



Crl.A.Nos.788 and 792 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	03.08.2026
Pronounced on	18.08.2026

CORAM :

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.A.Nos.788 and 792 of 2017

Crl.A.No.788 of 2017

C.Muthusamy,
S/o.N.Chinnasamy

... Appellant

Vs.

State Represented by
Deputy Superintendent of Police,
SPE/CBI/ACB/CHENNAI,
RC.43(A)/02
Chennai.

... Respondent

Crl.A.No.792 of 2017

J.R.Robinson,
S/o.S.Raju

... Appellant

Vs.

State Represented by
Deputy Superintendent of Police,
SPE CBI ACB,
Chennai.
(R.C.43(A)/02)

... Respondent



Crl.A.Nos.788 and 792 of 2017

Prayer in Crl.A.No.788 of 2017: Criminal Appeal filed under Section 374(2) of the Criminal Procedure Code, 1973, against the judgement of conviction by the learned IX Additional Special Judge for CBI cases at Chennai convicting the appellant for offences (1) under Section 120B of the Indian Penal Code and sentencing him to 6 months of imprisonment and imposed a fine of Rs.10,000/- with a default sentence of 3 months imprisonment (2) under Section 420 of the Indian Penal Code and sentencing him to 3 years of imprisonment and imposed a fine of Rs.10,000/- with a default sentence of 3 months imprisonment by a judgement dated 20.11.2017 in C.C.No.14 of 2005.

Prayer in Crl.A.No.792 of 2017: Criminal Appeal filed under Section 374(2) of the Criminal Procedure Code, 1973, to set aside the imprisonment imposed by IX Additional Special Judge for CBI cases, Chennai in C.C.No.11 of 2017 dated 20.11.2017 by convicting the accused to undergo imprisonment for six months and to pay a fine of Rs.10,000/- in default to undergo imprisonment for three months for the offence under Section 120B of IPC and also Section 420 of IPC and he is convicted and sentenced to undergo imprisonment for three years and to pay a fine of Rs.10,000/- in default to undergo imprisonment for six months.

For Appellant(s) : Mr.Hasan Mohamed Jinnah
Senior Counsel
for Mr.R.M.Anbunithi
in Crl.A.No.788 of 2017
: Mr.C.V.Kumar
in Crl.A.No.792 of 2017

For Respondent : Mr.K.Srinivasan
Special Public Prosecutor (CBI Cases)
in both Crl.As



Crl.A.Nos.788 and 792 of 2017

COMMON JUDGMENT

WEB COPY

The Appellant in Crl.A.No.792 of 2017 is arrayed as 2nd Accused.

The Appellant in Crl.A.No.788 of 2017 is arrayed as 3rd Accused.

2. Both the Criminal Appeals arise out of the Common Judgment passed in C.No.14 of 2005 and C.No.11 of 2017 on the file of the IX Additional Special Court for CBI Cases, Chennai wherein the Appellants were convicted for the offences punishable under Sections 120B and 420 of the Indian Penal Code, 1860.

3. The case of the prosecution is that the 1st Accused was working as the Commissioner of Income Tax, Tamil Nadu-V, from 23.06.2000 to 25.06.2001. He also held the additional charge of the Commissioner of Income Tax, Tamil Nadu-IV, during the leave period of the regular Commissioner of Income Tax, from 18.12.2000 to 07.01.2001.

4. The 2nd Accused, who is the Appellant in Crl.A.No.792 of 2017, was appointed as a Director of M/s. IGGI Resorts International Limited. The said Company was originally incorporated as a Private Limited Company on 24.03.1988 and subsequently became a Public Limited



Crl.A.Nos.788 and 792 of 2017

Company on 28.09.1992. The promoters of the Company were Mr.Ignatius and Mrs.Carmel Shantha Ignatius, who are husband and wife and were also members of the Board of Directors of the said Company.

