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Crl.A.Nos.391 & 408 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 21.07.2026

PRONOUNCED ON : 13.08.2026

CORAM:

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

Crl.A.Nos.391 & 408 of 2014

Crl.A.No.391 of 2014 :-

Dhandapani Kumar @ D.Kumar
No.11, Flat No.16,
Rajamani 2nd Cross Street,
Swami Nagar Main,
Ullagaram, Chennai – 600 091.

... Appellant

Vs.

The Inspector of Police,
ACB/CBI/Chennai.

... Respondent

PRAYER: Criminal Appeal filed under Section 374(2) of Cr.P.C., to set aside the conviction and sentence passed by the learned XI Additional City Civil & Sessions Judge (CBI Cases relating to Banks and Financial Institutions), Chennai-1, made in C.C.No.10 of 2010, by the judgment dated 26.06.2014.

For Appellant : Mr.Ganesh Rajan
For Mr.R.C.Paul Kanakaraj

For Respondent : Mr.N.Baaskaran
Special Public Prosecutor CBI Cases



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Crl.A.No.408 of 2014 :-

Madras Purushotham Ranganathan
@ M.P.Ranganathan,
S/o.Purushothaman
New No.24, Old No.53/1 Sait Colony,
2nd Street, Egmore,
Chennai – 8.

... Appellant

Vs.

The State Rep. By
The Deputy Superintendent of Police,
Anti Corruption Bureau,
Central Bureau of Investigation,
Nungambakkam,
Chennai – 34

... Respondent

PRAYER: Criminal Appeal filed under Section 374 of Cr.P.C., to call for the records and set aside the order passed by the learned XI Additional City Civil & Sessions Judge, CBI Cases relating to Banks and Financial Institutions, Chennai-1, made in C.C.No.10 of 2010 dated 26.06.2014.

For Appellant : Mr.N.R.Elango, Senior Counsel
For Mr.G.R.Deepak

For Respondent : Mr.N.Baaskaran
Special Public Prosecutor CBI Cases

COMMON JUDGMENT

Both the appeals have been preferred as against the judgment dated 26.06.2014, passed by the learned XI Additional City Civil & Sessions Judge, CBI Cases relating to Banks and Financial Institutions, Chennai, in C.C.No.10 of 2010, thereby convicting the



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appellants for the offences punishable under Sections 120B r/w. 409, 477A of IPC and Section 13(2) r/w 13(1)(c) of the Prevention of Corruption Act, 1988 (hereinafter referred to as “PC Act”) and Section 66 of the Information and Technology Act, 2000 (hereinafter referred to as “IT Act”).

2. The case of the prosecution is that, during the period from 12.01.2007 to 31.07.2007, the first accused was working as the Branch Manager, the second accused as Accountant, and the third accused as Special Assistant (Cash) at the State Bank of India, Elephant Gate Branch, Chennai. On 12.01.2007. An Automated Teller Machine (hereinafter referred to as “ATM”) was installed in the said branch. In the ATM, a camera was installed on the hood of the ATM to capture and record the images of persons operating the ATM. The second and third accused were the joint custodians of the ATM. In the absence of the second accused, the first accused was required to discharge the responsibilities of the joint custodian. The ATM vault was secured by a six-digit secret password, which was required to be entered by the two joint custodians independently, with each custodian entering three digits, for the purpose of opening the vault and replenishing cash therein.



