing an offence under Section 465 IPC and convicted him



thereunder. It sentenced the 1st accused to undergo simple imprisonment for a period of two years and to pay a fine of Rs.10,000/-, under Section 465 IPC, with a default clause.

5. The 1st accused carried the matter in appeal by filing CrI.Appeal No. 362 of 2012 before the Additional Sessions Court-I, Kottayam. The said court, by judgment dated 20.06.2017, dismissed the appeal.

6. Heard Adv.Liji J Vadakedom, the learned counsel appearing for the revision petitioner, and Adv.Maya M.N., the learned Public Prosecutor appearing for the respondent. Perused the records.

7. The learned counsel for the revision petitioner submitted that both the trial court and the appellate court have not appreciated the evidence on record in a proper perspective and has arrived at a wrong conclusion of guilt against the 1st accused. He, by relying on the decision in **Suresh K.K. v. State of Kerala (2022 KHC 8105)** contended that the Identification of Prisoners Act, 1920, does not permit the investigation officer to take specimen handwritings of the accused during the investigation stage, and therefore, Ext.P9 specimen handwriting, which is relied on by the prosecution to



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prove that Exts.P69 to P71 documents were forged by the 1st accused cannot be relied upon. He also, by relying on the decisions of the Apex Court in **Dr. Vimla v. Delhi Administration (1963 KHC 657)**, **State of U.P. v. Ranjit Singh (AIR 1999 SC 1201)** and this Court in **Mohammed Hayath Khatib v. State of Kerala (2016 KHC 589)** contended that even if the entire prosecution version is accepted, the offence under Section 465 IPC is not attracted. He, by relying on these decisions, contended that since there is no evidence to show that the 1st accused has utilised these certificates for any purpose, it cannot be found that any wrongful gain or advantage has accrued to him or any wrongful loss has been caused to anyone. Similarly, since there is no evidence to show that any injury has been suffered by the persons deceived, it cannot be found that the 1st accused has defrauded anyone. He also submitted that, if in any case, this Court finds the revision petitioner guilty, the sentence imposed on him may be reduced, considering the fact that he is now aged about 65 and is suffering from various serious ailments.

8. Per contra, the learned Public Prosecutor supported the impugned judgments and contended that there are no grounds



to interfere with the same. She argued that the 1st accused has acted fraudulently and the injury suffered by the institutions and students is something other than economical loss. According to her, in the instant case, harm has been caused to the body and reputation of the institutions due to the forgery committed by the 1st accused. She also submitted that there is no bar in the investigating officer taking specimen handwriting of the accused during the investigation, and hence, the same can be relied to compare the handwriting.

9. The materials on record show that on 07.08.2002 at about 6.30 pm, the 1st accused was caught red-handed with forged certificates and mark lists and was arrested from the spot. The evidence of PW33 shows that, while he was conducting vehicle checking duty on 07.08.2002 along with his party, he saw a Fiat car bearing Registration No. KL-06-2779 coming towards him. Then, seeing the police party, the car took a U turn and was driven off. He and his party chased the car in a police jeep and intercepted it at a place called Poothakuzhy. On a search conducted in a bag carried by the 1st accused, he found it containing a number of fake certificates, mark lists, etc. He arrested the 1st accused from the spot and prepared Ext.P1



mahazar and went to the police station and registered Ext.P26 FIR. Thereafter, he also conducted a search in the house of the 1st accused from where some more fake certificates were seized. It is to be seen that even though PWs 1 to 3 did not fully support the prosecution case, both the trial court and the appellate court found that the evidence of PW33 is convincing and cogent, and I also do not find any reason to take a different view. It is to be taken note that, the first accused is having no case that PW33 is having any animosity for roping him in a false case and that even after cross examination, his evidence remains credible. Further, PWs 1 and 2, who have admitted their signatures in Ext.P1 mahazar, have also admitted the presence of the 1st accused in the scene of occurrence, and the same in turn supports the evidence of PW33 to a considerable extent. Thus, from the evidence of PW33, it can be seen that he has recovered Ext.P16 series to P25 and Ext.P69 to P71 certificates and mark lists from the bag carried by the 1st accused.