5. The 3rd Accused, who is the Appellant in Crl.A.No.788 of 2017, was a Director of M/s.Maxworth Country (India) Private Limited. The 4th Accused was a Licensed Engineer, while the 5th Accused was also a Director of M/s.IGGI Resorts International Limited. Further, M/s.IGGI Resorts International Limited was assessed under the provisions of the Income Tax Act, 1961, and was liable to pay income tax amounting to Rs.71,49,687/-, together with applicable interest.

6. Pursuant to the same, on 31.05.2000, the Assessing Officer issued a Certificate under Section 222 of the Income Tax Act, 1961, certifying the arrears of income tax payable by the said Company and forwarded the said Certificate to the Tax Recovery Officer, along with a list of three properties owned by the Company. Accordingly, on 09.06.2000, the Tax Recovery Officer served a copy of the said Certificate on the Company and, thereby, attached the three properties.



Crl.A.Nos.788 and 792 of 2017

WEB COPY

7. The Company had acquired the properties comprised in S.Nos.52/1B, 52/3B and 52/4, measuring an extent of 1.21 acres, situated at Velankanni, Nagapattinam District, under a registered Sale Deed dated 13.03.1988. Subsequently, the said properties were mortgaged with M/s.Tamil Nadu Industrial Investment Corporation Limited on 01.02.1990 for availing a loan of Rs.1,00,000/-. However, the Company failed to repay the said loan, and the tax liability outstanding against the Company subsequently stood at Rs.9,02,456/-, together with interest.

8. In spite of the same, the Company, represented by the 5th Accused, along with M/s.MGM Entertainment Private Limited and M/s.Haritha Finance Limited, entered into a Memorandum of Understanding dated 02.03.2000 for the sale of the resort properties situated at Velankanni to M/s.MGM Entertainment Private Limited for a total sale consideration of Rs.1.35 Crores. The said sale consideration was agreed to be paid by way of two Cheques, each for a sum of Rs.67,50,000/-, dated 02.03.2000 and 31.03.2000, respectively.

9. Accordingly, M/s.Haritha Finance Limited discharged the entire outstanding dues payable to M/s.Tamil Nadu Industrial Investment



Crl.A.Nos.788 and 792 of 2017

Corporation Limited, and consequently, there was no charge or encumbrance over the said properties when they were subsequently attached by the Income Tax Department. Further, under Section 230A of the Income Tax Act, 1961, registration of a document relating to the transfer of any property, the value of which exceeds Rs.10,00,000/-, is prohibited unless a Certificate is obtained from the Income Tax Department certifying that the person intending to transfer the property has either paid the outstanding tax liabilities or has made satisfactory arrangements for the payment thereof.

10. While being so, the 2nd Accused, being a Director of M/s.IGGI Resorts International Limited, submitted an application under Form 34A on 24.05.2000, seeking issuance of a Certificate under Section 230A of the Income Tax Act, 1961, for the purpose of selling the said properties to M/s.MGM Entertainment Private Limited.

11. Therefore, the 2nd Accused had full knowledge that the said properties were under attachment towards the tax arrears. However, the application submitted by the 2nd Accused was rejected on the ground that M/s.IGGI Resorts International Limited had substantial outstanding tax



Crl.A.Nos.788 and 792 of 2017

arrears. The said fact was also intimated to M/s.IGGI Resorts International Limited. Consequently, the Certificate under Section 230A of the Income Tax Act, 1961, was not issued, and the Company was thereby precluded from effecting the sale of the said properties.

12. It is the case of the prosecution that all the accused persons, in furtherance of their criminal conspiracy, acted in concert with an intention to cheat the Income Tax Department and fraudulently and dishonestly induced the Income Tax Department to issue a Certificate under Section 230A of the Income Tax Act, 1961, thereby enabling the disposal of the said properties.

