BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Tuesday, the Twenty Third day of January Two Thousand Eighteen

PRESENT

The Hon`ble Mr.Justice A.M.BASHEER AHAMED

Crl.M.P.(MD)Nos.2650, 2892, 3090,3430, 3465 & 8631 of 2017
in
Crl.A.(MD)No.99, 107,113, 125,127 &379 of 2017

CRL MP(MD) No.2650/ 2017 in CRL A(MD) No.99/ 2017 :

J. RAJAGOPALAN ... Petitioner/Appellant/Accused No.2

Vs

STATE REP.BY
THE INSPECTOR OF POLICE
CBI, ACB, CHENNAI ... Respondent/Respondent/Complaiant

Prayer in CRL MP(MD). 2650/ 2017 in CRL A(MD) No.99/ 2017 :
Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to suspend the sentence imposed in C.C.No.4/2006 dated 17/03/2017 on the file of the Honourable 2nd Additional District Court for CBI Cases, Madurai pending disposal of the above Crl.A.

CRL MP(MD) No.2892/ 2017 in CRL A(MD) No.107/ 2017 :

P.VISWANATHAN ... Petitioner/Appellant

Vs

STATE REP.BY
THE INSPECTOR OF POLICE
CBI, ACB, CHENNAI
RC MA12004 A 0018 ... Respondent/Respondent

Prayer in CRL MP(MD). 2892/ 2017 in CRL A(MD) No.107/ 2017 :
To suspend the sentence of Imprisonment imposed by the II Additional District Court for CBI Cases, Madurai in C.C.No.4/2006 by the Judgement dated 17/03/2017 and enlarge the Petitioner/Appellant on bail, pending disposal of the above said Crl.A.

CRL MP(MD) No.3090/ 2017 in CRL A(MD) No.113/ 2017 :

G.P.RADHAKRISHNAN ... Petitioner/Appellant

Vs

STATE REP.BY
THE INSPECTOR OF POLICE
CBI, ACB, CHENNAI
(F.I.R.NO.RC MA 12004 A0018 ... Respondent/Respondent

Prayer in CRL MP(MD). 3090/ 2017 in CRL A(MD) No.113/ 2017 :

To suspend the sentence of Imprisonment imposed against the petitioner in the judgement dated 17/03/2017 pronounced in C.C.No.4/2006 on the file of the Learned II Additional District Court CBI Cases, Madurai and enlarge the petitioner on bail pending the disposal of the above Crl.A.

<u>CRL MP(MD) No.3430/ 2017 in CRL A(MD) No.125/ 2017 :</u>

B.SHIEK AMIR ... Petitioner/Appellant/Accused No.3

Vs

STATE REP.BY
THE INSPECTOR OF POLICE
CBI, ACB, CHENNAI
RC MA 12004 A 0018 ... Respondent/Respondent/Complainant

Prayer in CRL MP(MD). 3430/ 2017 in CRL A(MD) No.125/ 2017 :

To enlarge the petitioner on bail by suspending the sentence imposed by the II Additional District Court for CBI Cases, Madurai in C.C.No.4 of 2006 vide his Judgment dated 17.03.2017 pending the disposal of the main Criminal Appeal pending on the file of this Honourable Court and thus render justice.

<u>CRL MP(MD) No.3465/ 2017 in CRL A(MD) No.127/ 2017 :</u>

R.SIVA ... Petitioner/Appellant/Accused No.6

Vs

STATE REP.BY
THE INSPECTOR OF POLICE
CBI, ACB, CHENNAI
RC MA 12004 A 0018 ... Respondent/Respondent/Complainant

Prayer in CRL MP(MD). 3465/ 2017 in CRL A(MD) No.127/ 2017 :

To enlarge the petitioner on bail by suspending the sentence imposed by the II Additional District Court for CBI Cases, Madurai in C.C.No.4/2006 vide his judgement dated 17/03/2017 pending the disposal of the above Crl.A

<u>CRL MP(MD) No.8631/ 2017 in CRL A(MD) No.379/ 2017 :</u>

A.RAJ KAPOOR ... Petitioner/Appellant/Accused - 4

Vs

STATE REP.BY
THE INSPECTOR OF POLICE
CBI, ACB, CHENNAI
RC MA 12004 A 0018 ... Respondent/Respondent/Complainant

Prayer in CRL MP(MD). 8631/ 2017 in CRL A(MD) No.379/ 2017 :
To Suspend the sentence imposed on the Petitioner by the Learned II Additional district Court for CBI Cases Madurai in C.C No. 4/2006 dated 17.03.2017 and enlarge the petitioner on bail pending disposal of the Criminal Appeal.

