

Bail Slip

The Petitioner/Accused No-1 viz., Muthumani Gunaraj aged 63 years S/o.P.Swamyadian was directed to be released on bail vide order in Mp.No.1 of 2010 in Crl.A.No.456/2010 dated 04.08.2010.

The Petitioner/Accused No-2 viz., M.G.Einstein aged 33 S/o.S.Muthumani Gunaraj was directed to be released on bail vide order in Mp.No.1 of 2010 in Crl.A.No.458/2010 dated 04.08.2010.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 10.02.2020

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

CRL. A. NOS. 456 & 458 OF 2010

Muthumani Gunaraj .. Appellant in CA No.456/10

M.G.Einstein .. Appellant in CA No.458/10

- Vs -

State rep. by
Inspector of Police
Special Police Establishment
Central Bureau of Investigation
Anti-Corruption Branch
3rd Floor, Shastri Bhavan
Haddows Road, Nungambakkam
Chennai 600 006.

.. Respondent in both the appeals

Criminal Appeals filed u/s 374 of the Code of Criminal Procedure, against the judgment dated 24.06.2010, passed by the learned IX Addl. Judge, (CBI Cases), City Civil Court, Chennai, made in C.C. No59 of 2000.

For Appellants : Mr. R.Shanmugasundaram, SC, for
Mr. D.Selvaraju in CA No.456/10
Mr. V.Gopinath, SC, for
Mr. V.Balu in CA No.458/10

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

COMMON JUDGMENT

The appellants herein, were arrayed as A-1 and A-2 along with one other accused, who was arrayed as A-3, in C.C. No.59/2000 on the file of the IX Addl. Judge, (CBI Cases), City Civil Court, Chennai. They were charged and tried for the offences u/s 120 (B) r/w 419, 420, 468 and 471 IPC and Section 13 (2) r/w 13 (1) (d) of the Prevention of Corruption Act. Seven charges were framed against the accused under the above provisions of law and after trial, while A-3 was acquitted of the charges framed against him, A-1 and A-2 were found guilty and were sentenced as under :-

Accused	Section	Sentence
A-1	U/s 120 (B) r/w 419, 420, 468 and 471 IPC and 13 (2) r/w 13 (1) (d) of PC Act	Convicted and sentenced to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.1,000/-, in default to undergo rigorous imprisonment for a period of two months.
	U/s 420 r/w 468 r/w 471 IPC (8 Counts)	Convicted and sentenced to undergo rigorous imprisonment for a period of one year on each count and to pay a fine of Rs.1,000/- for each count, in default to undergo rigorous imprisonment for a period of two months for each count.
	U/s 13 (2) r/w 13 (1) (d) of PC Act	Convicted and sentenced to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.2,000/-, in default to undergo rigorous imprisonment for a period of two months.

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A-2	U/s 120 (B) r/w 419, 420, 467, 468 and 471 IPC and 13 (2) r/w 13 (1) (d) of PC Act	Convicted and sentenced to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.1,000/-, in default to undergo rigorous imprisonment for a period of two months.
	U/s 420 r/w 468 r/w 471 IPC (8 Counts)	Convicted and sentenced to undergo rigorous imprisonment for a period of one year on each count and to pay a fine of Rs.1,000/- for each count, in default to undergo rigorous imprisonment for a period of two months for each count.
	U/s 467 & 468 IPC (8 Counts)	Convicted and sentenced to undergo rigorous imprisonment for a period of one year on each count and to pay a fine of Rs.1,000/- for each count, in default to undergo rigorous imprisonment for a period of two months for each count.
	U/s 419 IPC	Convicted and sentenced to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.1,000/-, in default to undergo rigorous imprisonment for a period of two months.

The sentences were directed to run concurrently and set off, as provided for u/s 428 Cr.P.C. was also ordered. Aggrieved by the said conviction and sentence, the present appeals have been preferred by the appellants herein questioning the sustainability of the said conviction and sentence. No appeal has been preferred by the State against the acquittal of A-3.

