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BAIL SLIP in Crl.R.C.No.622 of 2017

The Petitioner/Accused -1 Namely K.Ravindranath aged 56 years S/o Kannu Pillai was directed to be released on bail in and by order of this Court dated 21/04/2017 made in CRP.MP.No.5593 & 5594/2017 in Crl.R.C.No.621 of 2017.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.02.2022

CORAM

THE HON'BLE Ms. JUSTICE R.N.MANJULA

Crl.R.C.No.621 of 2017

K.Ravindranath ... Petitioner/Accused - 1

Vs.

State rep. by.,
Inspector of Police,
C.C.I.W., C.I.D.,
Vellore.
(Crime No.1 of 2003) ... Respondent

Prayer :- Criminal Revision Case filed under Section 397 r/w. 401 of Cr.P.C., praying to set aside the judgment passed against the petitioner in C.A.No.250 of 2011 on the file of I Additional District and Sessions Judge, Vellore dated 10.08.2016 by confirming the conviction and sentence imposed by the learned Judicial Magistrate No.2, Vellore, dated 21.10.2011 in C.C.No.302 of 2007.

For Petitioner : Mr.S.Sairaman

For Respondent : Mr.A.Gopinath
Government Advocate (Crl. Side)

ORDER

This Criminal Revision Case has been preferred challenging the judgment of the learned I Additional District and Sessions Judge, Vellore, dated 10.08.2016 made in C.A.250 of 2011.

2. The case of the prosecution is that the first accused was the Secretary, the second accused was the Assistant Secretary and the third accused was the President of Valathur Primary Agricultural Co-operative Bank; the Secretary is

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responsible for the maintenance of the bank accounts, ledgers and all transactions including the properties of the Bank. The second accused as the Assistant Secretary of the Bank, had got a duty to open ledger sheets for collecting loan repayments, membership contributions and maintain the disbursal register, Day Book and Cash Register; the third accused had got the over all responsibility to maintain all the properties belonging to the Bank. During the period between 14.02.1994 to 09.04.1994 and 31.08.1995 to 01.10.1998, the first accused went on medical leave; during that time, the second accused held the additional charge of the Secretary.

2.1 The first accused had conspired with other accused to misappropriate the money of the Bank and with that intention, between the period from 27.01.2000 to 25.01.2001, he omitted to maintain proper records and make relevant entries. Whenever the members of the Bank/borrowers repay the agricultural loan availed by them, the accused 1 & 2 were in the habit of making entries only in the loan register; whenever the members get the loan amount from the fixed deposit made by them, they make false entries in the loan register; they only disbursed less amount than the actual amount sanctioned as loan; even for the paid loan amount they would not issue proper cash receipts; the accused 1 and 2 had misappropriated a sum of Rs.6,74,628/-; for the fraudulent acts committed by the accused 1 and 2, the third accused also supported and thereby, the accused have committed the offences under Sections 408 r/w 35 and 477(A) of IPC.

2.2 On the surprise inspection made by P.W.2 - Thomas, Divisional Supervisor, Pernampet on 08.06.2001, certain lapses were noticed in the accounts maintained by the Bank; he noticed that for many accounts, entries have been made in the loan register against the debit and credit columns but relevant entries were not made in the Day Books; in view of this, he submitted a special report dated 11.06.2001 to the Special Officer, Central Co-Operative Bank, Vellore. During the relevant time,P.W.4 - Gurunathan, Field Manager at Gudiyatham Branch, also submitted a special report to the Special Officer, Central Co-Operative Bank, Vellore on 23.06.2001 by stating that by exaggerating the pending loan amount and by disbursing the smaller loan amounts, the first accused had misappropriated the difference in the above said amount.

2.3 On receiving the special reports, P.W.3 - Ranganathan, Deputy Registrar of Tirupattur Division appointed P.W.31 - Thangavelu as the Enquiry Officer and issued proceedings - Ex.P2. Since Thangavelu went on leave, a revised proceedings was issued for appointing one Rajendiran - P.W.32 as the Enquiry Officer. After completing the enquiry, P.W.32 - Rajendiran has

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submitted a report stating that a total sum of Rs.26,25,529/- have been misappropriated in the Bank during the relevant period.