Order : These petitions coming on for orders upon perusing the petitions filed in support thereof and upon hearing the arguments of M/S.M.PATTURAJAN, Advocate for the petitioner in CRL MP(MD) No.2650/ 2017 in CRL A(MD) No.99/ 2017 and MR.D.RAMESHKUMAR, Advocate for the petitioner in CRL MP(MD) No.2892/ 2017 in CRL A(MD) No.107/ 2017 and MR.M.SARAVANAN, Advocate for the petitioner in CRL MP(MD). 3090/ 2017 in CRL A(MD) No.113/ 2017 and MR.R.ANAND, Advocate for the petitioner in CRL MP(MD) No.3430/ 2017 in CRL A(MD) No.125/ 2017 and CRL MP(MD). 3465/ 2017 in CRL A(MD) No.127/ 2017 and MR.C.RAMKUMAR, Advocate for petitioner in CRL MP(MD). 8631/ 2017 in CRL A(MD) No.379/ 2017 and of MR.S.JAYAKUMAR for Special Public Prosecutor for CBI Cases on behalf of the Respondent in all the petitions, the court made the following order:-

[Orders Reserved On **02.06.2017**]

The petitioner in Crl.M.P(MD)No.3090 of 2017, the petitioner in Crl.M.P(MD)No.2650 of 2017, the petitioner in Crl.M.P(MD)No.3430 of 2017, the petitioner in Crl.M.P(MD)No.8631 of 2017, the petitioner in Crl.M.P(MD)No.2892 of 2017 and the petitioner in Crl.M.P(MD)No.3465 of 2017 are arrayed as Accused Nos.1 to 6 respectively, in C.C.No.4 of 2006, on the file of the learned 2nd Additional District Judge for CBI Cases, Madurai.

2. The charges were framed against A1 to A8 in these cases by the trial Court as follows:-

Charge No.1:- Under Sections 120-B, r/w.420, 419, 467, 468 and 471 and 201 IPC., and Section 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988, against A1 to 6 & A8.

Charge No.2:- Under Section 420 IPC., against A1 to A6 & A8.

Charge No.3:- Under Section.419 IPC., against A3, A4 & A6.

Charge No.4:- Under Section.467 IPC., against A3, A4 & A8.

Charge No.5:- Under Section.468 IPC., against A3, A4 & A6.

Charge No.6:- Under Section.471 IPC., against A3 to A6 & A8.

Charge No.7:- Under Section.201 IPC., against A3, A4 & A8, and

Charge No.8:- Under Section 13(2) r.w 13(1)(d) of Prevention of Corruption Act, 1988, against A1 & A2.

3.After completion of trial, the said Court has convicted A1 to A6 and sentenced as under:-

Accused No.1

Conviction	Sentence
Section 120-B r/w 420 IPC.	7 Years R.I., + Fine of Rs.5000/- i/d 3 Months S.I.
Section 420 IPC.,	7 Years R.I., + Fine of Rs.5000/- i/d 3 Months S.I.
Section 13(2) r/w 13 (1)(d) of Prevention of Corruption Act, 1988	2 Years R.I., + Fine of Rs.5000/- i/d 3 Months S.I.

Accused No.2

Conviction	Sentence
Section 120-B r/w 420 IPC.	7 Years R.I., + Fine of Rs.5000/- i/d 3 Months S.I.
Section 420 IPC.,	7 Years R.I., + Fine of Rs.5000/- i/d 3 Months S.I.
Section 13(2) r/w 13 (1)(d) of Prevention of Corruption Act, 1988	2 Years R.I., + Fine of Rs.5000/- i/d 3 Months S.I.

