

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 06.11.2017

Pronounced on : 13.11.2017

Coram:

THE HON'BLE DR.JUSTICE G.JAYACHANDRAN

CrI.A.No.454 of 1998

State represented by
Inspector of Police
SPE/CBI/ACB/Chennai

.. Appellant

/versus/

1.N.C.Nahar
Assistant Divisional Manager,
United India Insurance

2.Giridhar Lal
3.U.C.Mehta
4.P.R.Mehta
5.Sharmila Mehta

... Respondents

Criminal Appeal is filed under Section 378(2) of Cr.P.C., against the judgment of acquittal dated 05.02.1997 made in C.C.No.182 of 1993 on the file of the V Additional Special Court, Chennai.

For Appellant :Mr.K.Srinivasan,
Spl.P.P for (CBI Cases)

For Respondents :Mr.A.Ramesh, Sr.C for
Mr.K.M.Santhanagopalan for R1
Mr.R.Manoharan for R2
Mr.R.Ramasamy for R3 to R5

J U D G M E N T

This appeal is preferred by CBI aggrieved by the judgment of acquittal delivered by the trial Court.

2. The brief facts of the case is as follows: An Ambassador car bearing Regn.No.TMO 2790 met with a road accident on 18.01.1989 near Music Academy signal in Chennai. It is alleged that due to rash and negligent driving by one Sharmila Mehta, a Benz car bearing Regn.No.TCV 2752 was damaged. Later, the owner of the Benz car viz., John Nemen has filed

M.C.O.P.No.1640 of 1989 for damages against (i) M/s Surya Cabs represented by its Proprietor, Mr.Giridhari Lal as owner of the offending vehicle; (2)Tmt.Sharmila Mehta, who has driven the offending car and (3)United India Insurance Company Limited, Museum Road, Bangalore being the insurer indemnified third party claim. The petition in M.C.O.P.No.1640 of 1989 was filed during the month of July, 1989 claiming compensation of Rs.2,91,027.26. Before that, but subsequent to the accident, for the Ambassador car bearing Regn.No.TMO 2790, which was not covered under any insurance scheme on the date of the accident, a proposal was presented before the United India Insurance Company, Museum Road Branch, Bangalore on 20.01.1989. The premium amount of Rs.120/- was paid by way of a cheque dated 16.01.1989 drawn by one Narasimhaswamy in favour of the United India Insurance Company. Though the receipt was issued on 20.01.1989, the policy note issued indicating that the insurance commence from 16.01.1989 to 15.01.1990. Thus, though the payment was made, after the date of the accident, the policy was issued prior to the date of the accident based on the date of cheque. This is the core issue, which has lead to the criminal prosecution.

3. The United India Insurance Company Internal Vigilance Team, in pursuant to the notice received from the V Small Causes Court, Chennai in M.C.O.P.No.1640 of 1989, has made an investigation regarding the policy issued to the Ambassador car bearing Regn.No.TMO 2790 belonging to M/s Surya Cabs represented by its Proprietor Mr.Giridhar Lal. Mr.P.Vijayan, who has conducted enquiry, had submitted a report dated 23.08.1990 that though the third party insurance policy was issued for the vehicle bearing Regn.No.TMO 2790 for the period from 16.01.1989 to 15.01.1990, the proposal was signed only on 20.01.1989, however, the underwriting docket is not available in the office. The premium was received only on 20.01.1989 and the same was entered in the Premium Collection Register only on 20.01.1989. The receipt for receiving the cheque was issued on 20.01.1989. Though the cheque bears ante-date of 16.01.1989, it was not submitted to the Insurance Company on that day and the same was not reflected in the Cheque Inward Register. There is no entry for the receipt of the subject cheque in the Cheque Inward Register during the period between 05.01.1989 and 25.01.1989. Though the premium register and the policy indicate that the proposal was submitted by the Agent bearing code No.SNNS/016, the said Agent has informed Mr.Vijayan, Enquiry Officer that he has given the cheque as per the instruction of the Branch Manager and he is not aware of the purpose for which the cheque was utilized. In his report dated 23.08.1990, Mr.P.Vijayan, Assistant Administrative Officer has pointed out that from the branch records, it is confirmed that the premium was received for the said vehicle only on 20.01.1989, whereas the policy was granted from 16.01.1989 which covers the date of accident on

18.01.1989.