2. The case of the prosecution, in brief, could be stated as under :-

A-1 was working as Sub Divisional Engineer (Building & Plant) in Mambalam Exchange in Chennai. A-2 is the son of A-1, who at the relevant point of time was a student of Medicine. A-

3 is an individual running a firm by name M/s.National Refrigeration and was employed under A-2.

3. During the year 1997-1998, it is alleged by the prosecution that A-1 in pursuance to the conspiracy entered into with A-2 and A-3, with an intention to cheat the Telephone Department, by abusing his official position, awarded a tender/contract in favour of A-2 for the maintenance/repair of AC units to the firm, alleged to be run by A-2, viz., M/s.Golden Electricals & Refrigeration, knowing fully well that it is a fictitious firm and also authorised the bills that were submitted for the work discharged by the said firm of A-2 to the tune of Rs.1,83,750/-, thereby causing loss to the exchequer to the tune of the above said amount and, thereby, gained pecuniary advantage. Criminal machinery was set in motion which culminated in the filing of the charge sheet against the accused.

4. The accused were furnished with the relied upon documents u/s 207 Cr.P.C. and the trial court framed charges under the provisions of the Indian Penal Code as well as under the provisions of the Prevention of Corruption Act. When questioned, the accused pleaded not guilty.

5. To prove the case, the prosecution examined P.W.s 1 to 25, marked Exs.P-1 to P-200 and M.O.s 1 to 6. When the accused/appellants were questioned u/s 313 Cr.P.C. about the incriminating circumstances appearing against them, they denied the same as false. On the side of the accused, D.W.1 was examined and Exs.D-1 and D-2 were marked. The trial court, after hearing either side and after considering the materials, both oral and documentary, available on record, while acquitted A-3, however, convicted the appellants/A-1 and A-2, as above. Aggrieved by the said conviction and sentence recorded by the trial court, the appellants/A-1 and A-2 have filed the respective appeals.

6. Mr. Shanmugasundaram, learned senior counsel appearing for A-1 submitted that even according to the case of the prosecution, no loss has been caused to the exchequer, as the works relating to the maintenance/repair of the ACs were undertaken and there is no evidence on record to show that the work of repair/maintenance of ACs were not undertaken. It is the further submission of the learned senior counsel, equally, there is no proof relating to the pecuniary advantage gained by A-1. It is the further submission of the learned senior counsel that A-1 was one of the members of the Committee, which was constituted to finalise the award of tender and, therefore, it is not a solitary person, who had decided, but it is a group of

persons, who have taken a conscious decision to award the contract to the lowest bidder. Therefore, imputing the allegation as above, is not sustainable, in view of the fact that the tender finalisation was done by the committee, which was headed by P.W.12 of which A-1 and P.W.13 were members. Therefore, A-1 cannot be isolated and imputed with the allegation that he had approved the tender in favour of A-2, who is his son, particularly, when it was the Committee, which took the said decision. It is the further submission of the learned senior counsel that even the allegation with regard to the bills being honoured by A-1, is incorrect as the bills pass through various tiers in the Department before being approved by the General Manager, who is and final authority to approve the bill. Therefore, the allegation of the prosecution that the bills were honoured by A-1 with regard to the repair/maintenance works, are not correct. It is the further submission of the learned senior counsel for A-1 that P.W.7 has categorically spoken about the fact that the space was provided to the concern for receipt of letters and, therefore, the allegation of the prosecution that the firm itself is a fictitious one is unsustainable. Attention of this Court was also drawn to the evidence of P.W.3 who has deposed that he had lent office space to A-1. Therefore, the allegation of the prosecution that the firm to which tender was awarded is fictitious is only a figment of imagination of the prosecution and is not borne out by records. In fine, it is the submission of the learned senior counsel for the petitioner, that there being no actual loss suffered, nor any pecuniary advantage gained by A-1 and the prosecution having not proved that it was A-1 alone who was responsible for awarding the tender and finalising the bills, the conviction recorded by the trial court is unsustainable and the same deserves interference.