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3. It is the further case of the prosecution that, during the period from 12.01.2007 to 31.07.2007, the accused persons entered into a criminal conspiracy with the intention of misappropriating the funds of the Bank by abusing their respective positions and adopting corrupt and illegal means. Pursuant to the said conspiracy, they allegedly made false and fabricated entries in the records relating to the ATM and thereby misappropriated a sum of Rs.52,38,600/-. It is further alleged that, subsequent to 31.07.2007, the difference between the amount withdrawn from the ATM and the amount accounted for as dispensed through the ATM remained constant. A sum of Rs.9,99,26,300/- was advised to the ATM Switch Centre situated at Navi Mumbai, as the amount of cash loaded into the ATM. The prosecution states that such admin advices were required to be manually made by the custodians of the ATM. According to the prosecution, while the ATM Switch Centre automatically maintained an accurate account of the cash dispensed by the ATM, the loading of cash into the ATM and the corresponding accounting thereof were carried out manually by the custodians. It is alleged that, taking advantage of this manual system, the accused persons, in furtherance of their conspiracy, falsified the ATM records and misappropriated a sum of Rs.52,38,600/-. On the basis of the aforesaid



allegations, an FIR was registered in R.C. MA2008A0012 for the offences punishable under Section 120-B r/w. Section 409 of IPC and Section 13(2) r/w. Section 13(1)(d) of the PC Act. Upon completion of the investigation, the respondent filed the charge sheet, and the same was taken cognizance of by the Trial Court.

4. In order to substantiate the charges levelled against the accused, the prosecution examined P.W.1 to P.W.17 and marked Ex.P1 to Ex.P.300. The prosecution also produced M.O.1 to M.O.4 as material objects. On the side of the accused, no witness was examined; however, Ex.D.1 to Ex.D.15 were marked in support of their defence and to disprove the case of the prosecution. During the pendency of the trial, the third accused died, and consequently, all the charges against him stood abated. Upon consideration of the oral and documentary evidence adduced on behalf of the prosecution, as well as the defence materials placed on record, the Trial Court found Accused Nos.1 and 2 guilty of the offences punishable under Section 120-B r/w. Section 409 of IPC and Section 13(2) r/w. Section 13(1)(d) of the PC Act and Section 66 of the Information Technology Act, and sentenced them as follows:



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Section	Sentence
120(B) r/w. 409, 477-A of IPC (each accused)	To undergo rigorous imprisonment for two years and to pay a fine of Rs.5,000/- each in default to undergo simple imprisonment for six months. (each offences)
Section 13(2) r/w. 13(1) (c) of PC Act (each accused)	To undergo rigorous imprisonment for two years and to pay a fine of Rs.5,000/- each in default to undergo simple imprisonment for six months. (each offences)
Section 66 of IT Act	To undergo rigorous imprisonment for two years and to pay a fine of Rs.5,000/- each in default to undergo simple imprisonment for six months.

The above sentences are ordered to run concurrently. Aggrieved by the same, the appellants filed the present Criminal Appeals.

5. The learned Senior Counsel appearing for the first accused submitted that the first accused had already been removed from service and his service benefits had been forfeited. Therefore, according to the learned Senior Counsel, subjecting him to punishment once again under the criminal law would amount to double punishment and would be contrary to the principle against double jeopardy. The learned Senior Counsel further submitted that P.W.3 was the manufacturer of the ATM and that the six-digit password allotted to the joint custodians was



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required to be entered simultaneously in a random manner. The said procedure had to be followed on each and every occasion when cash was loaded into the ATM. It was contended that, considering the frequency with which the joint custodians were required to visit the ATM for replenishing cash, particularly within a period of ten days, there was a possibility of one custodian becoming aware of the password and code assigned to the other custodian. It was therefore submitted that the possibility of misuse or tampering with the password and code number by either of the joint custodians could not be completely ruled out. In such circumstances, according to the learned Senior Counsel, the prosecution had failed to establish the guilt of the first accused beyond reasonable doubt, and the benefit of doubt ought to be extended in his favour.

5.1. He further submitted that the evidence of P.W.4 is wholly inconsistent with the prosecution case. According to P.W.4, the shortage of cash for the period from 12.01.2007 to 31.01.2007 was Rs.36,44,900/-, whereas, according to the charge sheet, the total amount allegedly misappropriated was Rs.52,38,600/-. Thus, there is a substantial discrepancy between the amount stated by P.W.4 and the amount alleged in the charge sheet. The learned Senior Counsel further submitted that P.W.4 had lodged the complaint regarding the alleged shortage of cash in

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the ATM. However, there is no independent or cogent evidence to substantiate the said allegation, and the testimony of P.W.4 is contradicted by the other evidence available on record.