2.4 On the complaint given by P.W.1 - Thandavamoorthy, Deputy Registrar of Co-Operative Bank, a case in Crime No.1 of 2003 of CCIW Police was registered and an F.I.R was prepared on 05.01.2003 on the complaint given on the same day. P.W.33 - Deivasigamani, Inspector of Police, had registered a case and prepared the F.I.R. He took up the case for investigation and seized the relevant records and arrested the accused 1 and 3 namely Ravindranath and Boopathy on 05.01.2003 and sent them for remand. During the pendency of the investigation, P.W.33 got transfered to some other place so, P.W.34 - Pandari, Inspector of Police, succeeded him and continued the investigation. He examined the rest of the witnesses and completed his investigation and filed a charge sheet against the accused on 30.05.2005.

3. After the case was taken on file and on being satisfied with the materials available on record, the learned trial Judge has framed the charges against the first and second accused for the offences under Sections 408 r/w. 35 and 477(A) r/w. 35 of IPC and against the third accused for the offence under Section 408 r/w. 35 of IPC. When the accused were questioned, they pleaded innocence and claimed to be tried.

4. During the course of the trial, on the side of the prosecution 34 witnesses were examined as P.W.1 to P.W.34 and 60 documents were marked as Exs.P1 to P60. When the incriminating part of evidence surfaced from the evidence of the complainant was put to the accused 1 to 3 under Section 313 Cr.P.C., they denied their involvement. On the side of the defence, no witness was examined and no document is marked.

5. At the conclusion of the trial and on considering the evidence available on record, the learned trial Judge found the accused guilty as under:-

Rank	Provisions under which convicted	Sentence
A1	408 r/w 35	One year Rigorous Imprisonment and imposed a fine of Rs.1,000/- in default to undergo 15 days Rigorous Imprisonment.

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	477(A)	One year Rigorous Imprisonment and imposed a fine of Rs.1,000/- in default to undergo 15 days Rigorous Imprisonment.

The sentences shall run concurrently.

The second and third accused were found not guilty and acquitted.

6. The Criminal Appeal preferred by the first accused in C.A.No.250 of 2011 before I Additional District and Sessions Judge, Vellore, was also dismissed on 10.08.2016. Aggrieved over that, the first accused preferred this present revision case.

7. Heard the learned counsel for the petitioner/first accused and the learned Government Advocate (Criminal Side) appearing for the respondent/State.

8. The learned counsel for the petitioner/first accused submitted that the Enquiry Officer - Rajendiran has not been given any enquiry proceedings for the purpose of conducting enquiry, after the said previous Enquiry Officer - Thangavelu went on leave. In the enquiry made under Section 81 of the Tamil Nadu Co-Operative Societies Act, the enquiry has to be completed within a mandatory period of three months and at the maximum extended period of six months. Despite the Enquiry Officer was appointed on 11.07.2001, the enquiry report has been submitted on 18.03.2002 and hence, the enquiry report itself is violative of Section 81(4) and it is not valid in the eye of law. Hence, the case registered basing on the enquiry report itself is unlawful. The Day Book was not marked as a document by the prosecution despite it is the best evidence. When the Enquiry Officer has given a finding that all the three accused were responsible for the affairs of the Bank and the learned trial Judge had acquitted the second and third accused, hence the first accused should also been given with benefit of doubt.

8.1 The learned trial Judge had found the first accused guilty only based on the oral evidence of the prosecution witnesses; there is no dispute with regard to the signatures of the witnesses affixed on the documents maintained by the Bank in connection with the loan transactions; the witnesses have deposed evidence in favour of the prosecution just to avoid from the liability to repay the loan amount availed by them; when the case of the prosecution is relied on the documentary evidence, it is the duty of the prosecution to bring the relevant

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documents as evidence before the Court; since the prosecution has omitted to produce the relevant documents, the Courts below ought to have held that the charges against the accused including the first accused were not proved beyond reasonable doubt and hence, the revision case should be allowed.