Accused No.3

Conviction	Sentence
Section 120-B r/w 420 IPC.	7 Years R.I., + Fine of Rs.5000/- i/d 3 Months S.I.
Section 420 IPC.,	7 Years R.I., + Fine of Rs.5000/- i/d 3 Months S.I.

Accused No.4

Conviction	Sentence
Section 120-B r/w 420 IPC.	7 Years R.I., + Fine of Rs.5000/- i/d 3 Months S.I.
Section 120-B r/w 419 IPC.,	3 Years R.I., + Fine of Rs.5000/- i/d 3 Months S.I.
Section 420 IPC.,	7 Years R.I., + Fine of Rs.5000/- i/d 3 Months S.I.
Section 419 IPC.,	3 Years R.I., + Fine of Rs.5000/- i/d 3 Months S.I.

Accused No.5

Conviction	Sentence
Section 120-B r/w 420 IPC.	5 Years R.I., + Fine of Rs.5000/- i/d 3 Months S.I.
Section 420 IPC.,	5 Years R.I., + Fine of Rs.5000/- i/d 3 Months S.I.

Accused No.6

Conviction	Sentence
Section 120-B r/w 420 IPC.	7 Years R.I., + Fine of Rs.5000/- i/d 3 Months S.I.
Section 120-B r/w 419 IPC.,	3 Years R.I., + Fine of Rs.5000/- i/d 3 Months S.I.
Section 120-B r/w 467 IPC.,	7 Years R.I., + Fine of Rs.5000/- i/d 3 Months S.I.
Section 120-B r/w 468 IPC.,	7 Years R.I., + Fine of Rs.5000/- i/d 3 Months S.I.
Section 120-B r/w 471 IPC.,	7 Years R.I., + Fine of Rs.5000/- i/d 3 Months S.I.
Section 420 IPC.,	7 Years R.I., + Fine of Rs.5000/- i/d 3 Months S.I.
Section 419 IPC.,	3 Years R.I., + Fine of Rs.5000/- i/d 3 Months S.I.
Section 467 IPC.,	7 Years R.I., + Fine of Rs.5000/- i/d 3 Months S.I.
Section 468 IPC.,	7 Years R.I., + Fine of Rs.5000/- i/d 3 Months S.I.
Section 471 IPC.,	7 Years R.I., + Fine of Rs.5000/- i/d 3 Months S.I.

4. The total fine amount of Rs.50,000/-. The above sentences are ordered to run concurrently.

5. The case against the prime accused viz., Sulaiman Hussain, who was arrayed as A3 in C.C.No.4 of 2006 was split up and is pending as C.C.No.7 of 2006, on the file of the II Additional District Court for CBI Cases, Madurai. The fine amount imposed by the trial Court had been paid by the appellant. Copy of the fine receipts were also filed. A1 to A6 were on bail during the trial before the trial Court. A1 to A6 filed Crl.A.(MD)No.113 of 2017, Crl.A.(MD)No.99 of 2017, Crl.A.(MD)No.125 of 2017, Crl.A.(MD)No.107 of 2017, and Crl.A.(MD)No.127 of 2017 respectively and are pending before this Court.

6. Father of A2 filed an affidavit in Crl.M.P.(MD)No.2650 of 2017, father of A4 filed an affidavit in Crl.M.P.(MD)No.8631 of 2017, the wife of A3 filed an affidavit in Crl.M.P.(MD)No.3430 of

2017, the wife of A6 filed an affidavit in Crl.M.P.(MD)No.3465 of 2017. The impugned petitions are filed seeking suspension of sentence awarded by the trial Court in its Judgment, dated 17.03.2017, during the pendency of their appeals. A1 to A6 are confined in Central Prison, Madurai, from the date of Judgment.