4. Subsequently, based on the preliminary investigation report of Mr.P.Vijayan, further investigation has been conducted on the irregularity in granting coverage to the vehicle bearing Regn. No.TMO 2790 by N.C.Nahar, the then Assistant Branch Manager, Museum Road Branch, Bangalore. Mr.T.V.Nagaraja, the Assistant Manager(Vigilance) of United India Insurance Company Limited, Branch Regional Office, Bangalore has interrogated the Agent, Narasimhaswamy, Mr.N.C.Nahar, the then Assistant Branch Manager and other staff of the branch, who were involved in issuance of policy note, preparation of proposal, receipt of the cheque and issuance of the receipt. He, in his report, had concluded that the evidences and other data, shows that there is preponderance of probability in granting of coverage deliberately, after the accident, by back dating the cover. Mr.N.C.Nahar, the then Assistant Branch Manager, Museum Road Branch Office, Bangalore is responsible for the said irregularity.

5. It is pertinent to point out that after receiving the report, the United India Insurance Company has neither cancelled the policy nor taken any departmental action against N.C.Nahar or neither given any criminal complaint to the police for investigation. It is CBI Inspector, who has taken up the matter as a source information on his own, registered the First Information Report on 28.02.1991 as against N.C.Nahar, the Administrative Officer, United India Insurance Company, Museum Road, Bangalore and Giridhar Lal, No.2 Rama Krishnan Road, T.Nagar, Chennai. According to the First Information Report, the Ambassador car bearing Regn.No.TMO 2790 driven by Shamila Mehta hit against the Mercedes Benz car bearing Regn.No.TCV 2752 near Music Academy signal on 18.01.1989 at 07.20 hours. N.C.Nahar had issued a third party insurance policy for the Ambassador car on 20.01.1989 covering the risk from 16.01.1989 to 15.01.1990 on the basis of the cheque dated 16.01.1989 for Rs.120/- as premium received at branch office Bangalore on 20.01.1989.

6. In the First Information Report recorded based on the reliable information, the Inspector of Police has alleged that his verification reveals that cheque for Rs.120/- paid as premium was not presented by Giridhar Lal, owner of the vehicle, but it was presented by Agent Narasimhaswamy, who handed over the cheque to N.C.Nahar for some other purpose. However, N.C.Nahar has misused the cheque by entering the amount in the Premium Register as if the cheque for Rs.120/- has been tendered for the premium of the Ambassador car bearing Regn.No.TMO 2790. By the said act, N.C.Nahar and Giridhar Lal have caused wrongful loss to the United India Insurance Company to the tune of

Rs.2,91,027/- which is the claim amount in M.C.O.P.No.1640 of 1989 filed by one John Nemen.

7.As the First Information Report discloses prima facie case for offences under Sections 120-B IPC r/w Sections 420, 467, 468 of IPC and Section 13(2) r/w 13(1)(d) of the Prevention of Corruption Act, 1988, a regular case has been registered and taken up for investigation as per the order of the Superintendent of Police. The investigation has culminated in the final report wherein, apart from the two named accused in the First Information Report, U.C. Mehta/A3, to whom the possession of the vehicle was given by Giridhar Lal/A2 and P.R.Mehta, brother of U.C.Mehta and Sharmila Mehta, D/o U.C.Mehta, the person who has driven the offending vehicle, were also arrayed as the accused. Based on the final report, the trial Court has framed charges under Section 120B r/w 420 IPC against all the accused. Section 420 IPC against A2 to A5 and Section 201 IPC and 13(2) r/w 13(1)(d) of the Prevention of Corruption Act, 1988 against A1, for screening the Insurance Company Policy underwriting docket.