5.2. He further submitted that P.W.4 had worked as the officiating Accountant in the very same Bank and Branch during the period when the regular Accountant was on leave. Even during the said period also, a shortage in the ATM cash was allegedly noticed. When a similar shortage was found during the period in which P.W.4 himself was functioning as the officiating Accountant, the Investigating Officer ought to have examined his role in the alleged occurrence. However, there was no explanation from the prosecution as to why P.W.4 was not arrayed as an accused or why his conduct was not subjected to investigation. According to the learned Senior Counsel, the said circumstance creates a serious doubt regarding the prosecution case and strengthens the defence of the first accused.

5.3. The learned Senior Counsel further submitted that the prosecution has failed to explain how the alleged shortage of cash could have continued from July 2007 till October 2007 without being detected or reconciled by the concerned authorities. There could not have been a

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continuing shortage or deficit in the ATM cash account without the same being noticed and subjected to proper verification and reconciliation in the ordinary course of banking operations. It was further submitted that, as per the evidence of P.W.5 and P.W.6, once cash was loaded into the ATM, the relevant transaction details would be transmitted to the ATM Switch Centre at Navi Mumbai. Any discrepancy or shortage reflected in the said account could therefore be verified only by the officials of the ATM Switch Centre. However, the said ATM Switch Centre neither lodged any complaint regarding the alleged shortage nor was any material produced by the prosecution to establish that it had detected or reported any such discrepancy. The learned Senior Counsel therefore contended that the prosecution had failed to establish the alleged shortage and the manner in which the first accused was responsible for the same. In the absence of cogent and reliable evidence connecting the first accused with the alleged misappropriation, the prosecution had failed to prove the charges beyond reasonable doubt. Consequently, the benefit of doubt ought to be extended to the accused.

6. The learned Special Public Prosecutor appearing for the respondent submitted that P.W.1 had accorded sanction for prosecuting the first accused, and the said sanction order was marked as Ex.P1. It was

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further submitted that the primary hard disk as well as the secondary hard disk were seized during the course of investigation. The copy of the seizure proceeding was marked as Ex.P.220, while the original seizure proceeding was marked as Ex.P.291. The seizure and preservation of the said electronic evidence were also corroborated by the evidence of P.W.9 and P.W.14. The learned Special Public Prosecutor further submitted that P.W.3, who was working as the Assistant Territory Manager of NCR Corporation, had deposed regarding the supply and installation of ATMs to the State Bank of India. According to his evidence, the ATMs supplied were of two models. One model was a full-fledged ATM having an optional facility for accepting deposits, while the other was a cash dispenser intended only for dispensing cash. Although the ATM installed at the Elephant Gate Branch was a full-fledged model, the facility for accepting cash deposits and cheques had not been installed in the said ATM. Therefore, the ATM in question was utilised only for dispensing cash during the relevant period.

6.1. The learned Special Public Prosecutor further submitted that the ATM consists of two sections, namely, the hood section and the safe section. The hood section contains the CPU, monitor, keyboard, printer, and card reader, whereas the safe section contains the cash dispenser

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along with the currency cash bins. A camera is installed in the ATM to capture the images of the person operating the machine at intervals of every three seconds. The images so captured are recorded in the CPU and ordinarily remain available for a period of 180 days. On the 181st day, the recordings of the first day are automatically deleted unless they have been copied and separately preserved. He further submitted that the safe door of the ATM could be opened only by using a six-digit password operated through the dual-custodian system, whereby each of the two custodians was required to independently enter his respective three-digit password. The ATM in question was configured to dispense Rs.500 and Rs.100 currency notes through the cassette bins and was not configured for dispensing Rs.1,000 denomination notes.