7. A1 was working as Personnel Banking Manager and he was functioning as officiating Chief Manager, SBI, Pudukkottai Branch and he functioned as over all incharge of the said Branch and the administration and other operation work was looking after by him. A2 was working as Assistant (cash) at SBI, Pudukkottai Branch during the year 2002. The remaining accused are private persons. A4 running a press in the name of “Theem Offset Printers” at Sivakasi. The approver / P.W.47 was working as collection agent of Professional Couriers, Pudukkottai. A1 and A8 are natives of Tirunelveli and they were known to each other. During the year 2002, the accused viz., Sulaiman Hussain, A3, A4, A5, A6 and A8 entered into a criminal conspiracy to cheat SBI, Pudukkottai and in pursuance to conspiracy, A8 introduced the accused Sulaiman Husssain, who in turn, introduced A3 / Yasin and Manager of M/s. Albeena Traders, which is not in existence; that A1 opened a Current Account on 01.03.2002 in the name of M/s. Albeena Traders, as A3, Manager of the said concerned; that the said account was closed on 21.03.2002 for the reasons that either Registration Certificate to prove the existence of the Firm or the residential address of A3 was not submitted by the said Sulaiman Hussain and A3. Further, in pursuance to conspiracy, the said accused Sulaiman Hussain with A1, the Account No.0119002511 was opened on 11.03.2002 in the impersonated name of Ayoob giving the same address of M/s. Albeena Traders and the account was introduced by A1 and he mentioned the name of A8 below his signature and on the same day, Cheque Book containing 25 Cheque Leaves was issued to the accused Sulaiman Hussain.

8. The said Sulaiman Hussain, A3, A4 and A8 fraudulently and dishonestly prepared cheques purportedly issued from UCO Bank, Santha Cruz(E), Mumbai, UCO Bank, Service Branch, Mumbai, Indian Bank, Mumbai, UCO Bank, Andheri (W), Indian Bank, Fort, Mumbai and started regularly depositing the cheques with imaginary numbers from 12.03.2002 onwards with SBI Pudukkottai Branch to the tune of Rs.1,09,86,000/-. All those fabricated cheques were processed, allotted S.C. number and kept the cheques along with the collection schedule at the tray for onward transmission to the SBI Service Branch, Mumbai. None of the cheques had MCR Number, which are invariably found in all the cheques issued by Metro Branches like Mumbai, Chennai and Delhi.

9. The approver / P.W.47 sorted out the cheques and advises and made entries on the courier outward register allotted consignment note numbers and recorded the same on the courier register. The second accused used the name of A1 took the covers containing the cheques deposited by the accused Sulaiman Hussain

along with collection schedule that were to be dispatched to SBI Service Branch, Mumbai. In all instances from the approver / P.W.47 and handed over to the accused Sulaiman Hussain and after one or two days bearing consignment note were filled with unwanted papers and handedover to the approver / P.W.47 for onward submission that is to despatch SBI Service Branch at Mumbai through Professional Couriers. The collection schedule along with forged and fabricated cheques, which reached the hands of the accused Sulaiman Hussain were destroyed. The accused Sulaiman Hussain, A2, A3 and A8 fraudulently and dishonestly prepared 19 forged cheques and fabricated payment advises purportedly issued by SBI Service Branch, Mumbai against collection schedule forwarded by SBI, Pudukkottai.

10. On receipt of payment advises, they were processed and the amounts were credited into the account opened by the accused Sulaiman Hussain in the name Ayoob, the 19 advises purportedly emanated from SBI Service Branch, Mumbai, bearing forged signatures of the SBI officials. Once the amount was credited into the account opened by the accused Sulaiman Hussain in the name of Ayoob, 42 cheques were issued dishonestly in his impersonated name ie., Ayoob and in the impersonated name of other accused persons that is Yasin, Ahamed, M.Kumar, Babu and Viswanathan by singing as Ayoob. The cheques issued in the name of Ayoob is to the tune of Rs.1,30,00,000/- in the name of Ahamed to the tune of Rs.57,69,000/- in the name of M.Kumar to the tune of Rs.15,55,000/-, in the name of Babu to the tune of Rs.2,46,000/- in the name of Kumar to the tune of Rs.10,80,000/- and in the name of Viswanathan to the tune of Rs.1,85,000/- and the said amounts were withdrawn by the said accused Sulaiman Hussain, A3, A4, A5 and A6. While withdrawing the said amount, A3 impersonated himself as Yasin and signed as Yasin on the reverse of the chits favouring Yasin. Similarly, A4 and A6 impersonated themselves as Ahamed and M.S.Kumar respectively.

