

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 14.11.2014
DELIVERED ON : 27.02.2015

CORAM:

THE HON'BLE MR.JUSTICE C.T. SELVAM

Crl.R.C.Nos.1072 to 1092 of 2014
and
M.P.Nos.1 and 3 of 2014 (in all cases)

Crl.R.C.No.1072 of 2014:

Nachiappan
S/o.Nachiappan Chettiyar

... Petitioner/Appellant/Accused
(in crl.R.C.No.1072,1076,
1077,1079,1081,1082,1083,
1086,1087,1090 and 1092 of 2014)

ChandraSekaran

... Petitioner/Accused - 4
(in crl.R.C.No.1073/14)

1. Deenadayalan @ Deenan

2. Natarajan

... Petitioner/Accused - 2 & 3
(in crl.R.C.No.1074,1075,1078,
1084,1085 and 1088 of 2014)

1. Panner Selvam

2. Natarajan

... Petitioner/Accused
(in crl.R.C.No.1080/14 and
1089 of 2014)

1. PannerSelvam

2. Deenadayalan @ Deenan

3. Natarajan

... (in Crl.R.C.No.1091 of 2014)

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vs.

State represented by
The Inspector of Police,
CCIW, CID, Chennai.
(Ref.Crime No.14/1983,04/1983)

... Respondent/Respondent/Complainant
(in all crl.R.Cs)

Criminal Revision filed under Section 397 and 401 Cr.P.C. to call for the records and set aside the judgment passed in C.A.Nos.74, 94, 75, 77, 76, 78, 80, 79, 82, 81, 83, 84, 85, 87, 86, 88, 89, 91, 90, 93 and 92 of 2013 respectively on the file of learned II Additional District Sessions Judge, Fast Track Court II, Poonamallee, dated 17.09.2014 confirming the judgment passed in C.C.Nos.262, 262, 263, 263, 264, 265, 265, 266, 266, 267, 268, 268, 269, 269, 270, 270, 271, 271, 272 and 272 of 2003 respectively by the learned Judicial Magistrate I, Poonamallee, dated 29.08.2013 and acquist the Petitioners.

For Petitioner : Mr.V.Vijayakumar (in all crl.R.Cs)

For Respondent : Mr.M.Mohamed Riyaz, (in all crl.R.Cs)
Government Advocate (Crl.side)

C O M M O N O R D E R

These revisions arise against judgments of learned II Additional District Sessions Judge, Fast Track Court II, Poonamallee, passed in C.A.Nos.74 to 94 of 2013 on 17.09.2014 confirming judgments of learned Judicial Magistrate I, Poonamallee, passed in C.C.Nos.262 to 272 of 2003 on 29.08.2013.

2. The prosecution case was that petitioners, in all these revisions, while working at the Hindustan Teleprinters Employees Co-operative Thrift and Credit Society, Guindy, misappropriated monies by making wrongful entries in the loan disbursement register between 04.09.1976 and 26.03.1981. A case was registered in Crime No.04 of 1983 on the file of the respondent. Upon completion of investigation and filing of charge sheets informing misappropriation in sums of Rs.1,000/-, Rs.3,000/-, Rs.1,500/-, Rs.2,000/-, Rs.3,500/-, Rs.2,000/-, Rs.7,000/-, Rs.5,000/-, Rs.6,000/-, Rs.1,500/- and Rs.35,796.75/-, cases were tried in C.C.Nos.262 to 272 of 2003 on the file of learned Judicial Magistrate I, Poonamallee.

3. Before trial Court, the following witnesses and exhibits were marked:

C.C.No.	Prosecution		Defence	
	No.of witnesses	No.of exhibits	No.of witnesses	No.of exhibits
262 of 2003	18	66	Nil	Nil
263 of 2003	17	54	Nil	Nil
264 of 2003	18	55	Nil	Nil
265 of 2003	17	58	Nil	Nil
266 of 2003	22	68	Nil	Nil
267 of 2003	16	68	Nil	Nil
268 of 2003	30	86	Nil	Nil
269 of 2003	19	70	Nil	Nil
270 of 2003	25	86	Nil	Nil
271 of 2003	18	175	Nil	Nil
272 of 2003	19	175	Nil	Nil