10. Be that as it may, the evidence of PW23 and PW24 would clearly show that Exts.P69 to P71 certificate and mark lists recovered from the 1st accused are nothing but fake. Their



evidence reveals that Exts.P69 and P70 certificates of Mahatma Gandhi University are fake, since the dates, as reflected in them, relates to a period even before the University came into existence and also that the signature in Ext.P71 is not that of the Vice Chancellor of Kerala University. That apart, most importantly, it is to be seen that evidence of PW18, coupled with Ext.P7 report shows that Exts.P69 to P71 certificate/mark lists are in the handwritings of the 1st accused. His evidence shows that he had compared Ext.P9 specimen handwriting of the accused, which was taken by the investigating officer, in the presence of PW20, a public servant, and has reached the afore findings. Therefore, from the afore evidence, it can be safely concluded that the trial court and the appellate court did not commit any error in finding that the 1st accused himself has forged Exts.P69 to P71 documents.

11. The contention of the learned counsel for the revision petitioner, by relying on the decision in **Suresh K.K.** (cited supra) that, since Identification of Prisoners Act does not permit a Police Officer to take specimen of the handwritings during investigation, the evidence of PW18 as regards Exts.P69 to P71 certificates cannot be relied upon, is meritless. It is true that



this Court in **Suresh's case** (cited supra) has held that the measurements mentioned in Section 2(a) of the Identification of Prisoners Act, 1920 only include finger impressions and footprint impressions, and specimen writings will not come under the Act. It is also true that in this decision it was held that since the Investigating Officer is not empowered under the Act to require the writings of the accused, it cannot be relied upon. But, a Three Bench of the Hon'ble Apex Court in the decision in **Santosh @ Bhure v. State (G.N.C.T.) of Delhi (2023 SCC OnLine SC 538)** has categorically held that, in the absence of any legal provision proscribing the investigating agency from obtaining specimens of handwriting/signature (prior to the insertion of Section 311-A of the Cr.P.C.), there is no bar for the investigating agency to collect such specimen handwriting and rely upon the same. Paragraphs 59 and 60 of the above decision, which are relevant, reads as follows:

"59. In the instant case, Neeraj's specimens of handwriting and signature were obtained by the investigating agency during investigation when there existed no specific provision in the Code regulating the procedure for obtaining such specimens and there existed no provision proscribing the investigating agency from obtaining specimens of



handwriting/signature of an accused or a suspect. As far as the provisions of Section 73 of Evidence Act, 1872 are concerned, they apply when a proceeding such as an inquiry or trial is pending in a court. Since no proceedings were pending before any court when the specimens in question were obtained, provisions of Section 73 of Evidence Act, 1872 could not have been invoked. In such a situation, as there existed no legal provision proscribing an investigating agency from obtaining specimens of handwriting/signature of a suspect or an accused, in our view, the investigating agency had the power to collect such material including specimen handwriting/signature as to assist the prosecution to introduce a relevant fact or corroborate any piece of evidence on a relevant fact/fact in issue.

60. For the reasons above, in our considered view, the expert report (i.e. FSL report) obtained during investigation by the investigating agency, predicated on specimens of handwriting/signature of Neeraj obtained during investigation, could not have been discarded merely because it was obtained during investigation and without an order/permission of the court as contemplated under Section 73 of Evidence Act, 1872."

If so, in the light of the afore dictum and also considering the fact that no bar is placed in the Identification of Prisoners Act from taking specimen handwriting from the accused, I have no hesitation to find that there is no illegality in the investigating



officer collecting specimen handwriting of the accused and also in the trial court and the appellate court relying on the evidence of PW18, who has compared the handwriting, to find that the 1st accused has forged Exts.P69 to P71 certificates/mark lists.

12. As regards the contention that the offence under Section 465 I.P.C. is not attracted in this case, again I am of the considered view that there is no merit in it. Section 465 prescribes the punishment for forgery, Section 464 defines making a false document and Section 463 defines forgery. Sections 463 and 464 of the IPC are extracted hereunder for easy reference.

“463. Forgery— Whoever makes any false document or false electronic record or part of a document or electronic record, with intent to cause damage or injury, to the public or to any person, or to support any claim or title, or to cause any person to part with property, or to enter into any express or implied contract, or with intent to commit fraud or that fraud may be committed, commits forgery.

