BAIL SLIP

SWAMIDASAN, S/O.DURAIMUTHU NADAR, Male, aged 68 years, **Accused No.8 AND** P.GURUSAMY, S/O.PONNU, Male, aged 39 years, **Accused No.10 AND** K. GOPALSAMY, S/O. KRISHNASAMY, Male, aged 51 years, **Accused No.4 AND** S. SHANMUGAM. S/O. SUBBRAMANIYA CHETTIYAR, Male, aged 60 years, **Accused No.5 AND** GEORGE, S/O. SAMUEL, Male, aged 66 years, **Accused No.9 AND** V.S. DURAIRAJ, S/O. SANGEEVI MUDALIYAR, Male, aged 65 years, **Accused No.6 AND** SUGUMARAN,S/O. PERIASAMY, Male, aged 52 years, **Accused No.7** were released on bail vide Order of this Court, dated 23/05/2013 made in MP(MD)No. 1 of 2013 in all cases in Crl.Appeal(MD)Nos. 144, 149 and 152 to 156 of 2013 respectively

AND

VEERAPPAN, S/O.ANNAMALAI, Male, aged 59 years, **Accused No.3** was released on bail vide Order of this Court, dated 06/06/2013 made in MP(MD)No. 1 of 2013 in all cases in Crl.Appeal(MD)No.148 of 2013

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.03.2019
CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

Crl. A.(MD)Nos.144, 148, 149, 152 to 156 of 2013

SWAMIDASAN	...Appellant in CRL A(MD). 144/ 2013 / A8
VEERAPPAN	... Appellant in CRL A(MD). 148/ 2013 / A3
P.GURUSAMY	... Appellant in CRL A(MD). 149/ 2013 / A10
K. GOPALSAMY	... Appellant in CRL A(MD). 152/ 2013 / A4
S. SHANMUGAM	... Appellant in CRL A(MD). 153/ 2013 / A5
GEORGE	... Appellant in CRL A(MD). 154/ 2013 / A9
V.S. DURAIRAJ	...Appellant in CRL A(MD). 155/ 2013 / A6
SUGUMARAN	... Appellant in CRL A(MD). 156/ 2013 / A7

/ VERSUS /

THE INSPECTOR OF POLICE,

VIGILANCE AND ANTI CORRPUTION,

TIRUNELVELI DIST,

CR.NO.1/2000 ... Respondent in All Criminal Appeals

COMMON PRAYER IN Crl.A(MD)Nos. 144,148,149 and 152 to 156/2013 :

Criminal Appeals filed under Section 374 (2) of Criminal Procedure Code, preferred against the judgment dated 29.04.2013 made in Special Case No. 2 of 2005 on the file of Chief Judicial Magistrate Court, Special Court, Tirunelveli and set aside the conviction and sentence imposed against the Appellants/Accused 8, 3, 10, 4, 5, 9, 6, 7 respectively and allow above appeals by acquitting the accused.

APPEARANCE FOR APPEALLANTS :

Mr.M.Ajmal Khan, Senior Counsel for M/s.Ajmal Associates for Appellant/Accused No.8 in **Crl.A(MD)No.144/2013**

Mr.R.Gandhi, Advocate for Appellant/Accused No.3 in
` **Crl.A(MD)No.148/2013**

Mr.S.Palanivelayutham, Advocate for Appellant/Accused Nos.10 & 4 in **Crl.A(MD)No.149 & 152/2013** respectively

Mr.A.Uthayakumar, Advocate for Appellant/Accused No.5 in **Crl.A(MD)No.153/2013**

Mr.J.Ashok for M/s.Jeyapaul Associates, Advocate for Appellant/Accused No.9 in **Crl.A(MD)No.154/2013**

Mr.N.Mohideen Basha, Advocate for Appellant/Accused No.6 in **Crl.A(MD)No.155/2013**

Mr.P.Chellapandian, Advocate for Appellant/Accused No.7 in **Crl.A(MD)No.156/2013**

APPEARANCE FOR RESPONDENT:

MR.K.K.Ramakrishnan, Additional Public Prosecutor, in all Criminal Appeals.

