IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on. 02.09.2022	Pronounced on. 07.09.2022

CORAM:

THE HONOURABLE Dr. JUSTICE G.JAYACHANDRAN

Crl.R.C.No.2005 of 2004
and
Crl.A.No.1358 of 2004

Crl.R.C.No.2005 of 2004

P. Dharamchand, ... Petitioner/Defacto Complainant

-vs-

1. B.Gurubagyam,
2. B.Gokul,
3. B.Ananthi,
4. B.Sudha,
5. G.Anbazhagan,
6. Jothi,
7. A.Arunagiri,
8. A.Pasupathi, ... Respondents/Accused

9. State Represented by Inspector of Police,
   Central Crime Branch,
   Egmore, Chennai. ... Respondent/Complainant

PRAYER : Criminal Revision Petition is filed under Section 397 and 401 of Cr.P.C., against the judgment of acquittal passed in C.A.No.290 of 2003 dated 25.08.2004 on the file of the Learned III Additional Sessions Judge, Chennai in reversing the judgment of conviction and sentence passed in C.C.No.242 of 2003 dated 22.09.2003 on the file of the Learned XI Metropolitan Magistrate, Saidapet, Chennai, for offences under Sections 120-B of IPC, 420 r/w 120-B of IPC in so far as the respondents 1 to 8 are concerned and prays for setting aside the judgment of the acquittal made in C.A.No.290 of 2003 dated 25.08.2004 on the file of the Learned III Additional Sessions Judge, Chennai and remand the said Criminal Appeal No.290 of 2003 to the Court of Sessions, Chennai, to deal with the case in accordance with the law.

For Petitioner : Mr.R.Natarajan

For R1 to R8 : Mr.S.Jayakumar

For R9 : Mr.R.Kishore Kumar
Govt. Advocate (Crl. Side)

Crl.A.No.1358 of 2004

State Rep. by
The Inspector of Police,
Central Crime Branch, V Team,
Egmore, Chennai – 600 008.
Crime No.432 of 2022 ... Appellant/Respondent

-vs-

1. B.Gurubagyam,
2. B.Gokul,
3. B.Anandhi,
4. B.Sudha,
5. G.Anbazhagan,
6. Jothi,
7. A.Arunagiri,
8. A.Pasupathi ... Respondents/Accused

PRAYER : Criminal Appeal is filed under Section 378 of Cr.P.C., to set aside the order of acquittal passed by the Lower Appellate Court in C.A.No.290 of 2003 dated 25.08.2004 on the file of the Learned III Additional Sessions Judge, Chennai by reversing the Judgment dated 22.09.2003 in C.C.No.242 of 2003 on the file of XI Metropolitan Magistrate, Saidapet, Chennai and convict the accused as charged.

For Appellant	: Mr.R.Kishore Kumar Govt. Advocate (Crl. Side)
For R1 to R8	: Mr.S.Jayakumar

COMMON JUDGMENT

The set of Criminal Revision and Criminal appeal arising out of order of acquittal by the Lower Appellate Court in C.A.No.290 of 2003 on the file of Learned III Additional Sessions Court, Chennai.

2. The brief fact of the case leading to the batch of Criminal Revision and Appeal before this Court are capsulized as below:-

This case centres around 90 grounds of land at R.S.No.2024, Block

No.41, Arundale Street, Mylapore, Chennai, alleged to be land dedicated for the maintenance of the male descendants of Sha Abdul Kuadir Fakhri and for the maintenance of mosque. On 27.08.1988, the descendants of Sha Abdul Kuadir Fakhri, who are entitled for 2/3rd of the income from the said land, appointed one Thiru.Kamaluddin Fakhri as their Power of Attorney. The descendants of Sha Abdul Kuadir Fakhri (11 in numbers) through their Power of Attorney S.M.Kamaluddin Fakhri entered into a Memorandum of Agreement with P.M.Arumuga Chettiar and Gokul Construction represented by K.Balasigamani for Joint Venture Property Development Project on 31.08.1989. A supplementary agreement dated 31.08.1990 was entered in view of the death of P.M.Arumuga Chettiar. As per the supplementary agreement, the principals has to execute the power of attorney in favour of K.Balasigamani to sell 60% of the undivided share of the land and 40% of the completed construction to the principal within 3 years and remaining construction and undivided share of 40% in the land shall be vest with the Gokul Construction.