6.2. It was further submitted that the ATM was connected to the ATM Switch Centre at Navi Mumbai, which controlled and monitored the transactions and other activities of the ATM. The learned Special Public Prosecutor contended that the prosecution had produced and duly proved all the relevant oral, documentary, and material evidence before the Trial Court. Upon proper appreciation of the said evidence, the Trial Court had rightly found the accused guilty of the offences charged. Therefore, there was no ground warranting interference with the findings of the Trial

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Court, and the learned Special Public Prosecutor prayed for dismissal of the present appeals.

7. Heard the learned Counsel appearing on either side and also perused the materials placed before this Court.

8. The charge against the accused is that they entered into a criminal conspiracy and, in furtherance thereof, misappropriated a sum of Rs.52,38,600/-. In order to establish the manner in which the alleged misappropriation was committed, the prosecution has explained the functioning of the ATM and the accounting mechanism connected thereto. According to the prosecution, once cash is loaded into the ATM, the corresponding amount comes under the control of the ATM Switch Centre. For the purpose of proper accounting and reconciliation of the cash, the amount loaded into the ATM is debited to the account maintained by the ATM Switch Centre, whereas the amount dispensed through the ATM is credited to the said account. This procedure has been spoken by P.W.3 Assistant Territory Manager, NCR Corporation in his evidence.



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9. Further, P.W.4 Accountant had deposed that, as per the ATM manual, discrepancies or erroneous entries appearing in the ATM records were required to be reconciled within a period of 120 days. If such reconciliation was not carried out within the prescribed period, the account relating to the ATM could reflect excess or shortage amounts, resulting in unreconciled entries. The ATM Switch Centre at Navi Mumbai was required to forward the reconciliation strings to the concerned branch to facilitate reconciliation of the ATM transactions. However, in the present case, no such reconciliation was carried out from the date of installation of the ATM. The said fact is borne out by the evidence of P.W.4.

10. Further, P.W.5, Deputy Manager also deposed that the reconciliation process could be undertaken by the concerned branch only upon receipt of the reconciliation string transmitted by the ATM Switch Centre. After transmission of the said strings, four reports would be generated by the ATM for the purpose of reconciliation. However, in the present case, there is no material on record to establish that the prescribed reconciliation process was ever carried out. The same is also evident from the evidence of P.W.4 and P.W.5. The inspection report dated 01.04.2008 submitted by P.W.5 was marked as Ex.P.206. A perusal of the said report

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reveals several deficiencies in the manner in which the inspection was conducted. P.W.5 had categorically admitted that he was not technically qualified in software and was not conversant with the relevant technical aspects of the ATM system. He had also admitted that he was not aware of the software used for carrying out the reconciliation process.

11. Further, P.W.5 failed to verify whether the Channel Manager had furnished the requisite weekly reports. He had not obtained any assistance from the Disaster Recovery Cell and had also failed to verify the monthly audit report and the annual audit report at the time of inspection. Thus, the inspection was not supported by an examination of the relevant technical and audit records. In such circumstances, Ex.P.206 cannot be considered to be a comprehensive or conclusive inspection report capable of establishing the alleged manipulation or misappropriation. Significantly, the report does not identify or attribute any specific act to any of the accused persons. It does not establish as to who was responsible for the alleged discrepancy in the ATM cash balance.

12. Further, P.W.1, who was the sanctioning authority, had also categorically admitted that the report submitted by P.W.5 did not fix

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responsibility on any particular Bank official. P.W.1 further admitted that the prosecution was unable to pinpoint the involvement of either of the joint custodians in respect of the difference between the actual cash balance and the admin cash balance. Therefore, the evidence of P.W.1, P.W.4 and P.W.5, read together with Ex.P.206, does not establish any specific nexus between the alleged shortage and the acts of the accused, particularly the joint custodians. In the absence of such material, the prosecution's case regarding the alleged conspiracy and misappropriation cannot be sustained merely on the basis of the unexplained discrepancy in the ATM records.