9. The learned Government Advocate (Criminal Side) appearing for the respondent State submitted that the witnesses have stated in their evidence that lesser amount were disbursed to borrowers despite higher amounts were sanctioned as loan and the accused had misappropriated the remaining amount by making false entries on records; the Officers of the Co-Operative Bank who have conducted the inquiry and prepared a special report have also stated in their evidence about the misappropriation; the learned trial Judge and the First Appellate Judge have appreciated the evidence in a proper perspective and found the first accused guilty and hence, it needs no interference.

9.1 The learned Government Advocate further submitted that the role of the High Court in revisional jurisdiction is very limited and it is that of a supervisory jurisdiction and the Court can call for records and examine it only for the purpose of satisfying itself as to the correctness and legality of propriety of any finding, sentence or orders. In respect of his above said contention, he relied on the decision of the Hon'ble Supreme Court held in the case of 'Kishan Rao Vs. Shankargouda' reported in '(2018) 8 Supreme Court Cases 165'. The attention of this Court is attracted to para 12 and the same is extracted as under:-

> 12. This Court has time and again examined the scope of Section 397/401 Cr.P.C. and the ground for exercising the revisional jurisdiction by the High Court. In State of Kerala vs. Puttumana Illath Jathavedan Namboodiri, 1999 (2) SCC 452, while considering the scope of the revisional jurisdiction of the High Court this Court has laid down the following:
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> > "5......In its revisional jurisdiction, the High Court can call for and examine the record of any proceedings for the purpose of satisfying itself as to the correctness, legality or propriety of any finding, sentence or order. In other words, the jurisdiction is one of supervisory jurisdiction exercised by the High Court for correcting miscarriage of justice. But the said revisional power cannot be equated with the power of an appellate court nor can it be treated even as a second appellate jurisdiction. Ordinarily, therefore, it would not be appropriate for the High Court to reappreciate the evidence and come to its

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own conclusion on the same when the evidence has already been appreciated by the Magistrate as well as the Sessions Judge in appeal, unless any glaring feature is brought to the notice of the High Court which would otherwise tantamount to gross miscarriage of justice. On scrutinizing the impugned judgment of the High Court from the aforesaid standpoint, we have no hesitation to come to the conclusion that the High Court exceeded its jurisdiction in interfering with the conviction of the respondent by reappreciating the oral evidence.....”

10. Point for Consideration :-

Whether the finding of the guilt of the first accused for the offences under Sections 408 r/w 35 and 477(A) of IPC, based on the materials available on record is fair and proper?

11. The origin of this case is the report submitted by P.W.2 – Thomas, who had conducted a surprise inspection in the Bank on 08.06.2001. He has stated in his report submitted to the Field Manager on 11.06.2001 that out of 43 loan accounts, there were no entries made in the Day Book for some 12 loan accounts and some of the Day Books were not given to him for inspection. Hence, he requested to appoint an Enquiry Officer to enquire into the whole scam and to file a report. His letter dated 11.06.2001 forms part of Ex.P4. On the basis of the said report, P.W.1 – Thandavamurthy the then Deputy Registrar of Vellore District Central Co-Operative Bank Ltd., wrote a letter to the Deputy Registrar, Thirupattur Division on 14.06.2001 and endorsed the views of P.W.2. P.W.1 had also written another letter to the Deputy Registrar on 03.07.2001 by stating that he got a report from the Field Manager, Gudiyatham that there was some misappropriation committed in the jewel loan files also and it required appropriate action. Only thereafter, the proceedings was issued by P.W.3 – Ranganathan, Deputy Registrar, Thirupattur, for appointing P.W.31 – Thangavelu as Enquiry Officer. Since Thangavelu went on leave, another proceedings dated 28.09.2001 was issued by the then Deputy Registrar of Thiruppatur District, P.W.3 – Ranganathan for appointing P.W.32 – Rajendiran as Enquiry officer.