On appreciation of materials before it, trial Court, under judgments dated 29.08.2013, convicted petitioners and sentenced them as follows:

C.C. Nos.	Amount misappropriated	Accused	Offences u/s.	Sentence
262 /2003	Rs.1,000/-	A1	408 IPC	1 year S.I. and fine of Rs.5,000/- i/d 3 months S.I.
			477-A IPC	1 year S.I. and fine of Rs.5,000/- i/d 3 months S.I.
		A2, A3 & A4	408 r/w 109 IPC	1 year S.I. and fine of Rs.5,000/- i/d 3 months S.I.
			477-A IPC	1 year S.I. and fine of Rs.5,000/- i/d 3 months S.I.

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C.C. Nos.	Amount misappropriated	Accused	Offences u/s.	Sentence
263/2003	Rs.3,000/-	A1	408 IPC	1 year S.I. and fine of Rs.5,000/- i/d 3 months S.I.
			477-A IPC	1 year S.I. and fine of Rs.5,000/- i/d 3 months S.I.
		A2, A3 & A4	408 r/w 109 IPC	1 year S.I. and fine of Rs.5,000/- i/d 3 months S.I.
			477-A IPC	1 year S.I. and fine of Rs.5,000/- i/d 3 months S.I.
264/2003	Rs.1,500/-	A1	408 IPC	1 year S.I. and fine of Rs.5,000/- i/d 3 months S.I.
			477-A IPC	1 year S.I. and fine of Rs.5,000/- i/d 3 months S.I.
		A2 & A3 died pending trial		
265/2003	Rs.2,000/-	A1	408 IPC	1 year S.I. and fine of Rs.5,000/- i/d 3 months S.I.
			477-A IPC	1 year S.I. and fine of Rs.5,000/- i/d 3 months S.I.
		A2, A3 & A4	408 r/w 109 IPC	1 year S.I. and fine of Rs.5,000/- i/d 3 months S.I.
			477-A IPC	1 year S.I. and fine of Rs.5,000/- i/d 3 months S.I.
266/2003	Rs.3,500/-	A1	408 IPC	1 year S.I. and fine of Rs.5,000/- i/d 3 months S.I.
			477-A IPC	1 year S.I. and fine of Rs.5,000/- i/d 3 months S.I.
		A2 & A4	408 r/w 109 IPC	1 year S.I. and fine of Rs.5,000/- i/d 3 months S.I.
			477-A IPC	1 year S.I. and fine of Rs.5,000/- i/d 3 months S.I.
		A3 died pending trial.		

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C.C. Nos.	Amount misappropriated	Accused	Offences u/s.	Sentence
267/2003	Rs.2,000/-	A1	408 IPC	1 year S.I. and fine of Rs.5,000/- i/d 3 months S.I.
			477-A IPC	1 year S.I. and fine of Rs.5,000/- i/d 3 months S.I.
		A2 & A3 died pending trial.		
268/2003	Rs.7,000/-	A1	408 IPC	1 year S.I. and fine of Rs.5,000/- i/d 3 months S.I.
			477-A IPC	1 year S.I. and fine of Rs.5,000/- i/d 3 months S.I.
		A2, A3 & A4	408 r/w 109 IPC	1 year S.I. and fine of Rs.5,000/- i/d 3 months S.I.
			477-A IPC	1 year S.I. and fine of Rs.5,000/- i/d 3 months S.I.
269/2003	Rs.5,000/-	A1	408 IPC	1 year S.I. and fine of Rs.5,000/- i/d 3 months S.I.
			477-A IPC	1 year S.I. and fine of Rs.5,000/- i/d 3 months S.I.
		A2, A3 & A4	408 r/w 109 IPC	1 year S.I. and fine of Rs.5,000/- i/d 3 months S.I.
			477-A IPC	1 year S.I. and fine of Rs.5,000/- i/d 3 months S.I.
270/2003	Rs.6,000/-	A1	408 IPC	1 year S.I. and fine of Rs.5,000/- i/d 3 months S.I.
			477-A IPC	1 year S.I. and fine of Rs.5,000/- i/d 3 months S.I.
		A2, A3 & A4	408 r/w 109 IPC	1 year S.I. and fine of Rs.5,000/- i/d 3 months S.I.
			477-A IPC	1 year S.I. and fine of Rs.5,000/- i/d 3 months S.I.