13. Therefore, the Accused were charged for the offences punishable under Section 120-B read with Section 420 of the Indian Penal Code, 1860, and Section 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act, 1988. In order to establish the charges, the prosecution examined 44 witnesses and marked 244 documents as Exs.P1 to P244. On the side of the Accused, one witness was examined and four documents were marked as Exs.D1 to D4.



WEB COPY

14. Upon perusal of the oral and documentary evidence adduced by the prosecution, the Trial Court convicted A2 and A3 for the offences punishable under Section 120-B read with Section 420 of the Indian Penal Code, 1860, and sentenced each of them to undergo six months' imprisonment and to pay a fine of Rs.10,000/-, in default, to undergo three months' simple imprisonment. The sentences imposed were ordered to run concurrently.

15. Aggrieved by the same, the present Criminal Appeals have been filed.

16. The learned Senior Counsel appearing for the 3rd Accused submitted that the public servants were acquitted by the Trial Court upon appreciation of the evidence, as the prosecution case was found to be doubtful on various aspects. Therefore he contended that, on the same reasoning, the benefit of doubt ought to be extended to the other Accused as well.

17. He further submitted that the 1st Accused was misled by the affidavit submitted by the 2nd Accused and one Karthikeyan (deceased)



Crl.A.Nos.788 and 792 of 2017

and, based on the proposal submitted by them, he ordered the lifting of the attachment. It is further submitted that Ex.P244, namely, the Letter dated 06.10.2000 addressed by M/s.Maxworth Country (India) Private Limited to M/s.IGGI Resorts International Limited, was issued by the 3rd Accused with a specific condition that, if the latter Company proposed to furnish the documents referred to therein as collateral security to any person, the same should be intimated to the former Company in writing and prior permission should be obtained from it.

18. It is submitted that the three documents referred to in the aforesaid Letter dated 06.10.2000 were marked as Exs.P115, P120 and P121. These documents were executed during the years 1994 and 1995 and at that time, the 3rd Accused was neither a Director nor associated with the affairs of the Company, nor was he dealing with its legal matters, it is also evident from the fact that the said documents were not even drafted by the 3rd Accused.

19. He further submitted that it is not the case of the prosecution that the 3rd Accused had handed over the said documents without the knowledge or consent of the Board of Directors of M/s.Maxworth



Country (India) Private Limited. On contrary, Ex.P244 clearly reveals that the decision to hand over the original title documents relating to the properties situated at Kodaikanal was taken jointly and was not an individual decision of the 3rd Accused. Hence, Ex.P244 is a letter issued in his capacity as a Director of M/s.Maxworth Country (India) Private Limited, and there is no contrary evidence on record to establish otherwise.

20. Therefore, it is submitted that the Trial Court ought to have held that the documents in question were merely transferred from one legal entity to another and that the 3rd Accused had acted only in his capacity as a representative and Director of M/s.Maxworth Country (India) Private Limited. It is further submitted that the other Directors of the said Company were neither arrayed as accused nor examined as witnesses by the prosecution.

21. He further submitted that the mere attestation of the xerox copies of the Sale Deeds, marked as Exs.P125 and P126, does not, by itself, establish any intention on the part of the 3rd Accused. It is submitted that neither Ex.P125 nor Ex.P126 was seized by the



Crl.A.Nos.788 and 792 of 2017

prosecution and that the mere production of attested copies of the said documents cannot be construed as evidence of any fraudulent or malicious intention on the part of the 3rd Accused. The prosecution has also failed to produce the original documents before the Court. Therefore, it is contended that the prosecution has failed to establish the essential ingredients of the offences punishable under Sections 120-B and 420 of the Indian Penal Code, 1860.

22. The learned counsel appearing for the 2nd Accused submitted that the 2nd Accused had been appointed as a Director of M/s.IGGI Resorts International Limited under the guidance of the members of the Board of Directors. It is further submitted that the 2nd Accused had filed an application under Form 34A seeking issuance of a Certificate under Section 230A of the Income Tax Act, 1961, for the purpose of selling the properties, despite being fully aware that the said properties had already been attached towards the outstanding income tax arrears. Therefore, it is contended that the prosecution ought to have impleaded the Company as well as the other Directors as Accused in the case.