11. The thin film used for preparing forged and fabricated envelop with SBI Emblem was seized from the residence of A3. The accused Sulaiman Hussain, A3, A4, A6 and A7 used the films and printed the matter and SBI Emblem on brown envelops and used those envelops to forward the forged and fabricated payment advises prepared by them purportedly emanated from SBI, Mumbai. Two envelopes producing the thin films were seized from the possession of A1. A1 attested the signature done by A3 and A4 in their impersonated name on the reverse side of the cheque as Ahamed and Yasin respectivey and allowed them to withdraw the amount from the account of the accused Sulaiman Hussain. There is no UCO Bank functioning at Santa Cruz(E), Mumbai and Service Branch and Nationalized Banks is not issued cheques to any customers. The service branches are meant only for the purpose of realization. The total loss to the tune of Rs.1,08,07,599/- and correspondent wrongful gain to the accused persons.

12. The crux of the prosecution is that the accused persons giving false information to the Bank at the time of opening the

accounts, forging the documents and used as genuine and forged for the purpose of cheating. The accused persons impersonated at the time of presenting the cheques and receiving the cash from the Bank. Forging the seal used for the purpose of committing forgery and conspired together for the commission of offences.

13. The counsel appearing for A1 would contend that the absconding accused viz., Sulaiman Hussain in connivance with other accused had practiced deception against Bank officials by producing false records by impersonating himself as Ayoob and by representing that he had been constructing Engineering College in Pudukkottai and A1 believed his representation as true and allowed him to open and operate a current account in SBI Branch at Pudukkottai and the applications for opening the current account was being processed in accordance with usual procedures and no one was able to find out the falsity of the representation and all the 19 cheques deposited into the account of Ayoob were processed and dispatched to the SBI Service Branch, Mumbai along with collection schedule in the same manner in which other cheques were processed and could not find out that the said cheques were not genuine cheques and payment advises corresponding to 19 cheques were processed in the course of routine official duties and the cheque amounts were credited into the current account of Ayoob and since the absconding accused had opened the said current account by signing as Ayoob, his signatures in the said cheques did not give room for suspicion and the current account was opened in the name of Ayoob on enclosing the ration card issued in the name of Ayoob and the accused Sulaiman Hussain deceived the Bank and A1 is the victim of the offence.

14. The counsel appearing for A1 would content that there is no evidence of conspiracy against these accused and evidence of P.W.47 / approver is unworthy of credit and A2 filed ID No.20 of 2000 against his dismissal from the service of Bank before the Central Government Industrial Tribunal cum Labour Court, Chennai. The approver / P.W.47 was summoned, but he refused to appear for enquiry proceedings and A2 was found not guilty of charges; that the seizure of M.Os.18 to 21 from A2 is not proved by P.W.42, since seizure witnesses were not examined and approver evidence is not corroborated in this case.

15. The counsel appearing for A3 would contend that the FIR registered by the respondent is hit under Section 162 of Cr.P.C., because originally pursuant to the complaint given by P.W.1, the local police viz., the Inspector of Police, District Crime Branch, Pudukkottai has registered the earlier FIR in Crime No.1 of 2003 and the said FIR alone can be considered as a First information and all the subsequent information cannot be termed as an FIR; that A3 has not shown as an offender and A3 cannot be fastened with criminal liability based on the confession of co-accused; that the prosecution has not proved any materials that he had meeting with other accused in pursuance of the conspiracy and none of the bank officials have deposed against the appellant, as if they have seen

him in the company of A1. The alleged complicity of A3 in the statement of A1 cannot be considered as a material to mulct to A3 into the criminal liability and no identification parade was conducted by the investigating officer, since admittedly A2 has not been made identified by the bank officials.