8.To prove the charges, the prosecution has examined 16 witnesses and marked 28 exhibits. On the side of the defence, one Mr. Ragavan was examined as DW1 and 13 exhibits were marked. The trial Court, after considering the evidence, held that the prosecution has failed to prove the guilt of the accused beyond reasonable doubt and acquitted all the accused. Aggrieved by the same, the prosecution has preferred this appeal against the acquittal.

9.This Court, on 04.04.2006, after considering the grounds of appeal and re-appreciating the evidence, has held that the trial Court has failed to consider all the aspects in proper perspective. Hence, the finding of the trial Court acquitting the accused was set aside. However, considering the judgment of this Court rendered in State by Food Inspector, Virudhunagar Municipality v. Kumaresan reported in [1992 LW (Cr1.) 392] and State by Public Prosecutor v. Palani reported in [1997-2-L.W. (Cr1.) 782], this Court has held that the offences are related to the year 1989 for which a regular case has been registered on 28.02.1991 which ended in acquittal on 05.02.1997. Hence, after lapse of 15 years, the order of acquittal need not be disturbed.

10. Since the above conclusion of this Court was not in consonance with law, the prosecution has preferred appeal before the Hon'ble Supreme Court. After considering the grounds of appeal and error in the judgment of this Court, the Hon'ble Supreme Court in Criminal Appeal No.1761 of 2009 vide its order dated 11.09.2009, allowed the appeal, set aside the order of this Court dated 04.04.2006, and remit the matter to the High Court for decision afresh in accordance with law, with a

direction that the matter has to be disposed of as expeditiously as possible preferably within a period of three months from the date of communication of this order.

11.This Court has to confess that in spite of specific direction by the Hon'ble Supreme Court, the appeal could not be taken up within the time prescribed. The record reveals that one of My Brother Judge before his retirement has heard the case in full and reserved the matter for orders during the month of March 2012. But, later it was re-opened at the instance of the learned counsel appearing for the respondents "For Clarification" on 21.06.2012. Unfortunately, it has not been listed thereafter. With this checkered history, when the case was listed for final hearing before this Court, the learned Special Public Prosecutor for (CBI cases) as well as the learned counsel representing the appellants sought for paper book. Accordingly, it was furnished to them at free of cost and thereafter, they have made their respective submissions.

12.The learned Special Public Prosecutor for (CBI cases) submitted that Ex.P5[Policy Note], though covers the period from 16.01.1989 to 15.01.1990 for the Ambassador car bearing Regn. No.TMO 2790, the receipt register[Ex.P6] clearly indicates that the proposal was presented only on 20.01.1989. Though the cheque [Ex.P7] is dated 16.01.1989, there is no evidence to show that cheque along with the proposal was presented on 16.01.1989. In fact, the Inward Cheque Register does not reflect the presentation of the cheque either on 16.01.1989 or on 20.01.1989. The entire process of issuing the policy to the vehicle had been done under the instruction of the first accused [N.C.Nahar] Assistant Branch Manager, who had instructed PW-7 [Narasimhaswamy] to issue cheque for Rs.120/- and also to present the proposal. He had screened the policy coverage docket to make it appears as if the car was fully covered under the insurance on 18.01.1989, the date on which the car met with the accident. N.C.Nahar[A1] has done this to help Giridhar Lal of M/s Suriya Cabs[A2] against whom the claim petition in M.C.O.P.No.1640 of 1989 was later filed. By issuance of ante-date insurance coverage, the liability of indemnifying A2 has cast upon the insurance company, which was arrayed as 3rd respondent in the claim petition.

13.From the investigation, the prosecution has found that Giridhar Lal of M/s Surya Cabs has purchased the car from Commercial Credit Corporation Limited on hire purchase basis. He has not paid due properly, which has culminated in filing of money suit before the City Civil Court in O.S.No.1810 of 1984 for recovery of Rs.45,000/-. In the meanwhile, the possession of the car was given to U.C.Mehta[A3]. At the time of the

accident, the said vehicle was driven by Sharmila Mehta[A5]. P.R.Mehta a resident of Bangalore being the brother of U.C.Mehta [A3], was also arrayed as 4th accused alleging that he influenced N.C.Nahar[A1] to issue the ante-date insurance.