COMMON JUDGMENT

All the appeals are arising out of the common judgment, dated 29.04.2013 passed in S.C.No.2 of 2005 and therefore, they are clubbed together, heard and disposed of by this common judgment.

2.These appeals are directed against the judgment in Special Case No.2 of 2005, on the file of the learned Chief Judicial Magistrate -Special Judge, Tirunelveli, dated 29.04.2013. The trial Court convicted the accused and sentenced them, as detailed below:

Rank of the accused	Section of Law	Sentence of Imprisonment	Fine amount
A3	120(b)IPC	To undergo One year Rigorous Imprisonment	Rs.500/- in default to under to one month simple imprisonment
	409 IPC	To undergo One year Rigorous Imprisonment	Rs.500/- in default to under to one month simple imprisonment
	468 IPC	To undergo One year Rigorous Imprisonment	Rs.500/- in default to under to one month simple imprisonment
	471 IPC	To undergo One year Rigorous Imprisonment	Rs.500/- in default to under to one month simple imprisonment
	477(A)IPC 2ounts	To undergo One year Rigorous Imprisonment each	Rs.500/- each in default to under to one month simple imprisonment
	13(1)(c) r/w.13(2) PC Act	To undergo One year Rigorous Imprisonment	Rs.500/- in default to under to one month simple imprisonment

	13(1)(d) r/w.13(2) PC Act	To undergo One year Rigorous Imprisonment	Rs.500/- in default to under to one month simple imprisonment (Total Fine amount Rs.4000/-)
A4 & A5	120(b) IPC	To undergo One year Rigorous Imprisonment each	Rs.500/- in default to under to one month simple imprisonment each
	167 IPC	To undergo One year Rigorous Imprisonment each	Rs.500/- in default to under to one month simple imprisonment each
	409 IPC	To undergo One year Rigorous Imprisonment each	Rs.500/- in default to under to one month simple imprisonment each
	468 IPC	To undergo One year Rigorous Imprisonment each	Rs.500/- in default to under to one month simple imprisonment each
	471 IPC	To undergo One year Rigorous Imprisonment each	Rs.500/- in default to under to one month simple imprisonment each
	477(A) IPC 2 counts	To undergo One year Rigorous Imprisonment each	Rs.500/- in default to under to one month simple imprisonment each
	13(1)(C) r/w.13(2)	To undergo One year Rigorous Imprisonment each	Rs.500/- in default to under to one month simple imprisonment each
	13(1)(d) r/w.13(2) PC Act	To undergo One year Rigorous Imprisonment each	Rs.500/- in default to under to one month simple imprisonment each (Total Fine : Rs.9000/-)
A6	120(b)IPC	To undergo One year Rigorous Imprisonment	Rs.500/- in default to under to one month simple imprisonment

	167 IPC	To undergo One year Rigorous Imprisonment	Rs.500/- in default to under to one month simple imprisonment
	408 IPC	To undergo One year Rigorous Imprisonment	Rs.500/- in default to under to one month simple imprisonment
	468 IPC	To undergo One year Rigorous Imprisonment	Rs.500/- in default to under to one month simple imprisonment
	471 IPC	To undergo One year Rigorous Imprisonment each	Rs.500/- each in default to under to one month simple imprisonment
	477(A) IPC 2 counts	To undergo One year Rigorous Imprisonment each	Rs.500/- each in default to under to one month simple imprisonment
	13(1)(c) r/w.13(2) PC Act	To undergo One year Rigorous Imprisonment	Rs.500/- in default to under to one month simple imprisonment
	13(1)(d) r/w.13(2) PC Act	To undergo One year Rigorous Imprisonment	Rs.500/- in default to under to one month simple imprisonment (Total Fine amount Rs.4000/-)
A7	120(b)IPC	To undergo One year Rigorous Imprisonment	Rs.500/- in default to under to one month simple imprisonment
	408 IPC	To undergo One year Rigorous Imprisonment	Rs.500/- in default to under to one month simple imprisonment
	468 IPC	To undergo One year Rigorous Imprisonment	Rs.500/- in default to under to one month simple imprisonment
	471 IPC	To undergo One year Rigorous Imprisonment each	Rs.500/- each in default to under to one month simple imprisonment