7. Mr.V.Gopinath, learned senior counsel, appearing for A-2, submitted that though A-2 is the son of A-1, he was not involved in the commission of any offence, thereby, causing loss to the exchequer. A-2, being a student at the relevant point of time, as an obedient son, has performed the acts, as directed by A-1. The theory of conspiracy, as alleged by the prosecution, has not been proved. It is the submission of the learned senior counsel that A-2 is only a name lender for the acts committed by A-1 and was in no way a direct beneficiary or a person, who had performed the said acts. It is the submission of the learned senior counsel that A-2, merely followed the directions of A-1 in opening the bank account, which has been spoken to by P.W.s 8 and 21 and has no direct role to play in the transaction and, therefore, the allegation of conspiracy has no legs to stand. It is the further submission of the learned senior counsel for A-2 that the charge u/s 420 IPC relating to impersonation has

not been substantiated, as A-2 has not impersonated any person and, therefore, the said charge is not maintainable. In fine, it is submitted by the learned senior counsel for A-2, that the above materials have not been properly appreciated by the trial court while recording the conviction and the same deserves to be interfered with.

8. Per contra, Mr. K.Srinivasan, learned Special Public Prosecutor appearing for the respondent submitted that pecuniary advantage has been gained by A-1 by awarding the tender to his son, which is prohibited under the Conduct Rules of the Telecom Department. It is the further contention of the learned Special Public Prosecutor that the evidence of P.W.s 3 and 7, which are related to the act of A-1 in receiving letters in the said place, though not actually being the tenant, clearly shows the ulterior intent of A-1. It is further contended that P.W.s 8 and 21 have categorically spoken about A-2 opening account in the name of S.M.Mani, at the instance of A-1, which was used for the purpose of depositing the cheques received from the Telecom Department. Though the name of A-2 is said to be Einstein, however, for the purpose of cheating the exchequer, an account was opened in a fictitious name, which clearly attracts the offence u/s 420 IPC. It is further submitted by the learned Special Public Prosecutor that the conspiracy between A-1 and A-2 is well evident from the fact that A-2 had obliged A-1 in opening the account in a fictitious name. The conspiracy is further strengthened by the fact that A-2 at the relevant point of time was a medical student and by no means could have run a firm in the name of M/s.Golden Electricals & Refrigeration.

9. Learned Special Public Prosecutor further submitted that the ill-intent of A-1 is categorically revealed through the evidence of P.W.1, who has deposed that he was called by A-1 and enquired about the value of the tender submitted by him and further the value of the tender submitted by A-2, being lesser to that of the value submitted by P.W.1 clearly establishes the evidence of P.W.1. It is the further submission of the learned Special Public Prosecutor that though the Committee had approved the tender, which was the lowest, however, what is material is that A-1 had used a fictitious name for A-2 and secured the tender, which fact was not known to the other members of the Committee. Except for A-1, none of the other members of the tender approving committee were aware that the tender was submitted by A-2 under a fictitious name. It is further submitted by the learned Special Public Prosecutor that the bills were approved by A-1, as the person, who was in-charge of the affairs of the Plant and Building in the exchange and the approval granted by others are mere procedural formality and the

basic approval started from A-1. Therefore, the contention of the appellants that the approval of the bills by A-1 cannot be put to his detriment, fails as his approval was the basis for the persons higher up the hierarchy granting approval of the bill. In fine, learned Special Public Prosecutor submitted that the trial court, on a careful analysis of the entire materials available on record, has come to the just and reasonable conclusion to convict the appellants, which is based on well-founded materials and, therefore, no interference is called for with the said order.

10. This Court paid its concentrated attention to the submissions advanced by the learned counsel on either side and also perused the materials available on record.

11. The following issues arise for consideration in these appeals :-

- i) Whether A-1 approved the tender in favour of A-2 violating the provisions of the Central Civil Services (Conduct) Rules;
- ii) Whether the charge of impersonation by A-2 has been proved by the prosecution;
- iii) Whether A-2 has committed offence under the relevant provisions of the Prevention of Corruption Act; and
- iv) Whether the theory of conspiracy has been proved by the prosecution.