12. So far as this revision case is concerned, the misappropriation is found to have been committed in connection with the loans pertaining to P.W.12, P.W.15, P.W.19, P.W.21, P.W.23, P.W.24 and P.W.28. The following differences in the amounts are said to have been misappropriated by the petitioner/first accused:-

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	Sanctioned Amount	Given Amount	Alleged misappropriation
P.W.12	41,750	10,180	31,570
P.W.15	40,880	-	40,880
P.W.19	17,395	10,000	7,395
P.W.21	11,240	2,000	9,240
P.W.23	12,775	6,000	6,775
P.W.24	30,630	15,000	15,630
P.W.28	11,750	10,000	1,750
			1,13,240

13. On perusal of the judgment of the learned trial Judge, it is seen that as against P.W.28 – Kanniyan, he relied upon two documents, Exs.P10 & P38. Ex.P10 is the statement of P.W.28 before the Enquiry Officer and Ex.P38 is the loan file of P.W.28. According to P.W.28, a sum of Rs.1,750/- was misappropriated. He has stated that it is shown in his loan file that on 28.06.2000, a sum of Rs.11,750/- was sanctioned to him as loan but actually he was given with a sum of Rs.10,000/- only. In this connection, the Enquiry Officer – P.W.32 has produced the loan file as Ex.P38.
On perusal of the said loan file, it is seen that P.W.28 has affixed his signature in the loan application and in which a loan amount of Rs.11,750/- had been requested on 28.06.2000 and a loan of Rs.11,750/- has been sanctioned on the same day. A signed withdrawal form for Rs.11,750/- dated 28.06.2000 is also produced along with Loan Card cum Cash Account Folio. In the said folio, there are entries found for the disbursal of a sum of Rs.11,750/- on 28.06.2000. Despite the difference was found due to the omission of entries made in the Day Books, they were not produced before the trial Court. At no point of time P.W.28 has given any complaint against any of the accused by stating that he was asked to affix his signature for higher amount but actually he was given with lesser amount. Unless the basic documents on which the false entries were alleged to have been made in order to commit misappropriation are produced before the Court, no finding about the commission of misappropriation can be given.

14. The important documents namely the Day Book and the loan registers of the individuals were not shown to the Court in order to correlate the loan file entries with that of the Day Book and to prove that the first accused had committed misappropriation by making false entries.

15. P.W.15 - Balasundaram has stated that he had availed only a sum of Rs.29,000/- as loan but it has been falsely shown against his loan account that a sum of Rs.40,880/- has been sanctioned and disbursed to him. The loan file pertaining to P.W.15 is produced as Ex.P40. In fact, P.W.15 has denied his very signature in his loan file document. Despite the loan files are maintained by the Bank and the member of the Bank, P.W.15 claimed that the papers did not contain his signature, the prosecution has not taken any steps to get his admitted signatures in order to compare the same with the disputed signature and to get a report from a Scientific Expert. His loan file contains a page of loan register, which is said to be the loan sheet of the loan register. It is seen from the said document that no entry was made even for the admitted loan amount of Rs.29,000/-. P.W.15 has stated in his evidence that before five years, he availed a sum of Rs.29,000/- as loan that means it would have been in the year 1995. But the Loan Register Folio for P.W.15 was not produced either for the year 1995 or for the disputed year 2000. Excepting the oral evidence of P.W.15 and the evidence of P.W.32 by producing Ex.P40, no other connected document is produced to establish the loan misappropriation as against P.W.15. P.W.15 has not given any complaint to any of the officials of the Bank by alleging the act of misappropriation. Unless the basic document which contains the false entries is produced before the Court, no finding as to the commission of misappropriation can be rendered.