3. Alleging that, K.Balasigamani of Gokul Construction and his

Associates breached the joint ventured agreement by entering into a criminal conspiracy. In order to cheat the principals Balasigamani had conveyed the property to his family members through 9 different sale deeds using the Power of Attorney given for purpose of the joint venture development. Out of 9 different sale deeds, 8 for the 33 grounds and 1 sale deed is in favour of Power of Attorney himself, would expose the fraudulent intention claiming that accused 2 to 9 who are wife, son, daughter and other family members of K.Balasigamani. Fictitious sales deeds were created assigning fictitious sub-divisions and survey numbers. Sale agreement dated 31.08.1989 had been fabricated as if, the land owners i.e., the descendant of Sha Abdul Kuadir Fakhri have executed sale agreements. The subsequently transaction by way of sale deeds been created on the strength of the power of attorney deed thereby the owners of the land had been cheated and put to wrongful loss. With these averments, the private complaint was filed under Section 156(3) of Cr.P.C., before XI Metropolitan Magistrate, Saidapet, Chennai. The said complaint was forwarded to Central Crime Branch Police and same was taken on file in C.C.No.242 of 2003.

4. On completion of investigation, final report filed against

K.Balasigamani as prime accused and his wife, children and relatives as accused 2 to 9 for offences under Sections 120-B, 409, 420 r/w 120-B, 465, 468, 471 r/w 468 of I.P.C against A1. For offences under Sections 120-B, 409, 420 r/w 109, 420 r/w 120-B, 465, 468, 471 r/w 468 of I.P.C as against A2 to A9.

5. Based on the final report, appropriate charges were framed. To prove their case, on behalf of the prosecution, six witnesses were examined, 25 exhibits were marked. On the side of the defence, 15 exhibits were marked.

6. The trial Court found A1 misusing the Power of Attorney given by A1 had executed sale deed in favour of A2 to A9 without the knowledge of Principal (P.W.2) and therefore, charges under Sections 120-B, 409, 420 r/w 120-B, 465, 468 and 471 r/w 468 of I.P.C are proved. As far as A2 to A9 for aiding and abetting the said conspiracy of forgery and cheating held them all guilty for offence under Sections 120-B, 420 r/w 120-B of I.P.C. As far as the other charges, the accused were acquitted.

A1 convicted and sentenced as below:-

Sections	Conviction and Sentence passed by the Trial Court
120-B of I.P.C	To pay fine of Rs.500/-, in default 3 months S.I.
409 of I.P.C	To undergo one year R.I and to pay fine of Rs.2000/-, in default 3 months S.I.

A2 to A9 convicted and sentenced as below:-

Sections	Conviction and Sentence passed by the Trial Court
420 r/w 120-B of I.P.C	To undergo one year R.I and to pay fine of Rs.2000/- in default three months R.I.
465 of I.P.C	To undergo one year R.I and to pay fine of Rs.2000/- in default three months R.I.
468 of I.P.C	To undergo one year R.I and to pay fine of Rs.2000/- in default three months R.I.
471 r/w468 of I.P.C	To undergo one year R.I and to pay fine of Rs.2000/- in default three months R.I.
420 r/w 120-B of I.P.C	To undergo one year R.I and to pay fine of Rs.2000/- in default three months R.I.

The period of substantive sentence ordered to run concurrently.

7. K.Balasigamani filed appeal against the judgment of sentence and conviction in Crl.A.No.291 of 2003. Rest of the accused 2 to 9 preferred appeal in Crl.A.No.290 of 2003. The Lower Appellate Court reversed the finding of the trial Court and allowed the appeals in Crl.A.No.291 of 2003 filed by A1 and Crl.A.No.290 of 2003 filed by A2 to A9.

8. Aggrieved by the reversal judgment, the State has preferred appeal against the order of acquittal in Crl.A.No.1358 of 2004 against A2 to A9 and

Crl.A.No.1444 of 2003 against the order of acquittal of A1. Likewise, the defacto complainant has preferred Crl.R.C.No.2005 of 2004 against the order of acquittal of Accused 2 to 9 in Crl.A.No.290 of 2003 and Crl.R.C.No.34 of 2005 against the order of acquittal of A1 in Crl.A.No.291 of 2003.