14. The learned Special Public Prosecutor for(CBI Cases) contended that the evidence of PW7[Narasimhaswamy] has clearly deposed the role of A1[N.C.Nahar], who has received the cheque ante-date and used it as a premium for the policy of the car, which was already involved in the Motor Accident and not covered under the Insurance. The staff of the Branch, who was examined as PW-4[Renuka] has stated in her evidence about the issuance of the receipt [Ex.P6] dated 20.01.1989, on receipt of the cheque [Ex.P7]. While so, the Insurance Policy [Ex.P5] should cover only starting from 20.01.1989, not 16.01.1989. Such an error is not due to inadvertent (or) by mistake (or) by over work load as contended by N.C.Nahar[A1]. But, it was a deliberate act of crime, knowing fully well that on the date of acceptance of the cheque and proposal, the vehicle had already involved in the accident. There is no reason for the vehicle plying in Chennai to get insured in Bangalore, except for N.C. Nahar[A1] Branch Manager was ready to facilitate the other accused to get the car involved in an accident, get insured in Bangalore.

15.It is also contended by the learned Special Public Prosecutor for (CBI cases) that the learned trial Judge has miserably failed to appreciate the evidence and charge of conspiracy. He has sought for independent witness to prove conspiracy unmindful of the fact that the conspiracy is mostly hatched in secrecy and it is very rare to get direct evidence and only through the circumstantial evidence conspiracy can be proved. In this case, though prosecution has placed enough evidence to establish conspiracy, the trial Court has failed to appreciate those evidence.

16.Further, the learned Special Public Prosecutor for (CBI cases) contended that PW9[Jayaraman], who was working as Assistant in Commercial Credit Corporation which advanced loan to M/s Surya Cabs representing its Proprietor Giridhar Lal[A2] to purchase the Ambassador car bearing Regn. No.TMO 2790, has categorically deposed that till the hire purchase was in force, they were paying premium to the car and it got expired on 13.12.1983. The xerox copy of the policy for the period from 14.12.1982 to 13.12.1983 marked as Ex.P16. Though the car stood in the name of M/s Surya Cabs represented by its Proprietor Giridhar Lal[A2], the possession was given to U.C.Mehta[A3] and the same was driven by Sharmila Mehta [A5]. All of them were jointly and severally liable to pay compensation to the owner of the Benz car bearing Regn.No.TCV 2752. Therefore, to avoid the liability, the accused persons have entered into conspiracy to

get insurance coverage with ante-date. Though the claim petition in M.C.O.P.No.1640 of 1989 was dismissed on different ground, the attempt to cheat made by these accused persons cannot be over looked.

17. Per contra, the learned counsels representing the respondents/accused placed their arguments on the grounds that the trial Court, after appreciating the evidence, has found that there is no link between the alleged crime and the accused to hold them guilty of conspiracy. The charge that they conspired to cheat the insurance company and had unlawful gain, has not been made out. Admittedly the insurance company has not incurred any loss and it has not lodged any complaint in this regard. It was suo moto case registered by CBI by the investigating officer, who has registered the case, investigated and filed final report.

18. The learned counsels for respondents contended that the trial Court has rightly held that the prosecution has failed to place adequate materials to show that there was meeting of mind between the accused persons to commit the alleged unlawful act. Except the fact that Sharmila Mehta[A5] is the daughter of U.C.Mehta[A3]. There is no evidence placed by the prosecution that A1, A3, A4 and A5 are relatives to each other or they had meeting of mind to commit the said illegal act. While so, the judgment of the trial Court cannot be assailed for any perversity. The Claim Petition in M.C.O.P.No.1640 of 1989 filed for damages was dismissed by V Small Causes Court, Chennai on 19.01.1994. So, there is no monetary loss to the insurance company as alleged in the final report or in the charge. When there is no monetary loss for the insurance company, the charge under Section 420 IPC is not made out.