464. Making a false document — A person is said to make a false document or false electronic record—

First—Who dishonestly or fraudulently—

- (a) makes, signs, seals or executes a document or part of a document;
- (b) makes or transmits any electronic record or part of any electronic record;
- (c) affixes any electronic signature on any electronic



record;

(d) makes any mark denoting the execution of a document or the authenticity of the electronic signature, with the intention of causing it to be believed that such document or part of document, electronic record or electronic signature was made, signed, sealed, executed, transmitted or affixed by or by the authority of a person by whom or by whose authority he knows that it was not made, signed, sealed, executed or affixed;"

Thus, as per Section 464 IPC, the document must be made by a person, "dishonestly" or "fraudulently". The words "dishonestly" and "fraudulently" are used alternatively, indicating that one excludes the other. Section 24 of the Penal Code defines "dishonestly" and Section 25 defines "fraudulently". In order to attract Section 24, a pecuniary or economic gain or loss is the requirement, unlike Section 25, which excludes that element. In the instant case, the prosecution has no case that the accused has obtained any pecuniary advantage or has caused pecuniary loss to anyone. Therefore, the question to be considered is whether, from the proven facts, it can be found that the accused has acted fraudulently. In **Dr. Vimla's case** (cited supra), the Hon'ble Apex Court has held that in order to satisfy the definition of 'fraudulently', it would be enough if there was a non economic advantage to the deceiver or a non economic loss



to the deceived and both need not co-exist. The Apex Court considered the expression “defraud” and held thus:

“15. To summarize: the expression "defraud" involves two elements, namely, deceit and injury to the person deceived. Injury is something other than economic loss that is, deprivation of property, whether movable or immovable, or of money, and it will include any harm whatever caused to any person in body, mind, reputation or such others. In short, it is non economic or non pecuniary loss. A benefit or advantage to the deceiver will almost always cause loss or detriment to the deceived. Even in those rare cases where there is a benefit or advantage to the deceiver, but no corresponding loss to the deceived, the second condition is satisfied.”

The expression “defraud” was also considered by the Apex Court in the decision in **Ranjith Singh's case** (cited supra), and the court held thus:

“3.....The expression 'defraud' involves two elements, namely deceit and injury to the person deceived. Injury is something other than economic loss and it will include any harm whatever caused to any person in body, mind, reputation or such others. A benefit or advantage to the deceiver will almost always cause loss or detriment to the deceived.”

Going by the afore dictums of the Apex Court, it is very clear that in order to fall within the ambit of 'fraudulently', apart from the act of deceiving, there must be an injury caused to any



person, and such injury is other than economic loss and includes, any harm whatever caused to any person, in body, mind, reputation or such others. The expression "such others" employed by the Apex Court in **Dr.Vimla's case** (cited supra) appears to be intended to operate as a residual category encompassing all forms of non-pecuniary injury analogous to harm to body, mind, or reputation. It is intended to cover every species of detriment that may not be expressly enumerated but is nonetheless real, intangible and directly attributable to the act of deceit. If so, it can include injury to institutional credibility, erosion/harm to public confidence, impairment of academic integrity, sanctity of officials seal, etc. Thus, forging of University Certificates/Mark lists as in the instant case, will undoubtedly, result in causing harm to the reputation, credibility and integrity of academic institutions apart from causing harm to the students and their future. If so, I do not find any illegality or error in the judgment passed by trial court and the appellate court finding the accused guilty under Section 465 IPC.

13. Now, the question that remains to be considered is regarding the sentence. Considering the nature of the offence,



its gravity, the manner in which it was perpetrated, the fact that the incident has taken place in the year 2002, the age of the accused, and the facts and circumstances of this case, I am of the view that the sentence imposed on the 1st accused is on a higher side and the same can be modified and reduced. I am thus of the view that the sentence thus imposed on the 1st accused can be modified and reduced to one of simple imprisonment for a period of one year and to pay a fine of Rs.10,000/- under Section 465 IPC.

In the result, this Criminal Revision Petition is allowed in part as follows:

- i) The conviction of the revision petitioner/1st accused under Section 465 IPC in CC No. 189 of 2005 by the Judicial First Class Magistrate Court-I, Kanjirappally, and as affirmed in CrI.Appeal No.362 of 2012 by the Additional Sessions Court-I, Kottayam, is upheld.
- ii) The sentence imposed on the revision petitioner/1st accused under Section 465 IPC is modified and reduced to one of simple imprisonment for a period of one year and to pay a fine of 10,000/-.
- iii) In case of default in payment of fine, the revision petitioner/ 1st accused shall undergo simple imprisonment for a period of three months.



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iv) Set off, if any, is also granted.

Sd/-

P.V.BALAKRISHNAN

Judge

dpk