	477(A) IPC 2 counts	To undergo One year Rigorous Imprisonment each	Rs.500/- each in default to under to one month simple imprisonment each
	13(1)(c) r/w.13(2) PC Act	To undergo One year Rigorous Imprisonment	Rs.500/- in default to under to one month simple imprisonment
	13(1)(d) r/w.13(2) PC Act	To undergo One year Rigorous Imprisonment	Rs.500/- in default to under to one month simple imprisonment (Total Fine amount Rs.4000/-)
A8	120(b)IPC	To undergo One year Rigorous Imprisonment	Rs.500/- in default to under to one month simple imprisonment
	409 IPC	To undergo One year Rigorous Imprisonment	Rs.500/- in default to under to one month simple imprisonment
	468 IPC	To undergo One year Rigorous Imprisonment	Rs.500/- in default to under to one month simple imprisonment
	471 IPC	To undergo One year Rigorous Imprisonment	Rs.500/- in default to under to one month simple imprisonment
	477(A)IPC 2ounts	To undergo One year Rigorous Imprisonment each	Rs.500/- each in default to under to one month simple imprisonment each
	13(1)(c) r/w.13(2) PC Act	To undergo One year Rigorous Imprisonment	Rs.500/- in default to under to one month simple imprisonment
	13(1)(d) r/w.13(2) PC Act	To undergo One year Rigorous Imprisonment	Rs.500/- in default to under to one month simple imprisonment (Total Fine amount Rs.4000/-)

A10	120(b)IPC	To undergo One year Rigorous Imprisonment	Rs.500/- in default to under to one month simple imprisonment
	468 IPC	To undergo One year Rigorous Imprisonment	Rs.500/- in default to under to one month simple imprisonment
	471 IPC	To undergo One year Rigorous Imprisonment	Rs.500/- in default to under to one month simple imprisonment
	406IPC	To undergo One year Rigorous Imprisonment	Rs.500/- each in default to under to one month simple imprisonment
	13(1)(c) r/w.13(2) PC Act r/w.109IPC	To undergo One year Rigorous Imprisonment	Rs.500/- in default to under to one month simple imprisonment
	13(1)(d) r/w.13(2) PC Act r/w.109 IPC	To undergo One year Rigorous Imprisonment	Rs.500/- in default to under to one month simple imprisonment (Total Fine amount Rs.3000/-)

3.For the sake of convenience, the parties are referred to as per the rank in the trial Court.

4.Since the ninth accused, who is the appellant in Crl.A (MD)No.154 of 2013, died during the pendency of the appeal, the charge against him stand abated.

5.A3 is the Accountant in Tamil Nadu Adi Dravidar Housing and Development Corporation (hereinafter called as "TAHDCO"), Tirunelveli, A4 is the then Secretary of Agricultural Co-operative Bank, Sennikulam (hereinafter called as "Co-operative Bank"). A5 is the then Supervisor of Tirunelveli District Central Co-Operative Bank Ltd (hereinafter called as "Central Co-operative Bank"), Karivalamvanthanallur. A6 is the then Field Manager, TDCC Bank, Sankarankovil. A7 is the then Assistant, Office of the District Manager, TAHDCO, Tirunelveli. A8 is the then Special Officer, TNSPL 99 Sennikulam Agricultural Primary Co-operative Bank. A10 is the private individual in Sennikulam Village.