WEB COPY

23. He further submitted that the implication of the 2nd Accused alone, without arraigning the Company and the other Directors as accused, is fatal to the case of the prosecution. It is further submitted that A1 and A4 were acquitted of the offences punishable under Sections 120-B and 420 of the Indian Penal Code, 1860. Therefore, when the principal charge of conspiracy and cheating has not been established by the prosecution, there is no justification for convicting A2 and A3.

24. It is further submitted that Ex.P244 was neither prepared by the 2nd Accused nor was he aware of its contents. Likewise, Exs.P115, P120 and P121 were also not prepared by the 2nd Accused, and he had no knowledge whatsoever regarding the said documents. The 2nd Accused had acted strictly in accordance with the resolution of the Company and in his capacity as its Director. Therefore, the learned counsel submitted that the conviction and sentence imposed on the 2nd Accused cannot be sustained in law and are liable to be set aside.

25. The learned Special Public Prosecutor appearing for the respondent submitted that the prosecution had categorically established the charges against the Accused by adducing cogent oral and



Crl.A.Nos.788 and 792 of 2017

documentary evidence, and that the Trial Court had rightly convicted them. He further submitted that, though the 1st and 4th Accused were acquitted by the Trial Court, their cases stand on a different footing, and the benefit arising out of their respective defences cannot automatically be extended to the convicted Accused. Therefore, he submitted that there is no warrant for interference with the conviction and sentence imposed by the Trial Court.

26. Heard the learned Senior Counsel appearing for the Appellant in Crl.A.No.788 of 2017, the learned counsel appearing for the Appellant in Crl.A.No.792 of 2017, and the learned Special Public Prosecutor (CBI Cases) appearing for the Respondent.

27. According to the case of the prosecution, the Accused had conspired together during the year 2000–2001 with an intention to defraud the Income Tax Department. The 2nd Accused and the deceased Karthikeyan were Directors of M/s.IGGI Resorts International Limited and, in furtherance of the said conspiracy, had allegedly fraudulently and dishonestly induced the Income Tax Department to issue a Certificate under Section 230A of the Income Tax Act, 1961, thereby enabling the



Crl.A.Nos.788 and 792 of 2017

disposal of the property situated at Velankanni in favour of M/s.MGM Entertainments Private Limited.

28. In furtherance of the said conspiracy, the 3rd Accused is alleged to have fraudulently and dishonestly handed over three title deeds relating to the properties situated at Kodaikanal to the 2nd Accused, with the intention of enabling him to deposit the same with the Income Tax Department.

29. The title deeds belonging to M/s.IGGI Resorts International Limited were offered as collateral security to the Income Tax Department for securing the issuance of the Certificate under Section 230A of the Income Tax Act, 1961. However, merely because the Company had submitted a proposal to the Commissioner of Income Tax, it could not be construed that any property belonging to M/s.Maxworth Country (India) Private Limited could be offered or utilized as security or collateral for the said purpose.

30. The order passed by the Tax Recovery Officer lifting the attachment merely records that the attachment over the properties of the



Company was lifted pursuant to the directions issued by the Commissioner of Income Tax. There is absolutely no indication in the said order that any property belonging to M/s.Maxworth Country (India) Private Limited had been furnished or offered as security before the Income Tax Department.

31. Therefore, the prosecution has failed to produce any document or other material evidence to establish that the properties belonging to M/s.Maxworth Country (India) Private Limited had, at any point of time, formed part of the security furnished before the Income Tax Department.