13. Further, P.W.6 Branch Manager, deposed that he had not been provided with any technical training and did not possess the requisite technical knowledge regarding the functioning and operation of the ATM. He further admitted that the subject matter involved considerable technical aspects and, therefore, recommended that his report be vetted by the ATM Department. Consequently, P.W.6 was unable to identify or pinpoint the involvement of either of the joint custodians in respect of the alleged discrepancy between the administrative cash balance and the actual cash balance. Pursuant to the direction issued by P.W.7 Regional Manager, P.W.6 conducted the

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inspection and submitted his report, which was marked as Ex.P.280.

However, there is no material on record to establish that the said report was actually received by P.W.7. Significantly, Ex.P.280 does not bear the initials or signature of P.W.7, nor does it contain the seal of the concerned Zonal Office. Thus, the prosecution has failed to establish the proper receipt, acknowledgment, or official consideration of Ex.P280 by P.W.7. In the absence of such authentication, coupled with the admitted lack of technical expertise on the part of P.W.6, the contents of Ex.P280 cannot, by themselves, establish the alleged manipulation of the ATM records or connect either of the joint custodians with the alleged shortage.

14. Though the prosecution has specifically alleged that the accused misappropriated a sum of Rs.52,38,600/-, there are material discrepancies regarding the total amount of cash loaded into the ATM. The prosecution has also failed to identify or pinpoint the particular officer who was responsible for the alleged misappropriation. Even after registration of the FIR, no material was seized from the ATM, and the ATM was permitted to remain in operation for more than seven months from the date of registration of the FIR. At the time of inspection, the cash balance available in the ATM was verified with reference to the admin slip and the supervisory slip. Significantly, no shortage was



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reflected at the time of such verification or seizure proceedings. The said fact has been categorically admitted by P.W.5.

15. The ATM was subsequently put out of operation on account of the non-availability of the hard disk. Though the primary and secondary hard disks, as well as the video cassette, were allegedly seized, P.W.5 deposed that the contents of the primary and secondary hard disks were copied onto blank hard disks, following which the original hard disks were removed from the ATM and the copied hard disks were substituted in their place. However, the copied hard disks, which allegedly contained the relevant electronic data, were not produced before the Trial Court by the prosecution. More significantly, the hard disks were not sent to any forensic laboratory for examination and verification of their contents. Thus, the prosecution has failed to place before the Court the primary electronic evidence or any forensic material capable of establishing the alleged manipulation of the ATM records to connect either of the accused with the alleged offence.

16. The co-employee Clerk was examined as P.W.12. According to her evidence, when two persons are operating inside the ATM room, it is possible for the activities of one person to be overlooked by the other

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person. Consequently, there was a possibility for one custodian to become aware of the password or manner in which the other custodian operated the ATM and to misuse such knowledge for the purpose of misappropriating cash. However, such possibility cannot, by itself, establish the guilt of any particular accused. On the contrary, the prosecution has failed to produce cogent and reliable evidence to establish the specific involvement of the first and second accused in the alleged shortage. Further, the prosecution has failed to examine several material witnesses who were cited in the prosecution case. The non-examination of such material witnesses has resulted in a significant break in the chain of evidence relied upon by the prosecution. In the absence of their evidence and in view of the other deficiencies in the prosecution case, the circumstances relied upon by the prosecution do not form a complete and unbroken chain pointing towards the guilt of the accused. Therefore, the prosecution has failed to establish the alleged conspiracy and misappropriation beyond reasonable doubt, and the accused are entitled to the benefit of such doubt.