9. The order of acquittal passed by the Lower Appellate Court reversing the order of conviction passed by the Trial Court is under challenge in these Appeals and Revisions on the ground that, it is perverse and erroneous and not sustainable under law in view of the failure to appreciate the evidence properly. Specifically, it is contended that the observation of the Lower Appellate Court that the dispute is primarily a civil dispute since Civil proceedings has been instituted before the High Court in C.S.No.65 of 2001 and C.S.No.71 of 2002 for redressal of grievance in respect of the 9 sale deeds, which is alleged to be fabricated document, so there cannot be any criminal prosecution is an erroneous conclusion.

10. The Lower Appellate Court has failed to take note of the fact that the Power of Attorney executed in favour of A1 on a specific terms and conditions been violated and fraudulently 9 sale deeds were executed mentioning Sub-divisions of the property which was not in existence. The crime committed is action *in rem* and therefore, pendency of Civil proceedings will not exonerate the accused persons.

11. The Trial Court found that the sale deeds in favour of the accused 2 to 9 as well as in the name of A1 (K.Balasigamani) contain false sketch, survey numbers and tracing of title. By instituting a Civil suit to escape from punishment of criminal offence, the accused had misled the Lower Appellate Court. After the execution of Ex.P.13, the supplementary agreement deed (Ex.D.1) which is a Tripartite agreement had become extinct. After cancellation of Tripartite agreement, A1 have no right to execute the sale deeds. While the Power of attorney deed marked as Ex.D.7 does not mention any sub-division of the property in R.S.No.2024, the illegal sale deeds executed by A1 in favour of the other accused contains sub-division and plan of the field.

12. Heard the Learned Counsel for the defacto complainant/petitioner, the Learned Counsel for the respondents 2 to 9/deceased 2 to 9 and the Learned Government Advocate (Crl.Side) for the State.

13. The prosecution has been launched by one Mr.P.Dharmachand, who claims to be power of attorney of the descendants of Sha Abdul Kuadir Fakhri. As per the complaint, the joint venture agreement was entered between the Principals and A1 (Balasigamani), who is the proprietor of Gokul Construction. One P.M.Arumuga Chettiar was also a party to that joint venture agreement. It is a tripartite agreement dated 27.08.1988. Thereafter, on 16.09.1989, Principals of the defacto complainant had executed the power of attorney in favour of A1 (K.Balasigamani). On the death of P.M.Arumuga Chettiar, between the Principals of the defacto complainant and A1 (K.Balasigamani), bipartite joint venture agreement was entered on 31.08.1990 called as supplementary agreement. It was agreed by both parties that tripartite agreement dated 27.08.1988 stands cancelled. To implement the terms of the contract as found in the bipartite agreement and the supplementary agreement, power of attorney deed dated 11.12.1992 was executed by the Principals of the defacto complainant in favour of A1 (K.Balasigamani). Instead of taking steps to fulfil the terms of bipartite joint venture agreement by developing the land and putting up multi storied construction and give 40% of the constructed area along with 60% of undivided land within a period of 3 years, A1 with intention to cheat and misappropriated the land property had executed 9 sale deeds by way of plots with metes and bounds without the knowledge of the Principals of the defacto complainant.

14. The prime allegation against the accused persons is that, A1 (Balasigamani) calculatively deviced a scheme, along with other accused to cheat the land owners by creating fake sale agreement dated 31.08.1989, as if the Principals have been executed and pursuant to the said fake sale agreement, 9 sale deeds were created. The complaint by Thiru.P.Dharamchand as power agent against K.Balasigamani and others was investigated in Crime No.432 of 2002 and final report was taken cognizance by the XI Metropolitan Magistrate, Saidapet, in C.C.No.242 of 2003, for offences under Sections 120-B, 409, 420 r/w 120-B of I.P.C and 465, 468, 471 r/w 468 of I.P.C.

15. On the side of the prosecution, 9 witnesses were marked, 25 documents were marked as Ex.P.1 to Ex.P.25. On the side of the defence, 15 documents were marked as Ex.D.1 to Ex.D.15.

16. The trial Court convicted A1 to A9 and sentenced them as stated supra.

17. Aggrieved by that, Criminal Appeal Nos. 291 of 2003 and 290 of 2003 were preferred and same was allowed by the III Additional Sessions Judge, Chennai, *vide* judgment dated 25.08.2004. In the course of appeal, additional documents were received as Ex.P.26 & Ex.P.27 which are the pleadings and order passed by the High Court in a Writ proceedings against the order passed by the District Registrar in Appeal No.2 of 2003.