32. In fact, the cross-examination of PW44, the Investigating Officer, conducted on 21.07.2016 on behalf of the 3rd Accused, categorically reveals the same, and the relevant portion is extracted hereunder:-

“As per Ex.P25-form 32 of M/s.Maxworth Country India Ltd. A3 was appointed as Director only on 7.12.1999. In my final report I have mentioned it. A3 was also an Advocate. As per Ex.P.244 letter dt. 6.10.2000 from M/s.Maxworth Country India Ltd, it handed over 3 title deeds covering in Ex.P.115, Ex.P.120, Ex.P.121. All the



WEB COPY



Crl.A.Nos.788 and 792 of 2017

above 3 sale deeds were executed prior to the appointment of A3 as Director in Maxworth Country India Ltd. Likewise Ex.P.126 & Ex.P.137 were also executed prior to the appointment of A3 as Director in Maxworth Country India Ltd. A3 is not found as accused in the FIR. As per Ex.243 I have received Ex.P.244. The names of persons who discussed the matter on behalf of the companies with regard to offering of the title deeds is not specifically mentioned in Ex.P.244. Production of title deeds before the Income Tax Office is not mentioned in Ex.P.244.

IGGI Resorts International Ltd did not inform Maxworth Country India Ltd in writing before furnishing the sale deeds to the Income Tax Department. There is no record to show that IGGI Resorts International Ltd paid any amount to Maxworth Country India Ltd in respect of these title deeds. I did not collect the memorandum of association or article of association pertains to Maxworth Country India Ltd. I did not collect any books of accounts pertains to IGGI Resorts International Ltd and Maxworth Country India Ltd.

My investigation reveals that Maxworth Country India Ltd is dealing with many companies during that period. My investigation reveals that during 1994-1995 and till 1997 Shri R.Subramaniam was the Chairman and Managing Director of Maxworth Country India Ltd. My investigation also reveal that many individuals have given power of attorney to the Maxworth Country India



WEB COPY



Crl.A.Nos.788 and 792 of 2017

Ltd to manage their properties. It is correct to say that during 1994-1995 the purchase need not sign in the sale deed and the power of attorney is also need not be registered. As per Ex.P.190, PW37 Sankara Narayanan was not the concerned branch manager during the transaction mentioned in Ex.P.190 which is of the year 2000.

It is correct to state that as per the requisition of Muthusamy the accounts from Kanchipuram branch was transferred to Thambu Chetty branch, Chennai. It is not correct to say that there is no evidence or documents to show that other accused met A3 in respect of transactions mentioned in the charge sheet. I have summoned A3 thrice examined him. His statement is not enclosed in the final report. I have sent a communication to A3 and he appeared. I did not send any intimation in writing to the Court for making A3 as an accused till I filed the final report.”

33. Infact, for the issuance of the Certificate by the Income Tax Department under Section 230A of the Income Tax Act, 1961, the communication dated 05.01.2001, marked as Ex.P109, specifically stated that no mortgage had been created in favour of the Income Tax Department till that date. Accordingly, M/s.IGGI Resorts International Limited was called upon to create such a mortgage and furnish the relevant documents to the Income Tax Department.



WEB COPY

34. There is no material on record to establish that the Income Tax Department acted upon any false representation or that it was induced to issue the Certificate on the basis of any such alleged collateral security. There is also no evidence to show that the Accused had deceived any Public Authority prior to the issuance of the said Certificate. Hence, in the absence of any deception or dishonest inducement resulting in the delivery of property, the essential ingredients of the offence punishable under Section 420 of the Indian Penal Code, 1860, are not made out.

35. It is well settled that, in order to establish an offence under Section 420 of the Indian Penal Code, 1860, the prosecution is required to prove the following essential ingredients:

- (i) that the Accused had made a false representation fraudulently or dishonestly, with an intention to deceive; and
- (ii) that the Defacto Complainant had acted upon such false representation and, as a consequence thereof, had delivered property or suffered the requisite loss or harm.