16. P.W.21 - M.Munirathinam has stated that on 05.07.2000, a sum of Rs.11,240/- was sanctioned on his application but he was disbursed with only with Rs.2,000/- and thereby, a sum of Rs.9,240/- was misappropriated. His loan file is marked as Ex.P43. It is seen that in the loan application Form-I, loan sanction order and the withdrawal form, P.W.21 has affixed his signature. It is not disputed by P.W.21 that the signatures affixed in the said documents are not his signatures. It is claimed by the prosecution that in Ex.P43, cash chitta and Day Book pages have been produced. But from the entries made in the above documents, it is seen that they pertained to the year 1996 and they have no relevance to the time of occurrence. Unless the basic document on which the false entries were alleged to have been made are produced before the Court, no finding as to the misappropriation can be rendered.

17. P.W.23 - G.Munirathinam has stated that on his loan application dated 28.06.2000, a sum of Rs.12,775/- was sanctioned but he was disbursed with only Rs.6,000/- and thereby, a sum of Rs.6,775/- was misappropriated; his loan file is produced as Ex.P41. He has affixed his signature in the loan application near the loan sanction order and in the cash

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withdrawal form. In all these documents, the amount given to him was shown as Rs.12,775/- only. Despite, the correspondent entries made in the Day Book are alleged to be the false entries, the same was produced before the trial Court. Neither P.W.23 has given any complaint on the basis of the above allegations. Unless the basic document on which the false entries were alleged to have been made are produced before the Court, no finding as to the misappropriation can be rendered.

18. P.W.12 - Rasheed Ahmad has stated that as against the sanctioned loan amount of Rs.41,750/-, he was given with only Rs.10,180/- and the balance amount of Rs.31,570/- had been misappropriated by the accused. P.W.12 has also given his statement before the Enquiry Officer and they have been marked as Ex.P4. P.W.32 - Enquiry Officer has produced the loan file of P.W.12 as Ex.P54. On perusal of the loan file of P.W.12, it is seen that in Form I- application for the loan and Form V- loan sanctioned order, the signature of P.W.12 is found. In Form-I application, P.W.12 has requested to sanction a sum of Rs.42,750/- as crop loan for the period between 2000-2001. In Form-V, it is seen that he has been sanctioned with a loan of Rs.41,750/-. This has been evidenced by the withdrawal slip given by P.W.12 on 29.12.2000.

18.1. The loan card and the loan account sheet of P.W.12 would also show that the loan amount has been disbursed under two types i.e., a sum of Rs.7,790/- in kind and a sum of Rs.33,780/- in cash, making together Rs.41,750/-. The loan file also contains the Loan Register Folio of P.W.12 and some Day Book entries. But it is seen that all these relate to the year 1997. Unless the relevant Loan Register Folios and the Day Books relating to the relevant period are produced before the Court, it cannot be compared whether misappropriation has been done by making false entries in the same. So far as the other loan documents are concerned, the borrower himself has affixed his signature. It is not his contention that the signature in the loan papers does not belong to him. Neither P.W.12 had filed any complaint against the Officials of the Co-Operative Bank on the allegation of any fraud in disbursing the loans. The Loan Register Folio did not contain entries even for the admitted disbursal of Rs.10,180/-. This would once again confirm that the relevant registers are not produced for comparison.

19. P.W.24 - Ranganathan has stated that as against the sanctioned loan of Rs.30,630/- on 25.01.2001, a sum of Rs.15,000/- alone was given to him and the balance of Rs.15,630/- was misappropriated by the accused. P.W.24 had not given any statement before the Enquiry Officer. However, P.W.32 - Enquiry Officer has produced Ex.P57- loan file of the said

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Ranganathan. On perusal of Ex.P57, it is seen that the loan application in Form-I has been submitted by him on 25.01.2001 and he requested to sanction a sum of Rs.31,500/-. However a sum of Rs.30,630/- had been sanctioned under Form-V. In both the documents, P.W.24 has affixed his signature. Out of the total loan amount of Rs.30,630/- a sum of Rs.2,800/- was issued in kind and a sum of Rs.27,830/- was issued in cash on 25.01.2001. In order to evidence the cash disbursal of loan, P.W.24 has also executed a cash credit withdrawal slip dated 25.01.2001. The loan card and cash credit account sheet of P.W.24 would show the above entries on the relevant date.