12. As the evidence of the prosecution witnesses are intricately intertwined, all the above issues are taken up together for consideration and discussed threadbare to come to the conclusion as to whether the charges against the appellants stand proved.

13. It is not in dispute that A-2 is the son of A-1. Equally it is not in dispute that A-2 was a medical student at the relevant point of time when the tender was floated by the Telecom Department and approved in favour of A-2. Equally so, A-1 was a member of the Committee for approving/selecting the lowest tender and also one of the officers of the committee to approve the bills raised thereafter is also not in dispute.

14. It is the evidence of P.W.2 that he was also a person, who participated in the bid for the purpose of maintenance/repair of ACs floated by the Telecom Department. It is the categorical submission of P.W.2 that A-1 had called him to his office and had enquired with him as to the rates that is quoted for the various items of work. Though P.W.2 initially

did not divulge the same, however, on the request of A-1 that it is for the purpose of communicating with his official superiors, P.W.2 had given the details of the rates that are quoted by him for such works. In spite of lengthy cross examination, no worthwhile contradiction has been elicited from P.W.2 in aid of the defence.

15. P.W.s 3 and 7 are the persons, who spoke about lending office space and performing secretarial function for the firm M/s.Golden Electricals & Refrigeration. It is evident from their evidence that they had lent office space and had provided secretarial support to A-1. Except for a board being hung in the said space lent to A-1, there was no other activity which took place relating to the functioning of the said office. The letters which were received at the said address, were given to A-1 for which rent was paid by A-1. Therefore, the contact of A-1 with P.W.s 3 and 7 stand established. It stands further established that the firm, M/s.Golden Electricals & Refrigeration, was in existence on paper, though no actual activity was going on in the said address.

16. There is no quarrel about the tender process or the evaluation of the same by P.W.12, the Chairman of the Tender Evaluation Committee along with A-1 and P.W.13. The tender evaluation committee had evaluated the tenders and had accepted the bid given by A-2, which is the lowest. It should be borne in mind that A-1, as one of the members of the tender evaluation committee was well aware of the fact that the bid, which was accepted by the tender evaluation committee as being lowest, was in fact given by him through his son, viz., A-2. However, no evidence has been placed on record by the defence to the effect that the said fact has been divulged to the members of the committee. In the absence of such evidence, the only inference that could be drawn is that A-1, getting the necessary information from P.W.2, had placed the bid in the name of his son, viz., A-2 and without informing about his relationship to the members of the committee, had led to the approval of the bid.

17. Subsequent to the award of contract, bills have been approved by A-1, which have in turn be sent higher up the hierarchy right from Accounts Department to the General Manager for approval. It is the contention of the defence that there being many persons higher up the hierarchy, who have approved the bills, liability cannot be fastened on A-1 alone to say that he has committed the offence of cheating.

18. Though such an argument, on the face of the record, appears attractive, however, it is liable to be rejected for the simple reason that the persons, who were higher up the hierarchy, first of all, were not aware of the fact that the tender was to the son of A-1, as the name of the tenderer was totally different from that of A-2, which is also clear from the bank account opened for A-2 for the purpose of encashing the cheques. Like the tender evaluation committee, the committee, which approves the bill, of which A-1 was also a part, was also not aware of the said fact and, merely, on the basis of the approval granted by A-1, who was the person in-charge to oversee that the maintenance/repairs have been carried out, have approved the said bills. Once their ignorance with regard to the relationship of A-1 with the alleged tenderer/A-2 stands established, without there being contra evidence to disprove the same, the culpability of A-1 in the commission of the said offence cannot be ruled out. Therefore, this Court is of the considered view that it was A-1, who was instrumental in getting the bills approved, as a member of the Committee.

19. It is the contention of the defence that P.W.10, the Accounts Officer, has deposed that there has been no monetary loss to the Department, as the bills were honoured for the works carried out. True it may be that the works were carried out, but once the prosecution has proved the violation of the conduct rules, in the absence of proper rebuttal on the part of the defence, this Court is left with no other alternative but to hold that the prosecution has proved its case with regard to the culpability of the A-1 in the commission of the offence.