19. Further, it is also contended by the learned counsel appearing for the respondents that the alleged ante-date of insurance coverage does not fall within the scope and meaning of valuable thing obtained for himself or for any other person to attract Section 13(2) r/w 13(1)(d) of the Prevention of Corruption Act, 1988.

20. Heard the learned counsels appearing for the either side and perused the materials available on record.

21. It is reported during the course of argument that U.C.Mehta[A3] died, pending the appeal. Hence, the Criminal Appeal is abated against A3[U.C.Mehta].

22. Finding of the Court: The insurance policy [Ex.P5] covers third party insurance in respect of the Ambassador car bearing Regn. No.TMO 2790 for the period commencing from

16.01.1989 to 15.01.1990. The receipt [Ex.P6] clearly indicates that the cheque was presented only on 20.01.1989 and the proposal was also given only on 20.01.1989. This fact is also spoken to by PW4[Renuka]. Therefore, those are not undisputed facts. Further, the premium for the said policy has been paid by way of cheque [Ex.P7]. PW-7 [Narasimhaswamy] admits that the cheque was issued by him and that the money was credited from his account. The internal investigation report [Ex.P12] submitted by PW2 [T.V.Nagaraja] reveals that in case of holiday, any proposal presented with cheque will be entered in the register on the next day immediately after the holiday. The proposal will be processed subsequently and the coverage will be given based on the date of cheque. But in any event, the proposal should precede the cheque. In this case, the cheque has preceded the proposal. While the cheque is dated 16.01.1989 the proposal is dated 20.01.1989. Therefore, the coverage cannot be based on the date on which the cheque bears but only on the date on which, the proposal was presented. To that extent, there cannot be any dispute on either side. But whether this irregularity had been done by or at the instance of A1 [N.C.Nahar], consequence to the conspiracy held at Chennai and Bangalore between A1[N.C.Nahar] and other co-accused is the point for determination before this Court.

23.From the evidence, it is found that Giridhar Lal of M/s Surya Cabs was not in possession of the vehicle at the relevant point of time and the vehicle did not stand in his name. The possession of the vehicle had been with A3[U.C.Mehta]. In fact, A2[Giridhar Lal] had given a complaint to the Police twice with regard to loss of RC book and has obtained 'Non Traceable Certificate' from E-1 Mylapore Police Station and F-3 Nungambakkam Police Station. The Non Traceable Certificate issued by these two police stations' Station House Officer are marked as Exs.P26 and P27. Particularly, Ex.P26 is dated 24.01.1989 issued by the Inspector of Police, Mylapore E-1 Police Station, which is after the accident. However, Ex.P25, a letter from the Regional Transport Office to the Inspector of Police, CBI, Sastri Bhavan, dated March 1992 indicates that the motor vehicle viz., Ambassador car Regn. No.TM0 2790, which stood in the name of M/s Surya Cabs, 3 Eldams Road, Madras, had been transferred in favour of Sri Subash Chandra Pathi, S/o Sri Bhino Sanpadhi, No16, Namasiva Mudali Street, Madras-5, with effect from 10.05.1982. PW.13 [Kollappa Pillai] who was serving as Regional Transport Officer, Chennai (North) has issued this certificate [Ex.P24] and has deposed that the vehicle since 1982 stands in the name of Sri Subash Chandra Pathi. Though the prosecution has come to know through Ex.P25 that the vehicle stood in the name of Sri Subash Chandra Pathi, but the insurance policy has been taken in the name of Giridhar Lal[A2] and Giridhar Lal[A2] had given two complaints for missing RC Book at

different Police Stations at two different point of time. The said Sri Subash Chandra Pathii was not examined. If the said Sri Subash Chandra Pathi is a fictitious person as mentioned in the sanction order Ex.P-13, no evidence placed before the Court to vouch safe this statement. If the vehicle does not stand in the name of Giridhar Lal[A2], why should Giridhar Lal[A2] and N.C.Nahar[A1] conspire to pay the insurance in the name of M/s Surya Cabs instead of Sri Subash Chandra Pathi is left unexplained by the prosecution.