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C.C. Nos.	Amount misappropriated	Accused	Offences u/s.	Sentence
271/2003	Rs.1,500/-	A1	408 IPC	1 year S.I. and fine of Rs.5,000/- i/d 3 months S.I.
			477-A IPC	1 year S.I. and fine of Rs.5,000/- i/d 3 months S.I.
			120 (b) IPC	3 months S.I.
			471 IPC	3 months S.I.
		A2, A3 & A5	408 r/w 109 IPC	1 year S.I. and fine of Rs.5,000/- i/d 3 months S.I.
			477-A IPC	1 year S.I. and fine of Rs.5,000/- i/d 3 months S.I.
			120 (b) IPC	3 months S.I.
			471 IPC	3 months S.I.
		A4 died pending trial.		
272/2003	Rs.35,796.75	A1	408 IPC	1 year S.I. and fine of Rs.5,000/- i/d 3 months S.I.
			477-A IPC	1 year S.I. and fine of Rs.5,000/- i/d 3 months S.I.
			120 (b) IPC	3 months S.I.
			471 IPC	3 months S.I.
		A2, A3 & A6	408 r/w 109 IPC	1 year S.I. and fine of Rs.5,000/- i/d 3 months S.I.
			477-A IPC	1 year S.I. and fine of Rs.5,000/- i/d 3 months S.I.
			120 (b) IPC	3 months S.I.
			471 IPC	3 months S.I.
		A4 & A5 died pending trial.		

Appeals preferred by petitioners before learned II Additional District and Sessions Judge, Fast Track Court II, Poonamallee, in C.A.Nos.74 to 94 of 2013 came to be dismissed under judgments dated 17.09.2014. Hence, these revisions.

4. Heard learned counsel for petitioners and learned Government Advocate (Crl.side).

5. Learned counsel for petitioners submits that petitioners have paid the fines imposed by the trial Court. Learned counsel relied on judgment of Apex Court in Bore Gowda v. State of Karnataka [2000 (10) SCC 260], to submit that in such case, the Apex Court has been pleased to extend the benevolent provision of Probation of Offenders Act to the accused on consideration of the fact that the offence was of the year 1981-82.

6. This Court notes that in such case, irregularities were in three cases and in small amounts of Rs.1,812/- and below. In the case on hand, there are as many as 11 instances, one involving a sum of Rs.35,796.75. Even so, given the position that as many as 31 years have passed and that petitioners are retired persons, all aged about 70, this Court would extend the benevolent provision of Probation of Offenders Act. Towards doing so, this Court reserved orders on 14.11.2014 affording petitioners a period of three months from such date to effect deposit of the misappropriated funds to the credit of respective complaint cases. Sums now stand deposited as evidenced by receipts issued by learned Judicial Magistrate I, Poonamallee, submitted before the Registry along with a memo, as directed by this Court. In the circumstances, this Court while confirming the finding of conviction and sentence of Courts below, would direct that petitioners be released on probation of good conduct, on each of them executing a bond in a sum of Rs.10,000/- (Rupees Ten Thousand only) with one surety in a like sum to the satisfaction of the trial Court viz., Judicial Magistrate I, Poonamallee, undertaking to appear and receive sentence when called upon to do so, during a period of one year of the date of the bond and in the mean time to keep the peace and be of good behaviour. It is made clear that in keeping with Section 12 of the Probation of Offenders Act, petitioners shall not suffer disqualification, attaching to this conviction.

These Criminal Revisions stand disposed of with the above direction. Memo and receipts shall form part of records. Consequently, connected miscellaneous petitions are closed.

Sd/-
Asst. Registrar

/true copy/

Sub Asst. Registrar.

GM

To

1. The II Additional District Sessions Judge,
Fast Track Court II,
Poonamallee.
2. The Judicial Magistrate I,
Poonamallee.
3. The Inspector of Police,
CCIW, CID,
Chennai.
4. The Public Prosecutor,
High Court,
Chennai.

JSU(CO)
CA(12/03/2015)

CrI.R.C.Nos.1072 to 1092 of 2014



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