20. On an overall consideration of the materials on record, insofar as A-1 is concerned, it is considered opinion of this Court that there is a flagrant violation of the Central Civil Services (Conduct) Rules committed by A-1. In violation of the said rules, A-1 had not only approved the tender in favour of A-2 along with other members of the Committee, but, thereafter, as member of the Bill Clearing Committee, had approved the bills and, thereby, definitely a pecuniary advantage has been passed on to A-2, who is related to A-1, which in turn accrues to the benefit of A-1.

21. Further, P.W.8 who had introduced A-2 to the Bank Manager, viz., P.W.21, for the purpose of opening an account in the name of A-2 have clearly spoken about the fact that the said account was opened in the name of A-2 at the instance of A-1. Their testimonies have withstood the elaborate cross examination by the defence. The defence has not breached their evidence and, therefore, the act of A-1 in opening an account in the name

of A-2 stands established. However, no materials have been placed by the defence to show why A-1 had insisted opening of the account in the name of S.M.Mani, in favour of his son, though the name of A-2 is said to be Einstein as is reflected in the educational records produced by the prosecution.

22. Pecuniary advantage need not always be in terms of monetary gain to the concerned individual and it could very well be in the way of pecuniary advantage to a person, who is related, which advantage enures to the benefit of the concerned individual, herein A-1. Therefore, insofar as A-1 is concerned, the charges the relevant provisions of the Prevention of Corruption Act stands attracted.

23. With regard to the culpability of A-2 in the commission of the offence, though charges have been framed u/s 419 and 420 IPC relating to cheating. True it is that the evidence of P.W.s 8 and 21 categorically show that the bank account was opened in the name of one S.M.Mani, as the son of A-1, at the instance of A-1. P.W.s 8 and 21 have not attributed personal knowledge of A-2, but it was only at the instance of A-1 they have helped A-2 in opening the bank account.

24. It is evident from the materials available on record that though the name of A-2 has been shown in his educational stream as M.G.Einstein, however, for reasons best known, the bank account was opened in the name of S.M.Mani. It is evident from the deposition of P.W.s 8 and 21 that the account was opened in the name of S.M.Mani at the instance of A-1. The account has been definitely opened in the name of a person, who was not in existence and, therefore, the charge of impersonation is definitely made out. However, A-2, being a person, aged about 20 years at the relevant point of time, though at the mercy of his father, viz., A-1 carrying on studies in medicine, had gone through with opening a bank account in a name, which was not truly his. Though it may have been used by A-1 for the sinister purpose of obtaining pecuniary advantage, however, direct implication cannot be made to A-2 in this regard. However, A-2 cannot be wholly absolved from non-commission of the offence for the simple reason that he is person, who was pursuing medicine and was in full possession of his faculties and, therefore, it would not have escaped his attention with regard to opening an account for him in some other name. But his mere knowledge about the said fact cannot be taken to mean that he had conspired with A-1 to commit the offence, in the absence of the prosecution adducing any evidence with regard to meeting of minds to commit the crime.

10/27

25. Insofar as the offences relating to Sections 419 and 468 IPC, which has been framed against A-2 for the purpose of cheating, it is to be pointed out that Section 419 IPC is the punishing section, whereas Section 416 IPC is the charging section and, in actuality, the charge should have been framed under Section 419 r/w 416 IPC. However, erroneously, the trial court has framed the charge only u/s 419 IPC. This Court has categorically come to the conclusion that A-2, by lending a name, which is not actually his, but an assumed name, for opening a bank account, has definitely indulged in the act of cheating by personation. Section 416 clearly states that a person is deemed to cheat by personation, if he cheats by pretending to be some other person. In the case on hand, it is unequivocally established that the account has been opened in another name, for which A-2 has subscribed his signature knowing fully well that it is not his name and, therefore, it is clearly evident that the charge u/s 416 IPC gets attracted. In such circumstances, the charge u/s 419 IPC is altered into one u/s 419 r/w 416 IPC. Insofar as the evidence with regard to the said charge, the prosecution has proved that A-2 has subscribed his signature, by personating himself as some other person, knowingly and, therefore, A-2 is liable to be convicted u/s 419 r/w 416 IPC. Once the charge u/s 419 r/w 416 IPC is held against the appellant/A-2, the offence u/s 468 IPC stands proved as the said act of forgery has been committed for the purpose of cheating. Therefore, the offences u/s 419 r/w 416 and 468 IPC stand established and this Court has no hesitation to confirm the conviction for the said charges. As A-2 has indulged in personation for the purpose of cheating, the conviction of A-2 u/s 420 r/w 468 r/w 471 IPC is confirmed.