24. Merely based on the statement of PW.7-Agent, the prosecution has suspected A1[N.C.Nahar] for antedate policy cover. No doubt, on the date of accident, the vehicle was driven by A5 [Sharmila Mehta]. PW.11[John Nemen], who has filed motor accident claim petition 6 months after the accident, has mentioned Giridhar Lal[A2] as owner of the vehicle. While the prosecution document Ex.P25 indicates that till 09.05.1982 it was M/s Surya Cabs the owner of the vehicle and thereafter, Sri Subash Sanpanthi was the owner of the vehicle, how Commercial Credit Corporation paid insurance from 14.12.1982 to 13.12.1982 in the name of M/s Surya Cabs is left unanswered.

25. The sanction order marked as Ex.P13 indicates that the vehicle was purchased on hire purchase basis and stood in the name of M/s.Surya Cabs. Later, Giridhar Lal[A2] owner of the Surya Cabs has handed over the car to U.C. Mehta[A3] and his family members as security. The sanction order further states that Sri Subash Chandra Pathi in whose name the vehicle was transferred on 10.05.1982, is a non existing person and no such person ever resided in the given address. This piece of information, which is found in the sanction order, has not been elucidated through any of the witness or document by the prosecution. It is very surprise to note the many facts mentioned in the sanction order are not supported by records which are marked as prosecution exhibits.

26. Likewise, the statement in the sanction order that A1 is relative to A3, A4 and A5 has also not been elucidated through any of the witness by the prosecution. Even assuming they are all relatives, it is not sufficient to assume meeting of mind to commit an illegal act. This lacuna in the prosecution raises doubt whether A1 had any privity at all with other accused persons.

27. However, strong doubt and suspicion they are not sufficient to convict a person. There must be enough evidence which prove that the accused had committed the offence. In this case, though the internal investigation reports Ex.P8 and P12 indicate that there was some irregularity in issuing insurance

policy to the vehicle bearing Regn.No.TMO 2790, whether it was the outcome of any culpable mental state not ascertained. That is the reason why the insurance company has not initiated any action whatsoever either departmental or criminal action. Admittedly, there is no loss, except contesting the case in M.C.O.P.No.1640 of 1989 which has ended in dismissal. Sans the admission of A5 before the criminal Court for rash and negligent driving, no evidence is available to implicate any of the accused person for the charge of conspiracy or cheating or to implicate them in issuance of ante-date policy. It is also pertinent to bear in mind that the officials of the insurance company examined as prosecution witnesses have admitted that there are cases, where the insurance company issued insurance coverage based on the date of cheque.

28. While so, it has to be ensured before holding the accused guilty whether he had participated in issuance of policy Ex.P5 with any malafide intention or as a matter of routine. During the internal investigation, A1 has given his explanation for issuing the policy and the same is marked as Ex.P11. Though it has not been accepted by the investigating officer, the fact remains that the first accused has issued the policy at the request of one of their valuable customer U.C.Mehta of M/s MIC Cement Limited. Ex.P23 the request letter of U.C.Mehta to the send the cover note lends credence to A1 explanation. Ex.D2 policy note in the name of Sabina Chandra Miliney reveals, for the proposal dated 11.01.1989 towards fire insurance, policy is issued for the period from 05.01.1989 to 04.01.1990. Thus, the practice of issuing ante-dated policy based on the date of cheque appears to be vogue in the United India Insurance Company, though it is not the correct procedure.