6.The brief facts of the prosecution case is as follows:

6.1.This case was related to misappropriation of Government funds entrusted with the District Manager, TAHDCO, for the grant of subsidy to the loan applicants belonging to Adi-Dravida Community, living below poverty line. For the commission of above said criminal misappropriation, during the period between October 1992 and November 1993, A1 to A11 and one Raja, Veterinary Assistant Surgeon (since deceased) entered into a criminal conspiracy at Tirunelveli, Sankarankovil, Karivalamvanthanallur and Sennikulam with the common object of the commission of misappropriation of Government funds, sanctioned for grant and release of subsidy to the Adi-Dravida Community people residing in and around Sennikulam Village.

6.2. The above said criminal conspiracy was hatched by A1 to A11, after making false documents, using the same as genuine and by falsifying the accounts of the Sennikulam Primary Agricultural Co-operative Bank and also the accounts of the office of the District Manager, TAHDCO, committed criminal misappropriation of Government funds to the tune of Rs.90,000/- from the subsidy amount entrusted with the District Manager, TAHDCO fraudulently. In the course of the same, transaction, A1 to A11 committed misappropriation of Rs.1,35,000/-, as if it was disbursed to the alleged 18 loan applicants.

6.3.TAHDCO is incorporated for the welfare of Adi Dravidar Community People, living below the poverty line and in order to develop the Adi Dravidar Community, the Government decided to grant subsidy. Accordingly, they invited applications from the persons, who are living below the poverty line. Accordingly, applications were created as if the same were collected from the innocent Adi Dravidars and forwarded the same to TAHDCO, without assigning any Serial Number maintained by the TAHDCO with the connivance of A3, A7 and A9, as if the applications were presented before TAHDCO and granted sanction. Thereafter, the same were forwarded to A5 and A6, who were working in the Central Co-operative Bank and in furtherance of recommendation, A1, A2, A4 and A8 created a focus document in the name of beneficiaries and passed a resolution in favour of the fictitious persons and again forwarded it to TAHDCO, for processing and sanctioning the applications, thereby, they misappropriated a sum of Rs.90,000/- the subsidy amount entrusted with A9. A1 to A11 committed offence as if they have given loan to the beneficiaries for a sum of Rs.1,35,000/- and accordingly, misappropriated a sum of Rs.90,000/- and created forged documents as if the same was disbursed to the loan applicants. The alleged applicants only applied for the loan and they did not sign in the application form and the applicants never obtained any subsidy amount and and the accused persons have also created false records as if 12 bullock carts were purchased @ Rs.13,000/- each. Similarly, the accused persons have created bills and vouchers to the effect that 12 bullocks were purchased @ Rs.5,000/- each. However, none of the beneficiaries received the bullock carts as well as bullocks.

Likewise, the bills of groceries, firewood and cycles were falsely created as if they were supplied to the beneficiaries, however, the beneficiaries never applied for the same. Further, bullock carts were purchased from one Balu Asari, Sankarankovil and one Velsamy and Paramasivam, who supplied the bullocks, and Natarajan supplied fire woods and Pachayappan supplied cycles, but, on verification, it is found that they never supplied any articles and disbursed the same. Pursuant to which, the accused persons made false entries, as if the applicants repaid the loan amount. Accordingly, A1 to A10 along with A11 misappropriated a sum of Rs.90,000/-, by creating bogus receipts and forging the signature of 20 applicants of Sennikulam Village through TDCC bank and TAHDCO.

6.4.Initially, PW.43 conducted preliminary investigation and thereafter, handed over the case for further investigation to P.W.44, who conducted the further investigation, recorded the statements and filed a final report for the offences under Sections 120-B r/w 167, I.P.C., 460 r/w 470 I.P.C., 408 I.P.C. 477-A I.P.C., 13(1) (c) r/w 13(1) (d) r/w 13 (2) of Prevention of Corruption Act, 1988.