36. Whereas, in the case on hand, there is no material to establish that the Appellants made any dishonest or fraudulent



WEB COPY

representation while seeking the Certificate under Section 230A of the Income Tax Act, 1961. Therefore, the essential ingredients constituting the offence punishable under Section 420 of the Indian Penal Code, 1860, have not been established against the Appellants. In the absence of any evidence of fraudulent or dishonest inducement, the offence under Section 420 of the Indian Penal Code, 1860, is not made out against the Appellants.

37. Insofar as the offence under Section 120-B of the Indian Penal Code, 1860, is concerned, the same cannot be established merely on the basis of suspicion, association or a mere relationship between the Accused persons. The prosecution is required to prove the existence of an agreement between two or more persons to commit an illegal act or to commit an act which is not illegal by illegal means. Mere association or circumstances giving rise to suspicion, in the absence of cogent evidence establishing such an agreement, would not be sufficient to constitute the offence of criminal conspiracy.

38. In the present case, there is absolutely no direct or substantive evidence on record to establish any prior meeting of minds between the



WEB COPY

Accused persons. In fact, the Trial Court itself has observed that there is no evidence explaining as to how the original title deeds came into the custody of the Income Tax Department. In the absence of any material establishing a prior agreement or meeting of minds between the Accused, the essential ingredients of the offence of criminal conspiracy under Section 120-B of the Indian Penal Code, 1860, have not been established.

39. The 1st Accused, who was the Commissioner of Income Tax and projected as the principal beneficiary of the alleged conspiracy, has been acquitted by the Trial Court. Once the public servant alleged to have been the principal beneficiary of the conspiracy has been acquitted, there is no independent or substantive evidence on record establishing any agreement or meeting of minds among the remaining accused so as to sustain their conviction for the offence punishable under Section 120-B of the Indian Penal Code, 1860.

40. However, the prosecution has also failed to establish any overt act attributable to the Accused demonstrating a dishonest intention to induce the Income Tax Department to issue the Certificate under Section 230A of the Income Tax Act, 1961. There is no evidence on record to



show that the Accused had derived any monetary benefit from the alleged transaction or that they had participated in the creation of any mortgage in favour of the Income Tax Department. Thus, the prosecution has failed to establish any dishonest or fraudulent act on the part of the Accused in connection with the issuance of the said Certificate.

41. That apart, the prosecution has failed to arraign the other Directors of the Company as Accused. This omission assumes significance, particularly when the prosecution alleges that the Company, acting through its Directors, was involved in the commission of the alleged offences. The prosecution cannot selectively implicate only some of the Directors while omitting the others, without establishing the specific role and involvement of each of the Accused. Such selective prosecution, in the absence of cogent evidence distinguishing the role of the Accused from that of the other Directors, is fatal to the case of the prosecution.

42. In view of the foregoing discussion, this Court is of the considered view that the prosecution has failed to establish the charges against the 2nd and 3rd Accused beyond reasonable doubt. Accordingly,



Crl.A.Nos.788 and 792 of 2017

the conviction and sentence imposed upon the 2nd and 3rd Accused by the Trial Court cannot be sustained in law and are liable to be set aside.

43. Accordingly, the impugned Common Judgment passed by the Trial Court is hereby set aside, and these Criminal Appeals are allowed. The fine amount, if any paid, shall be refunded to the Appellants forthwith. The bail bonds, if any executed, shall stand cancelled.

18.08.2026

Neutral Citation: Yes / No

arb

To:

- 1.The IX Additional Special Court for CBI cases,
Chennai.
- 2.Deputy Superintendent of Police,
SPE/CBI/ACB/CHENNAI,
RC.43(A)/02
Chennai.
- 3.The Public Prosecutor,
High Court of Madras,
Chennai-600 104.



WEB COPY



Crl.A.Nos.788 and 792 of 2017

G.K.ILANTHIRAIYAN, J.

arb

Pre-Delivery Common Judgment
in Crl.A.Nos.788 and 792 of 2017

18.08.2026