29. The trial Court, after pointing out all these lacuna in the prosecution case, was not inclined to accept the version of the prosecution of conspiracy between the accused in the absence of evidence linking the accused to the sequence of events. When two views are possible and the view taken by the trial Court is not totally perverse or absurd, just because the needle of suspicious points the accused, it is not prudent to convict A1 based on PW-7 evidence alone and the other accused since they are relatives of A5, who has caused accident. More particularly, when the insurance company itself, even after holding the insurance policy Ex.P5 was not issued in consonance to their guidelines have not taken any action to cancel the same.

30. On assessment of evidence, this Court finds that in the counter filed by the Insurance Company in M.P.C.No.1640 of 1989 filed by John Nemen, the company has pleaded that as per the provision of Motor Vehicles Act, the liability of the insurer is limited to Rs.6000/- only. The said counter is marked as

Ex.P22. During the cross examination of the Investigating Officer PW-12, it is suggested to him that under third party insurance policy, the maximum amount indemnified is only Rs.6000/- during the relevant point of time. The Investigating Officer admits that he did not enquire about it. Therefore, when the third party insurance coverage itself restricted to Rs.6000/- and if the accused persons had any meeting of mind and intent to fabricate false document of creating ante-dated insurance policy, they would have not taken third party policy but would have taken a comprehensive policy for higher value. Therefore, the allegation and charge against the accused persons that they conspired to escape from the Motor Accidents Claims Tribunal liability does not seems to be sustainable in the light of the fact that the Benz car owner in his claim petition had demanded Rs.2,91,027/- as compensation.

31. An incised scrutiny of the prosecution case as projected through its witnesses and documents reveals several loose ends. To mention some of these loose ends are: it is not sure who is the real owner of the offending vehicle bearing Regn.No.TMO 2790, in the light of Ex.P25 and evidence given by PW-13 [Kollappa Pillai]. Further, PW-4[Renuka] admits that she is aware of preparation of Ex.P5 policy note, receipt issued for the cheque Rs.120/- by the agent [Narasimhaswamy]. It appears that the said policy note has been issued without RC Book. The prosecution has conveniently shifted the blame on N.C.Nahar [A1] that he has disposed off the policy underwriting docket. While the prosecution through Ex.P25 says that the vehicle on that day stood in the name of one Sri Subash Chandra Pathi and Ex.P26-Non Traceable Certificate issued by Mylapore E-1 Police Station on 24.01.1989 shows that RC Book was lost and not available with Giridhar Lal[A2]. The doubt arise that if the vehicle was sold to Sri Subash Chandra Pathi in the year 1982, Giridhar Lal has no reason to have the R.C.Book in his possession thereafter. If so, why he has given complaint to the police stations not once but twice as if the RC Book, got lost, first before Nungambakkam P.S., and subsequently, before E-1 Mylapore police station.

32. When the loose ends mention above left open, the explanation given by N.C.Nahar[A1] about the common practice of issuing policy cover based on the date of cheque is supported by defence document Ex.D2. This explanation has been given by N.C.Nahar[A1] at the earliest point during the internal investigation. Ex.P11 is the explanation given by N.C.Nahar[A1] during the internal investigation. The prosecution has not probed into the said practice to ascertain whether N.C.Nahar[A1] had any criminal intention in issuing Ex.P5 policy note.

33. As the prosecution has failed to prove its case, no infirmity, illegality or manifested perversity could be attributed to the trial Court judgment. Hence, this Court is not

inclined to interfere with the judgment of the trial Court, which is impugned in this appeal. Accordingly, this Criminal Appeal is dismissed. The judgment of the trial Court viz., V Additional Special Court, Chennai in C.C.No.182 of 1993, dated 05.02.1997 is confirmed.

Sd/-
Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

To
The Special Public Prosecutor,
High Court, Madras.

COPY TO

1 THE V ADDL. SPECIAL JUDGE,
V ADDL. SPECIAL COURT, CHENNAI.

2. THE INSPECTOR OF POLICE,
SPE/CBI/ACB, CHENNAI

+1cc to Mr.THANGAVEL Advocate, S.R.No. 80203/17

delivery judgment made in
Crl.A.No.454 of 1998

MR(CO)
TR(06/12/2017)

सत्यमेव जयते

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