6.5.The gist of the charges framed on the appellant/A8 is as follows:

Charge	***Gist of Charge***
Section 120(B) of I.P.C.	Criminal Conspiracy
Section 409 of I.P.C.	Criminal breach of Trust
Section 468 of I.P.C.	Forgery for purpose of cheating
Section 471 of I.P.C.	Using as genuine a forged document
Section 477(A) of I.P.C.	Falsification of accounts
Section 13(1)(c) and 13 (1)(d) r/w 13(2) of Prevention of Corruption Act, 1988.	Criminal misconduct by a public servant

7.To bring home the guilt of the accused, the prosecution examined P.Ws.1 to P.Ws.44 and marked exhibits Exs.P1 to P78. To disprove the prosecution case, none of the witnesses were examined, however, three documents were marked as Exs.D1 to D3.

8.While the accused were questioned under Section 313 Cr.P.C. in the light of evidence, the accused pleaded innocence and submitted that they have been falsely implicated in this case.

9.The learned Chief Judicial Magistrate-Special Judge, Tirunelveli, by judgment dated 29.04.2013, made in Special Case No.2 of 2005, rejected the defence case and found the accused guilty and convicted them for the offences as stated supra.

However, the trial Court arrived at a conclusion that no materials are available to implicate A2 and A11, and acquitted them.

10.Assailing the said judgment, these appeals are filed by the accused before this Court.

11.Heard the learned counsel appearing for the appellants as well as the learned Additional Public Prosecutor appearing for the respondent/State.

12.The learned counsel appearing for the third accused would submit that the appellant was working as Accountant in TAHDCO, Tirunelveli Branch. Since the entire file was perused by A7 and A9 and other officers as per the direction of A9, prepared cheques in favour of the applicants. Except preparing cheques, he did not have any involvement in the above said process. He is only an Accountant [handed over the same to P.W.28/Record Clerk]. Thereafter, P.W.28 forwarded the cheques to the Central Bank, in which, he did not commit any offence and he discharged his duty as per the direction of the Superior Officer, based on the sanction order. Accordingly, he prayed for acquittal.

13.Mr.Palanivelayutham, learned counsel appearing for A4 and A10 would submit that A4 is the Secretary in the Co-operative Bank and he did not forward any application and the entire decision was taken by the then Special Officer, by passing a resolution in favour of the applicants and he is not responsible for the said process. Similarly, A10, who was the Ex-President of the Co-operative Society also did not involve in any of the transactions, as alleged by the prosecution. Since A10 was the President of the said Society, he has been unnecessarily implicated in the said case and neither any document nor evidence was produced to prove that he had committed offence. He has further submitted that as per the case of the prosecution, the beneficiaries received the amount and they paid the entire amount and as per case of the prosecution, P.W.5 to P.W.17, are the beneficiaries. They clearly deposed in their evidence that they received the amount and re-paid the loan amount to the bank and hence, there is no loss to the Bank. Accordingly, he prayed for acquittal.

14.Mr.A.Uthayakumar, learned counsel appearing for A5 and Mr.N.Mohideen Basha learned counsel appearing for A6 would submit that A5 is the Supervisor and A6 is the Field Manager. Whatever the applications received from TAHDCO, they genuinely believe that the applications are genuine and accordingly, they process the applications and sanction the loan in favour of the beneficiaries, for which, they are not liable and therefore implicating them in the said crime is unsustainable one and no documents or records were available to implicate them in this case. Hence, they prayed for acquittal.

15.Mr.P.Chellapandian, learned counsel appearing for the seventh accused would submit that A7 is the Assistant in the TAHDCO, and he has no role to play, either to prepare the applications or to sanction loan to them. As per the direction of the Superior Officer namely A9, he processed the applications and handed over the same for further process and he discharged official duty and hence, implicating him in the said case is erroneous and unsustainable one and therefore, he prayed for acquittal.