18. The Lower Appellate Court primarily relying upon the Civil Suit pending in respect of the property and the order passed by the District Registrar in Appeal No.2 of 2003 and the order passed in the Writ Petition leading to sale deeds Ex.P.3 to Ex.P.11 getting cancelled vide deeds Ex.P.3 to Ex.P.22 dated 09.06.2002, which is subject matter of Writ Petition as found in Ex.P.26 and Ex.P.27 held that the dispute is primarily Civil in nature and therefore, criminal prosecution is not sustainable.

19. Being aggrieved by the said reversal judgment of acquittal by the Lower Appellate Court, the Criminal Revision cases are filed by the defacto complainant. The Criminal Appeals are filed by the State primarily on the ground that pendency of Civil litigation is not a bar for criminal prosecution. The Civil Suit is filed to protect the civil right of the land owners. Whereas the Criminal prosecution launched for the act of crime committed by the accused persons by forging document, creating fake sketch, sub-divisions of the property, creating third party right over the property and to create illusory cloud over the title.

20. The Learned Counsel appearing for the defacto complainant submitted that the finding of the Lower Appellate Court in rendering acquittal will have a consequential effect and prejudice to the suit pending in C.S.No.72 of 2002. 90 grounds comprised in R.S.No.2024 remains undivided with demarcation of 47 grounds, 13 grounds, 30 grounds, 5 grounds and 1748sq.ft. While so, the sketch annexed to sale deeds Ex.P.3 to Ex.P.11 fragmented into plots of different size would clearly show that the sketch annexed to the respective sale deeds Ex.P.3 to Ex.P.11 are all fabricated and created documents. The order passed by District

Registrar marked as Ex.P.15 and the affidavit filed by the accused persons in their Writ Petition, marked as Ex.P.26 challenging the order of District Registrar marked as Ex.P.15 would clearly show that these accused persons are not innocent purchasers of the property but had lend their names with prior knowledge of the terms of the joint venture agreement. The averments in their affidavit filed in support of the Writ Petition itself a proof for their culpability. The reference in their sale deeds Ex.P.3 to Ex.P.11 about two agreements of sale dated 27.08.1988 and 31.08.1989 are absolute false. The 1st document dated 27.08.1988 is not an agreement of sale but a tripartite agreement entered between A1 (K.Balasigamani), P.M.Arumuga Chettiar and the Principals of the defacto complainant. The 2nd document dated 31.08.1989 referred in the sale deeds is not a genuine agreement of sale.

21. The Learned Counsel appearing for the accused persons submitted that Thiru.S.M.Nizamuddin Fakhri and his family members are the Principals to the defacto complainant. They owned 90 grounds of land at Nos.34 & 36 Arundale Street, Mylapore, Chennai. The dispute between Thiru.S.M.Nizamuddin Fakhri's family members and the local mosque regarding ownership of the property prevailed for some time, later proceedings was issued by the Tamil Nadu Wakf Board, wherein, 2/3rd portion of the land was handed over to Thiru.S.M.Nizamuddin Fakhri and two others on 25.04.2003 for their enjoyment and remaining 30 grounds was retained by the Tamil Nadu Wakf Board. Before their dispute reached finality, Thiru.S.M.Nizamuddin Fakhri and his family members suppressing the dispute over the land, initially entered into joint venture agreement with one P.M.Arumuga Chettiar for putting up construction in their entire 90 grounds of land at Nos. 34 & 36, Arundale Street, Mylapore. Since the project did not materialised, Gokul Construction run by K.Balasigamani was roped into the project. Thiru.P.M.Arumuga Chettiar withdrew from the project receiving Rs.5 lakhs from Gokul Construction. The power of attorney was executed by Thiru.S.M.Nizamuddin Fakhri and his brothers in favour of K.Balasigamani on 16.09.1989 and the supplementary agreement was executed on 31.08.1989, on that day, joint venture agreement was executed by Thiru.S.M.Nizamuddin Fakhri and his brother on one part and K.Balasigamani, Managing Director of Gokul Construction as another part. Before commencement of the construction, as per the Joint Venture Agreement, several litigations sprang up, which was not disclosed to K.Balasigamani by Thiru.S.M.Nizamuddin Fakhri and his brothers while entering the joint venture agreement. To settle all those disputes, K.Balasigamani (A1) spend his money and cleared the cloud over the title and took possession of the property. C.M.D.A approval was obtained at the expense of K.Balasigamani (A1). To have ingress and egress to the property, two grounds of land was purchased by K.Balasigamani and gifted it to Corporation of Chennai for formation of road. After clearing all the legal hurdles and made the property fit for construction, Thiru.S.M.Nizamuddin Fakhri and his brothers stealthily started negotiating with third parties to sell the land and attempted to cheat K.Balasigamani and the Power of Attorney executed in favour of K.Balsigamani was cancelled unilaterally. The Power of Attorney coupled with interest cannot be cancelled. On the strength of the Power of Attorney, 9 sale deeds Ex.P.3 to Ex.P.11 were executed. Thiru.S.M.Nizamuddin Fakhri and his family members received about Rs.68 lakhs between 1988 to 2000. With criminal intention, they cancelled the Power of Attorney and executed the Power of Attorney in favour of the defacto complainant. Based on the said Power of Attorney, complaint before C.C.B, Chennai and the petition before Judicial Magistrate under Section 200 of Cr.P.C were filed, which has led to filing of final report before the XI Metropolitan Magistrate, Saidapet, Chennai and taken up for trial in C.C.No.242 of 2003.