16. The counsel appearing for A4 would contend that A4 only acted as a courier boy and just taken the cheque and presented the same with the Bank, which was realized on attestation of A1 and there is no malafide intention on the part of A4; that A4 has no way connected with Ex.P66 on which there was material alteration; that P.Ws.14 and 16 did not support the case of the prosecution in respect of the photos found in Exs.P41, P42 and Ex.P65 account opening form, in the name of Ayoob and M/s. Albeena Traders and turned hostile during their examination; that Exs.P.168, P.169 statements under Section 164 Cr.P.C., does not contain inculpatory statement and thus this become inadmissible in evidence and that P.W.47 / approver expressed his intention to confess during interrogation by P.W.51 on 7.2.2005, but confession was recorded by the learned Judicial Magistrate on 19.04.2005 and the approver was not kept in judicial custody.

17. The learned counsel appearing for A5 would contend that the prosecution could not let in reliable evidence to prove that A5 participated in the conspiracy along with other accused; that the trial Judge has observed in para 83 of his judgment that there was no direct evidence that the accused has committed forgery and fabricated documents and used the same to be defraud the Bank and hence, the charge of conspiracy has not been proved by the prosecution; that the approver / P.W.47 does not implicate A5 in any way; that the prosecution has not let in any evidence against A4; that he dishonestly induced any one to punish the offence under Section 420 IPC., and A5 had the knowledge of forgery cheques.

18. The counsel appearing for A6 would contend that there is no documentary evidence indicating that A6 has withdrawn the alleged transacted money at the instance of A1; that FIR registered by the respondent is hit by Section 161 Cr.P.C., since the earlier FIR was registered by the Inspector of Police, District Crime Branch, Pudukkottai, pursuant to the complaint given by P.W.1 in Crime No.1 of 2003 and subsequent information cannot be termed as FIR; that the appellant has not been shown as an offender of the crime in the first FIR; that the appellant cannot be fastened with criminal liability on the basis of the confession of co-accused; that the prosecution has not produced any material; that the appellant had a meeting with the other accused persons for the purpose of withdrawing the money allegedly embezzled; that none of the bank officials have deposed against the appellant, if they have seen him in the company of A1 and the alleged complicity of the appellant in the statement of A1 cannot be considered as a material to mulct the appellant into the criminal liability; that no identification parade was conducted by the investigating officer to identify the appellant

by the bank officials and in the absence of the identification of the appellant based on the simple testimony of the Investigating officer that too, made for the first time in the open Court, the appellant cannot be roped in.

19. The learned Special Public Prosecutor appearing for the CBI Cases would submit that the trial Court has rightly convicted the appellants on appreciating of evidence produced by the prosecution. Due to the illegal acts of the accused in this case the SBI, Pudukkottai Branch incurred a loss of Rs.1,08,07,599/- and the corresponding wrongful gain to themselves. The appellants are not having any prima facie case of acquittal in their appeal. No written objections is filed by the respondent in these petitions seeking suspension of sentence, though sufficient time is granted by this Court.

20. Perused the materials on record. Heard and considered the arguments advanced by either side.

21. A1 & A2, who are Bank officials, have been convicted for the offences of cheating with conspiracy and also criminal misconduct in these cases. A3 has been convicted for the offence of cheating by impersonation. A5 has been convicted for the offences of cheating and also in pursuance of conspiracy. Then A6 has been convicted for the offence of cheating by impersonation, forging the instruments and used them as genuine and also in pursuance of conspiracy for those offences.

22. The alleged current account and the SB account were opened in the name of Ayoob by way of impersonation of the absconding accused Sulaiman Hussain. The said accounts were abruptly opened by A1 with the help of A8, who introduced the accused viz., Sulaiman Hussain, for opening the account. But the trial Court has acquitted A8 from all charges in this case. A1 has stated that Current Account was opened on the basis of the Ration Card produced by the absconding accused Sulaiman Hussain, who has impersonated himself as Ayoob. The counsel for A1 relied the Judgment of the Apex Court in ***Appeal (Crl.) 650 of 1998***, dated 21.04.2004 ***[Manoranjan Vs. State of Jharkand]*** in which it is held that the Appellant had introduced Loknoth Acharya only for opening the account and that by itself does not spell out any fraud or cheating. A1 and A2 are the bank officials and they have been convicted for the offence under Section 13(2) r/w 13(1(d) of the Prevention of Corruption Act. Hence, it is contend that the trial Court ought not to have held that main charge under Section 13(2) r/w 13(1)(d) of Prevention of Corruption Act, has been proved. It is further contended that there is no evidence to show that A1 and A2 made any false representation so as to make the bank officials to part with money in favour of the other accused. |The alleged forged and fabricated 19 cheques along with collection schedule reached in the hands of the absconding accused viz., Sulaiman Hussain, were destroyed. A3 to A6 are private persons, who are said to have impersonated and cheated the