16.Mr.M.Ajmal Khan, learned Senior Counsel appearing for the eighth accused would submit that A8 is the Special Officer at the relevant point of time. However, A1 is the relevant person for the entire period between 1991 to 1995. A8 is working in a temporarily occupied post from July 1992 to 31.05.1993 and during his period, he did not process any application. All those applications were prepared and forwarded by the Special Officer/A1 and for the applications already filed directly before TAHDCO prior to joining of A8, he is not responsible and the alleged misappropriated amount was said to be paid only after his retirement, wherein, A1 is acted as a Special Officer and signed the cheque and disbursed the amount in favour of beneficiaries, in which, he is not responsible and he did not gain anything on the misappropriation and no document was produced before the Court to prove his involvement in the commission of offence. Hence the learned Senior Counsel prayed for acquittal.

17.The learned Additional Public Prosecutor appearing for the State would submit that the Government entrusted the petitions to grant subsidy and accordingly, they invited applications from the persons living below poverty line, residing in the locality. A4, A8 and A10 collected the applications from the innocent Adi Dravidars without assigning any serial number maintained by TAHDCO with the connivance of A3, A7 and A9, as if the applications were presented before TAHDCO and granted sanction and thereafter, the same were forwarded to A5 and A6, who were working in Central Bank and in furtherance of recommendation, A1,A2, A4 and A8 prepared a beneficiary list and passed a resolution in favour of the fictitious persons and forwarded the same to TAHDCO, for processing and sanctioning loan, thereby, they misappropriated the subsidy amount entrusted with A9 and A1 to A11 to the tune of Rs.90,000/- and committed temporary misappropriation of Rs. 1,35,000/- as if they disbursed it to the eighteen loan applicants.

18. In the light of the above submissions ,now it has to be analysed that,

(a) whether the conviction of the accused persons for the offences under Sections as stated supra, based on the evidence of PWs.4,8,18 and 19 is sustainable or not?

b) Whether the applications processed by A3, 5, 7 and 9 are genuine one ?

c) whether the beneficiaries received the benefits or not?

19.In the present case, there are three set of officers involved in the commission of offence. The first set of officers are the Co-operative Society officials. The second set of officers are the TAHDCO officials and the third set of officers are the officials of Central Co-operative bank. The Co-operative Society employees created false documents as if they have invited the application from the persons, who are living in below the poverty line for gettig loan and with the collusion of TAHDCO Officials along with the employees of Central Co-operative Bank, the accused persons misappropriated a sum of Rs.90,000/-.

20.P.W.1 Tr.Subramanian was the Joint Registrate of Co-operative Societies, Tirunelveli. P.W.2 Tr.Balamurugan was the Executive Officer, Tamil Nadu Adi Dravidar Housing Development Corporation Limited. P.W.3 Tr.Duraipandian was the Special Officer/Copoperative Development Officer, Tirunelveli. P.Ws.1 to 3 are the sanctioning authorities to sanction prosection against the accused persons and they have powers to remove the accused persons as per Section 19(1)(c) of Act. P.W.4 Tr.Packiaraj was the Assistant Manager of TAHDCO. P.Ws.5 to 17, 22, 23, 32 and 33 are the alleged beneficiaries. P.W.18 Tr.Mohanraja was the Manager of TAHDCO, who has supported the evidence of P.W.4. P.W.19 has denied his signature and photo affixed in the loan application form, which belongs to some other person. P.W.20 Varadharajan was the Revenue Inspector of Taluk Office, Sankarankovil and he denied the fact that the Balu Aasari supplied Bullock Cart to the beneficiaries. P.W.21, Tr.Arunachalam was the Area Manager of District Central Co-operative Bank, Tenkasi and he supported the evidence of P.Ws.4 and 8. P.W.24 and 37 had introduced persons for opening of account in Indian Overseas Bank at Sankarankovil. P.W.25, Tr.Jegannathan was the Village Administrative Officer, Sethur Village and he confirmed the fact that some of the beneficiaries were not residing in that locality. P.Ws.30 and 31 have deposed that they did not sell any cycles and spare parts and also bullocks. The receipt Ex.P33 is obtained by A4 Gopalchamy and P.W.35, Office Assistant of Chennikulam Primary Agriculture Co-operative Bank confirmed the signature of A4 Gopalchamy. P.W.40, Tr.Natarajan, Junior Assistant of Judicial Magistrate No.1, Tirunelveli sent for the documents for expert opinion. The expert opinion is marked as Ex.P75. In order to prove the said certificate, the Scientific Officer was examined as P.W.41 and he opined that the specimen signatures of the beneficiaries are not tallied with the signatures found in the loan application forms.