22. The defacto complainant has no locus to sustain the complaint, since he ventured to depose about facts which he had no personal knowledge about the events happened prior to his appointment as Power Agent. The cancellation of Power of Attorney executed in favour of K.Balasigamani which is coupled with interest cancelled unilaterally and same is subject matter of the civil suit. The defacto complainant had deposed that, he is not aware of the fact that Rs.5 lakhs was paid to P.M.Arumuga Chettiar for him to relinquish from joint venture tripartite agreement and the deposit to the local authority the required caution deposit by K.Balasigamani (A1) and also registered gift deed to Corporation of Chennai.

23. The accused have proved through evidence marked as defence document. The fact of purchase of two grounds of land by K.Balasigamani (A1) to have ingress and egress to the property. The receipt of money on various occasions by Thiru.S.M.Nizamuddin Fakhri proved through Ex.D.2 series which are stamp receipts signed by Thiru.S.M.Kamaluddin Fakhri's the then power agent of the principals.

24. Pointing out contradictions in the evidence for prosecution and corrections in exhibits the Learned Counsel for the accused submitted that, the dispute of civil nature converted into criminal complaint by manipulation of facts. The defacto complainant in order to grab the property had tinkered the facts and evidence to maintain the criminal case. Though, he was able to succeed before the Trial Court, the Lower Appellate Court had rightly analysed the evidence and acquitted the accused persons. Therefore, the judgment of the Lower Appellate Court has to sustain.

25. The Lower Appellate Court has acquitted the accused 2 to 9 for the reason that they were charged for the offence of conspiracy aiding A1 to fabricate documents and to cheat the Principals of the defacto complainant. Whereas, the proceedings initiated to cancel the sale deeds by lodging complaint before the District Registrar or in any other proceedings, the accused 2 to 9 were not directly involved and further, the cancellation of sale deeds will not lead to a presumption that those sale deeds are created fraudulently with the knowledge of the accused 2 to 9. Particularly, the sale deeds Ex.P.3 to Ex.P.11 executed on the strength of power of attorney deed marked as Ex.B.7 executed by P.W.2. Only on the strength of said Power of attorney the disputed sale deeds Ex.P.3 to Ex.P.11 has been executed. In any event, taking note of the fact that, the parties are before the Civil Court to decide the title and the dispute being predominately Civil in nature, the Lower Appellate Court has extended the benefit of the doubt to the accused 2 to 9.