26. Though charge has been framed u/s 467 IPC as against A-2, however, the same does not stand attracted to the case on hand. Section 467 IPC deals with the offence of forgery of valuable security, will, etc. In the case on hand, forgery of such of those documents, as provided u/s 467 IPC have not been done. In such circumstances, not only the conviction of A-2 for the offences u/s 467 IPC is bad, but the charge framed itself is erroneous. Accordingly, the conviction of A-2 u/s 467 IPC is set aside.

27. The prosecution has rested its theory on Section 120 (B) IPC and had framed a charge against the appellants on the allegation that in pursuance of a conspiracy, they have colluded and acted in a manner prejudicial to the interest of the exchequer and had caused financial loss and gained pecuniary advantage.

28. Conspiracy consists of an agreement or a meeting of minds between two or more persons formed for the purpose of committing, by their joint efforts, some unlawful or a criminal act or to do a lawful act by unlawful means. The agreement may be express or implied, or in part express and in part implied. Therefore, for an offence to fall under this section, bare engagement and association to break the law is the requirement and the methods employed should be illegal. However, the onus is on the prosecution to prove the charge of conspiracy by cogent evidence, direct or circumstantial.

29. The Hon'ble Supreme Court in V.C. Shukla - Vs - State (Delhi Admn.) (1980 (2) SCC 665 : 1980 SCC (Cri) 561), held as under :-

"8. Before we proceed further, we might indicate that it is well settled that in order to prove a criminal conspiracy which is punishable under Section 120-B of the Penal Code, 1860, there must be direct or circumstantial evidence to show that there was an agreement between two or more persons to commit an offence. This clearly envisages that there must be a meeting of minds resulting in an ultimate decision taken by the conspirators regarding the commission of an offence. It is true that in most cases it will be difficult to get direct evidence of an agreement to conspire but a conspiracy can be inferred even from circumstances giving rise to a conclusive or irresistible inference of an agreement between two or more persons to commit an offence.

(Emphasis Supplied)

30. From the ratio laid down above, it is emphatically clear that to bring home a charge u/s 120 (B) IPC, it is necessary for the prosecution to show, either through direct or circumstantial evidence that there was an agreement between two or more persons to commit an offence. It is the case of the prosecution that A-1 and A-2 conspired with A-3 to reap pecuniary gain for the benefit of A-2, thereby causing loss to the exchequer. The necessary ingredient here is the meeting of minds between the conspirators.

31. In the case on hand, A-1 and A-2 are related, being father and son. However, the evidence available on record nowhere imputes A-2 with any motive, as A-2 was, at the relevant point of time, a student of medicine. He was dependent on his father, viz., A-1 for his studies, and as a son, generally had

12/27

abided by the directions of his father. It is nowhere available on record that A-2 had knowledge of the offence/omission/commission sought to be committed by A-1. Except for lending his name for opening a bank account and in person going to the bank to open the bank account, none of the witnesses have spoken about the part played by A-2. The prosecution has not placed any material either with regard to the conspiracy hatched between A-1 and A-2. Mere assertion with regard to conspiracy would not be sufficient to bring home the charge. Therefore, the conspiracy angle has not been established in a manner required and, therefore, the charge relating to conspiracy u/s 120 (B) fails and, accordingly, the conviction and sentence for the charge u/s 120 (B) IPC is liable to be set aside.