21.The main issue, which has to be analysed revolves around the evidence of PW4 and PW8. A perusal of evidence of PW4 narrates the process for disbursing loans to the poor Adi Dravidars. The persons below poverty line belonging to Adi Dravidar community, have directly made applications to TAHDCO. Thereafer, the TAHDCO have to assign serial number and based on the serial numbers, the applications would be forwarded to Selection Committee consisting of District Manager, TAHDCO and District Employment Officer , General Manager District Industrial Centre and Lead Bank Manager. Thereafter, the Selection Committee, has to consider the applications and after sanctioning of the selection committee, the said applications shall be forwarded to TAHDCO officials and the TAHDCO have to process and sanction the subsidy amount as well as loan amount to the concerned Bank for disbursement of the amount in favour of the beneficiaries. His evidence would further reveal that the applications of one Mariappan S/o. Shanmugiah and 19 others belonging to Chenikulam, were not assigned any serial number by TAHDCO office and all the applications were assigned one Single Serial number as S.I.No.15, However, the procedure is that each and every application should be assigned with a separate number. Initially, TAHDCO prepared a beneficiary list on 18.12.1992, which was signed by one George, District Manager, however, the names of the present beneficiaries Mariappan and 19 members were not found in the above said original list. However, in the letter, dated 04.08.1992, their names were mentioned with endorsements of TAHDCO Manager. To that effect, no corresponding records are available in that office. Further, the endorsement and signatures were found in the applications and the said signature is dated 03.04.1992. However, that signature does not belong to any one of the officials working in TAHDCO. They were not able to find out that the signature in the application belongs to whom?. However, the fact remains that the application was made on 07.04.1992 and the endorsement was made 03.04.1992, i.e., prior to the application. Further, PW.4 confirmed that without any valid signature, the applications were forwarded and loan amount were sanctioned by TAHDCO officials and the signatory has not been worked in the said office at the relevant point of time and the signature of A3 was found only in the counterfoil. A3 and A9 sanctioned the amount, signed the cheque and forwarded the same to the Central Co-Operative Bank .

22.On a perusal of the evidence of PW 18, who was working as District Manager, though he received the applications on 07.04.1992, the annexure are dated 26.11.1992. However, the date of endorsement of TAHDCO officials shown as 03.04.1992 and in the said 20 applications, office seal is available without any signature. The evidence of PW.18 futher reveals that he is the competent person to receive the applications at the relevant point of time and without his signature, all the applications were received and processed without his knowledge. Further, he deposed in his evidence that the applications along with his specimen signature were forwarded to the expert's opinion. The expert/PW.42 opined that the signature available in the application and specimen signature does not tally with the signature of P.W.18. No doubt, the Revenue Certificate, Community certificate were not received along with the applications and revenue officials, who issued the said certificate were also not examined in the present case in order to find out the genuineness of the said certificates and the same were confirmed by PW.43. No officials were examined and none of the revenue officials was verified to confirm the genuniess of the Community Certificate, Income Certificate. However, mere non-examination of any of the revenue officials will not vitiate the prosecution case. The case of the prosecution is that without proper applications and without following the procedures, they assigned bogus serial numbers and without the knowledge of the superior officers namely A3, 7 and 9, they have processed the applications. A9, who was the Divisional Manager, with the help of A7 and A3 prepared cheques and forwarded the same to Central Co-operative Society for the disbursal of loan amount to the beneficiaries.