26. It is to be noted that the documents particularly Ex.D.1, Ex.D.2 (series), Ex.D.7 and Ex.D.9 and testimony of P.W.2, P.W.13, P.W.14, indicates that the land owners through their Power of Attorney (P.W.2) has agreed to transfer their property to Gokul Construction owned by A1. Based on the agreement, under Ex.D.2 series around Rs.60 lakhs has been paid for the improvement of the land and for getting C.M.D.A approval and also met out the other litigations expenses including getting the release of P.M.Arumuga Chettiar, who had lien over the property. In the said circumstances, even though the complainant tries to make out the case of forged sub-divisions and revenue records, having admitted the receipt of the money on executing the Power of Attorney deed which is power of attorney coupled with interest, the allegation of cheating at inception fails. The criminal complaint alleging the power agent had cheated him by selling the property to the accused 2 to 9 fraudulently though prima faciely appear to be an act of crime but on overall consideration of facts, the Lower Appellate Court has rightly concluded that the dispute between the parties has to be settled only through Civil Court. Whereas the criminal proceedings has been initiated with malafide intention. For the said purpose, the Writ proceedings challenging the Order of District Registrar has been admitted as additional documents and been relied upon.

27. The Learned Counsel appearing for the appellant/defacto complainant referring the averments in the affidavit filed in support of Writ Petitions filed by the respondents challenging the District Registrar order submitted that the accused had knowledge of cancellation of Power of Attorney given in favour of A1 and admits that to avoid being cheated, the sale deeds were created. Taking note of the culpability of the accused persons, the Trial Court convicted them, but the Lower Appellate Court filed to confirm the judgment of the Trial Court.

28. The averments in the Writ affidavit reads as under:-

> "4. Since my entire investment was in jeopardy, and to safeguard my interest and to pre-empt further third party

interest in the property and to protect and safeguard my investment and in order to securities my investment, My husband Sri.K.Balasigamani has executed Sale deed document under valid Power of Attorney granted to him and registered as document No.2957/2001 on 06.12.2000 in my favour for my entitlement in the lands of 33 grounds for which I have invested more than 50 lakhs. The said document is pending under Section 47-A for adjudication of proper stamp duty.

5. I submit that immediately after registration of the sale deed My husband K.Balasigamani has filed a suit in C.S.No.65/2001 before this Hon'ble Court for specific performance of the Joint Venture agreement dated 27.08.1988 and 31.08.1990. A status quo in respect of possession has been ordered. In the meanwhile respondents 4 to 11 appointed Mr.P.Dharmachand, the 12th respondent as their Power of Attorney Agent by an unregistered Power of Attorney dated 14.05.2002 and the 12th respondent has attempted to cancel sale deed executed in my favour by Cancellation deed Document No.710 of 2003 dated 09.06.2002 on 10.06.2002. The Sub-Registrar, Mylapore the 3rd respondent rightly refused to register the deed of cancellation under refusal No.30/2002, dated 26.12.2002."

29. The process for alienating their property had commenced in the year 1988 and the receipt of money towards the transaction is admitted by the land owners. While so, the reason for failure to carry out the Joint Venture agreement also palpably explained. In the said circumstances knowing fully well that they do not have clear title over 90 grounds of land, the land owners have projected as if they are the absolute owners of 90 grounds of land. With the said impression, A1 had invested substantially. Thereafter, only in the year 2003, the dispute between the vendors and the Tamil Nadu Wakf Board has come to an end, restricting the right of the vendor to 60 grounds out of 90 grounds. Meanwhile, A1 has spend substantial amount on the strength of the Power of Attorney and Joint venture agreement. While so, the creation of encumbrance by alienating the property to 3rd parties had cause the mistrust.

30. Therefore, the order of acquittal by the Lower Appellate Court is confirmed. These Criminal Revision Petitions filed by defacto complainant and Criminal Appeals filed by State are dismissed. Any observation made in these criminal proceedings, shall have no bearing in the civil dispute pending between the parties. In so far as the documents relied by the both the parties, its admissibility and reliability has to be decided independently. The validity and genuineness of those documents are to be decided independently in the civil proceedings in the manner known to law.

31. Since the charges are not proved beyond doubt, the benefit of doubt is extended to these accused persons by the Lower Appellate Court and same is confirmed by this Court.

07.09.2022

Index :Yes/No
Internet :Yes
Speaking order/Non-speaking order
bsm

To,
1. The III Additional Sessions Judge, Chennai
2. The XI Metropolitan Magistrate, Saidapet, Chennai.

Dr. G.JAYACHANDRAN. J,

bsm

Pre-Delivery Common Judgment made in
Crl.R.C.No.2005 of 2004
and Crl.A.No.1358 of 2004

07.09.2022