17. That apart, the prosecution has failed to place any cogent and reliable material on record connecting the accused with the alleged acts of criminal misconduct, criminal breach of trust, criminal conspiracy,

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fraudulent and dishonest misappropriation of funds, falsification of records, or abuse of official position as public servants. There is also no material to establish that the accused derived any unlawful gain or pecuniary advantage for themselves out of the alleged transactions. The prosecution has further failed to explain how the alleged shortage could have continued from July 2007 till October 2007 and remained undetected until it was allegedly noticed during the audit.

18. Such a prolonged continuation of the alleged deficit, without any contemporaneous detection or reconciliation, casts serious doubt upon the prosecution case. In this regard, P.W.4 categorically deposed that, whenever any shortage or deficit was noticed, the accounts for the concerned day were required to be verified and reconciled. Only after the accounts were duly tallied would the transactions for that particular day be closed in the ledger. Therefore, if the alleged shortage had in fact occurred during the relevant period, the same ought to have been detected and reconciled in the ordinary course of banking operations. The failure of the prosecution to explain this material circumstance, coupled with the absence of evidence showing any personal gain or unlawful pecuniary advantage to the accused, creates a serious doubt regarding the prosecution's theory of criminal conspiracy and misappropriation. In such

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circumstances, the alleged shortage, by itself, cannot be treated as sufficient evidence to establish the guilt of the accused beyond any reasonable doubt.

19. The Investigation Officer was examined as P.W.17. In his evidence, he categorically admitted that he had not seized the reconciliation strings or any reconciliation report relating to the ATM transactions. He had also failed to examine any official from the ATM Switch Centre, the Disaster Recovery Cell, or the concerned ATM Organisation, despite their relevance to the functioning, accounting, and reconciliation of the ATM transactions. Further, P.W.17 admitted that the corporate audit report was not seized during the course of investigation. He also admitted that the ATM was not seized immediately after registration of the FIR. Significantly, at the time when the ATM was ultimately inspected and seized, no shortage was reflected in the cash balance. Thus, the prosecution has failed to collect and produce the primary materials necessary to establish the alleged discrepancy in the ATM accounts or to connect the accused with the alleged misappropriation.



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20. The non-seizure of the reconciliation strings, reconciliation reports, corporate audit report, and other relevant technical records, coupled with the failure to examine the officials concerned with the ATM Switch Centre and related departments, constitutes a serious deficiency in the investigation. In the overall facts and circumstances of the case, the prosecution has failed to establish the alleged criminal conspiracy, misappropriation, falsification of records, or criminal misconduct on the part of the accused. The material discrepancies in the prosecution evidence, the failure to establish the actual shortage, the absence of reliable electronic and technical evidence, and the failure to connect the accused with the alleged misappropriation create reasonable doubt regarding the prosecution case. Therefore, the accused are entitled to the benefit of doubt. Consequently, the conviction and sentence imposed by the Trial Court against the accused persons cannot be sustained and are liable to be set aside.

21. Accordingly, the judgment dated 26.06.2014, passed by the learned XI Additional City Civil & Sessions Judge, CBI Cases relating to Banks and Financial Institutions, Chennai, in C.C.No.10 of 2010, thereby convicting the Accused Nos. 1 & 2, is hereby set aside. The appellants/accused Nos. 1 and 2 are acquitted of all the charges in

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C.C.No.10 of 2010 on the file of the learned XI Additional City Civil &

Sessions Judge, CBI Cases relating to Banks and Financial Institutions,

Chennai. The fine amount, if any paid, shall be refunded to the appellants

forthwith. The bail bonds, if any executed, shall stand cancelled.

However, it is made clear that the acquittal of the accused does not confer

any right to claim any service benefits.

22. In the result, both the Criminal Appeals stand allowed.

13.08.2026

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

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To

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1. The XI Additional City Civil & Sessions Judge,
CBI Cases relating to Banks and Financial Institutions, Chennai-1
2. The Deputy Superintendent of Police,
Anti Corruption Bureau,
Central Bureau of Investigation,
Nungambakkam,
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3. The Public Prosecutor,
Madras High Court,
Chennai.



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