19.1 Though the prosecution has claimed that the first accused has manipulated the Day Books and misappropriated a portion of the sanctioned loan amount, the relevant records were not produced before the trial Court. Unless the basic records are produced, it is not possible for the Court to compare the entries in the loan file along with the loan register or the Cash book. P.W.24 - Ranganathan did not deny his signatures found in the above document of his loan file. At no point of time, he has given any complaint against the first accused by alleging that by way of falsification of accounts, the loan amount meant to be disbursed to him misappropriated by the first accused.

20. P.W.19 - Govindaraj has stated that as against the sanctioned loan of Rs.17,395/- on 24.02.2000, he was given with only Rs.10,000/- and the balance amount of Rs.7,395/- was misappropriated by making false entries in the records. The Enquiry Officer - P.W.32 has deposed evidence and has produced Ex.P17 - loan file of P.W.19 and the statement - Ex.P6. On perusal of the records, neither Form-I nor Form-V or the withdrawal slip pertaining to this loan account is available. Some of the Loan Register Folio and receive register entries produced with regard to P.W.19, are seen to be pertaining to the years 1988, 1994 etc. In fact, the Loan Register Folio of P.W.19 would show that Rs.17,395/- has been entered as the loan amount given to P.W.19. When the Loan Register Folio of the individual itself shows that the loan amount was disbursed to him correctly, it cannot be said that he has been given with a lesser amount against the higher amount sanctioned as loan.

21. The trial Court has found that a sum of Rs.13,460/- was misappropriated as against the sanctioned loan amount of Rs.45,000/- for P.W.11 - Mohanam. The Appellate Court has reversed the said finding. And the prosecution has not filed any appeal challenging the same.

22. P.W.31 - Thangavelu, who was first appointed as the Enquiry Officer has stated in his evidence that he was appointed

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as the Enquiry Officer to make inquiries with regard to loan accounts from 1142 to 2670. But it is seen that the Enquiry Officer had gone beyond his powers and made an exhaustive Enquiry about the loans which do not connect to the loan Nos.1142 to 2670.

23. It is alleged by the prosecution that the first accused is the custodian of the registers and all other Books of Accounts pertaining to the loans given to the members and by making use of his access to the records, he had misappropriated the portion of the loan amount sanctioned to the borrowers by making false entries in the relevant registers. Hence, it is obligatory on the part of the prosecution to produce the relevant records in order to prove that false entries have been made on them for the purpose of committing misappropriation.

24. According to Section 61 of the Indian Evidence Act, the contents of the document should be proved either by primary evidence or by secondary evidence. Primary evidence is the very document on which the false entries is said to have been made and the secondary evidence are the certified copies of the original duly authenticated by the concerned Officer. Since false entries have been made on the registers and records said to have been maintained by the first accused, the original records ought to have been produced.

25. No doubt, the loan registers and other Books of Accounts maintained by the Bank would be voluminous and bulky. But that cannot be the reason for non-production when false entries are said to have been made on them. Unless the origin of the offence i.e., the entries made in the concerned registers are produced and proved, no reliance can be given to mere oral statements of the borrowers who were examined before the trial Court as P.Ws.12, 15, 19, 21, 23, 24 & 28.

26. It is seen from the judgment of the trial Court that the trial Judge had believed the oral evidence of the borrowers and the Enquiry Officer - P.W.32, though the loan files relating to the borrowers do not show anything as to the allegation of misappropriation. In fact, P.W.2 - Thomas has stated in his report that some of the registers were not produced before him for inspection. In such case, the Investigation Officer should have got a search warrant from the Court and recovered the relevant registers. Neither any petition is filed under Section 91 of Cr.P.C., to call for the records from the person under whose custody they were lying.