32. Once the offence relating to conspiracy is held to be not proved insofar as A-2 is concerned, the charges made against A-2 relating to offences under the Prevention of Corruption Act cannot be sustained and, accordingly, the conviction of A-2 for the offences under the Prevention of Corruption Act are set aside.

33. Learned senior counsel appearing for the appellants submitted that as A-1 is aged about 80 years and that A-2 is leading a normal life as a medical professional, considering the age of A-1, the related ailments that he is suffering at that age and also the avocation of A-2, which is a service oriented profession, pleaded this Court to award minimum sentence.

34. This Court, after taking into consideration the submissions of the learned senior counsel for the appellants and also considering the age of A-1 and also the avocation of A-2 and also the fact that the offence was committed during the period 1997-1998, and that almost two decades have passed since the commission of the offence, this Court is of the considered view that since only the minimum sentence as prescribed by the statute has been to A-1 no further reduction in sentence is possible. However, the appellant/A-1 shall suffer simple imprisonment instead of rigorous imprisonment ordered by the trial court. However, since the statute having not prescribed minimum sentence for the offence committed by A-2, it would meet the ends of justice if the appellant/A-2 is sentenced to a period of simple imprisonment for one day till the rising of the Court.

35. In the result, the appeals are dismissed modifying the conviction and sentence imposed for the various offences as hereunder :-

Appellant in C.A. No.456/2010 - A-1

U/s 420 r/w 468 r/w 471 IPC (8 Counts)

Convicted and sentenced to undergo simple imprisonment for a period of one year on each count and to pay a fine of Rs.1,000/- for each count, in default to undergo simple imprisonment for a period of two months for each count, * **the Sentences are directed to run Concurrently.**

U/s 13 (2) r/w 13 (1) (d) of PC Act

Convicted and sentenced to undergo simple imprisonment for a period of one year and to pay a fine of Rs.2,000/-, in default to undergo simple imprisonment for a period of two months.

Appellant in C.A. No.458/2010 - A-2

Convicted and sentenced to undergo simple imprisonment for a period of one day before this Court, for all the offences for which A-2 stands convicted, which is to be undergone on 21.02.2020 from the time of the sitting of this Court till the raising of this Court on the said day. A-2 is directed to pay a fine of Rs.1,00,000/- (Rupees One Lakh only) in addition to the fine already imposed by the trial court, by way of demand draft in favour of the Telecom Department, viz., Bharat Sanchar Nigam Ltd., before 21/02/2020, the date on which he shall undergo the sentence and produce proof of payment of the same to the Registrar (Judicial), in default of payment, to undergo simple imprisonment for a period of six months. The appellant/A-2 shall appear before the Registrar (Judicial) at 09.45 a.m. on 21.02.2020 to mark his presence and produce the proof of payment of the fine noted above and, thereafter, appear before the Court to undergo the sentence imposed on him. If the appellant/A-2 fails to appear before the Registrar (Judicial) on 21.02.2020 at 9.45 a.m., along with the above proof, his absence shall be marked and necessary steps shall be taken to secure the presence of the appellant/A-2 to serve the sentence imposed on him. On the appellant/A-

2 paying the fine and serving his sentence on 21.02.2020, bail bonds, if any, executed by him, shall stand cancelled.

Sd/-

Assistant Registrar

***Corrected as per order of this
court dated 28.02.2020 made in
Crl.A.456/10**

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

- 1) IX Addl. Judge
(CBI Cases), City Civil Court
Chennai.

To be Substituted the
Order already despatched
on 20.02.2020

2. Inspector of Police
Special Police Establishment
Central Bureau of Investigation
Anti-Corruption Branch
3rd Floor, Shastri Bhavan
Haddows Road, Nungambakkam
Chennai 600 006.

- 3) The Special Public Prosecutor (for CBI Cases)
High Court
Madras.

- 4) The Registrar (Judicial)
High Court, Madras-104.

+1cc to Mr. K.Srinivasan, Advocate sr.10533 (24/02/2020)

+1cc to Mr.D.Selvaraju, Advocate sr.18151

CRL. A. NOS.456 & 458 OF 2010

ppa (co)
nr 17/02/2020
nr 05/03/2020

15/27