23.Though A5 and A6 are working as Supervisor and Field Manager respectively, immediately after the reciept of applications from TAHDCO it is duty cast upon them to verify the genuinesses of the same as to whether these beneficaries are available in the said locality. However A5 and A6 without conducting any local inspection and verification with regard to the genuiness of the documents, intentionally sanctioned the amount in favour of the beneficiaries and the funds were transferred to the Co-operative Bank and thereafter, the accused persons namely, 1,4, and 8 disbursed the amount in favour of the beneficaries.

24.Now, the other issue involved in this case is whether the beneficiaries received the benefits from TAHDCO or not?.

25.On perusal of the evidence of P.Ws.5 to 17, 22, 23, 32, 33 and 34, who are beneficiaries, forged records were created to get the benefit of the scheme to the above said persons. However, all the witnesses have clearly deposed that A4 and A10 approached them and obtained the signature and thereafter, in the year 1995 they were paid only Rs.2,000/- and A4 and A10 informed them that they will take care of the repayment of the loan amount. It is not in dispute that some of the witnesses have turned hostile. However, they confirmed the earlier version, as if they received only Rs.2,000/-. Both were confirmed by P.Ws. 8 and 19 and they had clearly deposed that A4 and A10 not even obtained any single paise from the any of the beneficiaries. However, during the cross examination, P.W.8 and P.W.19 turned hostile and they deposed that the amount was repaid by them and it further reveals that the procedure for securing benefits from the TAHDCO has completely violated by the Co-operative Society Bank. On a perusal of entire evidence shows that the Co-opearative Society officials prepared the beneficiaries list and approached the TAHDCO and assigned serial numbers for 20 applications with the help of TAHDCO officials namely A3, A7 and A9. Thereafter, with the help of Central Co-operative Bank officials viz., A5 and A6 sanctioned the amount and the entire subsidy amount was taken by them without paying it to the beneficiaries and the loan amount was enjoyed by these officials. Thereafter they repaid the amount. Merely because the accused persons repaid the amount, they would not be eliminated from the commission of offence. The Government's subsidy granted in favour of innocent poor persons, who belong to down trodden community, are completely deprived of and the officials colluded with the Officials of the Co-operative Bank, TAHDCO and Central Co-operative Bank enjoyed the entire benefits meant for poor Adi Dravidar Community. Hence the above evidence clearly established the prosecution case and therefore, I do not find any error in the order passed by the trial Court.

26.In the result, these Criminal Appeals are dismissed and the conviction and sentence dated 29.04.2013, passed in Special Case No. 2 of 2005, by the learned Chief Judicial Magistrate Court-Special Court, Tirunelveli, are confirmed. The Trial Court is directed to secure the appellants and commit them to prison to undergo the remaining period of sentence. The bail bonds, if any, executed by the appellants/accused shall stand cancelled. However, liberty is granted to the accused to surrender before the trial Court, within a period of four weeks from the date of receipt of a copy of this order.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

Sub Assistant Registrar(CS)

TO

1.The Chief Judicial Magistrate/Special Judge,
Tirunelveli.

2. The Inspector of Police,
Vigilance and Anti Corruption,
Tirunelveli.

3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

4.The Superintendent of Police
Tirunelveli District

5.The District Collector,
Tirunelveli District

6.The Director General of Police,
Mylapore
Chennai4

Copy to
The Section Officer,-2 copies
Criminal Section Records
Madurai Bench of Madras High Court,
Madurai.

+2 cc to Mr.S.Palanivelayutham , Advocate SR.No.51497,51498

aav/ls

Crl. A.(MD)Nos.144, 148, 149,
152 to 156 of 2013
01.03.2019

_KM/(03.05.2019) 16P 11C