27. In fact, the Enquiry Officer - P.W.32 has stated in his evidence that he did not take any steps to send the disputed signatures to the Forensic Expert for comparison and get a

report. He has stated that the annual inspection of the Bank have been done promptly till the previous years. During those periods for which annual inspections were done, no discrepancy in the records has been pointed out. Even the deposit entries or other clerical errors are allowed to be rectified. His categorical evidence is that cash chitta receipts, loan disbursal proceedings, loan register and credit loan applications were the regular duties of the second accused despite the first accused was the over all in-charge of the Bank. But the learned trial Judge had acquitted the second accused from all the charges.

28. As per Section 57 of the Indian Evidence Act, all facts can be proved through oral evidence except the contents of the documents. So in a case based on the contents of the documents, those facts could only be proved through documents and not mere oral evidence.

29. It has been already pointed out that important documents were withheld by the prosecution. If the primary documentary proof is not produced, the Courts have to draw an adverse presumption against the party who withheld the documents. It is a serious case in which it is alleged that lot of falsification of records have been made and that led to a larger scale scam in the Bank. The public money is used by the Bank for the purpose of welfare of the agriculturists. Hence, the supervising authorities of the Bank or the Investigation Officer ought to have taken due steps to cause the documents produced.

30. With the mere statement of the borrowers before the court, it cannot be presumed that as against the larger amounts sanctioned for them they were given with only lesser amounts as loan. The borrowers are interested persons who might intend to escape from the liability of paying the actual loan amount by saying that only lesser amount were given to them. In fact, they had signed all the loan papers and issued withdrawal slips without any objection. It has been observed already that the borrowers have not given any complaint before the initiation of Section 81 enquiry, by alleging that they have been made to sign papers which had false details. The enquiry proceedings preceded the report of an Inspecting Authority. The said report was sent to the Deputy Registrar (through proper channel) and in which it is stated that there might be a large scale scam. Under such circumstances, the Enquiry Officer at least should have called for the records while inquiring the concerned Officials.

31. No proper investigation has been done by seizing the relevant records. Though the Secretary is responsible for the overall affairs of the Bank, he cannot act individually without

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the support of other Officials. Since the relevant documents were not produced to substantiate the case of the prosecution, the finding of the guilt of the first accused calls for interference.

32. It has been insisted by the learned Government Advocate for the prosecution that the scope for re-appreciation of the evidence during the revision proceedings is very limited. It is true that once the trial Court had appreciated the facts and the First Appellate Court also re-appreciated the same, there cannot be any more appreciation about the facts proved before the court, even if the High Court feels that the evidence can be appreciated in some other angle. But as held in the judgment of the Hon'ble Supreme Court in the case of Kishan Rao Vs. Shankargouda reported in (2018) 8 Supreme Court Cases 165, if any glaring feature which would otherwise tantamount to gross miscarriage of justice is brought to the notice of the High Court, the same cannot be ignored and the High Court has to deal with it by invoking its revisional jurisdiction.

33. In this case in hand, which is based on documents findings have been rendered on the basis of the oral evidence of the witnesses, without looking into the documents. Unless the documents are produced and proved no findings as to the commission of the offence by falsifying the records could be recorded. This gross and glaring omission resulted in miscarriage of justice cannot be neglected and it warrants interference. In view of the foregoing discussion, I feel that the judgment of the Court below has to be set aside.

34. In the result, this Criminal Revision Case is allowed and the judgment of the I Additional District and Sessions Judge, Vellore District, dated 10.08.2016 made in C.A.No.250 of 2011 is hereby set aside.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

Sni

To

1. The I Additional District and Sessions Judge,
   Vellore.

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2. The Judicial Magistrate No.2,
   Vellore.

3. -do-through the Chief Judicial Magistrate,
   Vellore.

4. The Inspector of Police,
   C.C.I.W., C.I.D. Vellore.

5. The Public Prosecutor,
   High Court, Madras.

COPY TO
The Section Officer,
Criminal Section,
High Court, Madras-104.

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GPL(CO)
CT 30/03/2022

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