bank by depositing the fabricated cheques for withdrawal of the amount from the Bank. It is admitted that no identification parade was conducted by the Investigating officer with a bank officials. No explanation is also given by the investigating officials for not conducting identification parade. There is no direct evidence to show that A3, A5 and A6 came to the bank by impersonation for depositing the cheque amount and also withdrawal of amount from the Bank, except evidence of the Handwriting Expert. P.Ws.1, 4, 12, 27 and 28 are the bank staffs, who did not disclose that the accused / private persons were present together or collectively appeared before the Bank.

23. The trial Court itself in its Judgment in para 76 has stated that there is no direct evidence available through witnesses as to whether A2, A3, A5, and A8 made an agreement with the absconding accused to cheat the bank or forged the cheque purportedly issued by the UCO Bank and Indian Bank or forged the payment advises issued by SBI Service Branch, Mumbai, as per the allegation of the prosecution.

24.P.W.1 has stated that A1 has not passed any account instruments as Exs.P1 to P39 and it is the duty of the Accountant and lower assistants to deal with such instruments. The counsel for A3 would contend that M.O.1 seized from the house of A3, which is said to be used in committing the offence, was not sent for getting Expert opinion. Mostly, the conviction is based on the evidence of approver / P.W.47 and also the Handwriting Experts in this case. P.W.1 has stated that A1 has settled the law in motion in respect of the alleged occurrence.

25. Considering the above facts and circumstances of the case and the judgment of the trial Court and also the contentions raised by the appellants in the appeals, I am of the view that certain eminently arguable points are involved in the criminal appeals. They are required to be examined in detail in the main criminal appeals. Further, it will take some time for the disposal of the criminal appeals. They are required to be examined in detail in the main criminal appeals. Further, it will take some time for the disposal of the criminal appeals, this Court is inclined to order suspension of sentence.

26.On considerations, ordered as under:

(i) Appeal bail granted.

(ii) Substantial sentence alone is suspended on condition that the each petitioners shall execute a bond for Rs.15,000/- (Rupees Fifteen thousand only) with two sureties for the like sum each to the satisfaction of the learned II Additional District Court for CBI Cases,Madurai

(iii) The petitioner shall appear before the said Court monthly twice ie., on the 1st and 15th working day of every English Calender Month at 10.30 a.m., until further orders.

sd/-
23/01/2018

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1 THE II ADDITIONAL DISTRICT JUDGE FOR CBI CASES, MADURAI

2 THE SUPERINTENDENT, CENTRAL PRISON, MADUDRAI.

3 THE INSPECTOR OF POLICE, CBI, ACB, CHENNAI

4 THE SPECIAL PUBLIC PROSECUTOR FOR CBI CASES, MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. C.C. to M/S.M.PATTURAJAN Advocate SR.No.1194
+1. C.C. to M/S.D.RAMESHKUMAR Advocate SR.No.1149
+1. C.C. to M/S.M.SARAVANAN Advocate SR.No.1143
+2. C.C. to M/S.R.ANAND Advocate SR.Nos.1213 & 1215
+1. C.C. to M/S.C.RAMKUMAR Advocate SR.No.1158

ORDER IN
Crl.M.P.(MD)Nos.2650,2892,3090,
3430,3465 & 8631 of 2017 in
Crl.A.(MD)No.99,107,113,125,127 & 379 of 2017
Date :23/01/2018

MS-MKV/PM-PN/SAR.2/23.01.2018/12P.11C