



WEB COPY



Crl.A.No.306 of 2010

IN THE HIGH COURT OF JUDICATURE AT MADRAS

JUDGMENT RESERVED ON: 02.02.2023

JUDGMENT DELIVERED ON: 17.07.2023

CORAM:

THE HON'BLE Mr. JUSTICE P.VELMURUGAN

Crl.A.No.306 of 2010

State represented by
The Deputy Superintendent of Police,
Vigilance and Anti Corruption
(Special Investigation),
Chennai 600 008.

... Appellant

Vs.

1. Narayana Sankaran

2. N.Rajagopalan

3. P.Damodharan

4. S.Ramakrishnan

5. T.Dhanasingh

6. Selvaraj

7. A.Lawrence @ Sundar

8. A.Vairavanathan

... Respondents



Crl.A.No.306 of 2010

Prayer:

WEB COPY

Criminal Appeal filed under Section 378 Cr.P.C., to set aside the judgment of acquittal of the respondents/accused (A1 to A4 & A6-A9) passed by the learned IV Additional Sessions Judge, Sessions Court, Chennai in C.C.No.17 of 1987 dated 16.04.2008, convicting the respondents/Accused (A1 to A4 & A6 to A9) for the offences framed against them.

For Appellant : Mrs.G.V.Kasthuri
Additional Public Prosecutor

R1 : Died

For R2 & R3 : Mr.Aswin Sam G.R
for Mr.R.N.Amarnath

For R4 : M/s.Ganesh Rajan
J.Asokan

For R5 : Mr.K.Selvarangan

For R6 : Mr.S.Suresh

For R7 : Mr.M.Karthik

For R8 : Mr.J.Kalidas



Crl.A.No.306 of 2010

JUDGEMENT

WEB COPY This Criminal Appeal has been filed against the judgment of acquittal dated 16.04.2008 passed in C.C.No.17 of 1987 on the file of the learned IV Additional Sessions Judge, Sessions Court, Chennai.

2. Appellant is the State. The respondents are A1 to A4 & A6-A9. The appellant/Police registered a case in Cr.No.1/AC/84 against the respondents and two others for the following offences:

<i>Accused</i>	<i>Offences under Sections</i>
A1, A3 and A4	120(B) read with 467, 468, 471 read with 467 and 468, 420, Section 109 read with 467, 468, 471 read with 467 and 468 and Section 420 and Section 5(1)(a) and (d) read with 5(2) of Prevention of Corruption Act, 467 (69 counts), 468 (69 counts) IPC. 471 read with 467 and 468 (69



Crl.A.No.306 of 2010

<i>Accused</i>	<i>Offences under Sections</i>
	counts) IPC, 109 read with 471 read with 467 and 468 (69 counts) 420 (69 counts) and Section 109 read with 420 and Section 5(2) read with 5(1)(a) and (d) Prevention of Corruption Act.
A2	120(B) read with 467, 468, 471 read with 467 and 468, 420, Section 109 read with 467, 468, 471 read with 467 and 468 and Section 420 and Section 5(1)(a) and (d) read with 5(2) of Prevention of Corruption Act, 467 (69 counts), 468 (69 counts) IPC. 471 read with 467 and 468 (69 counts) IPC, 109 read with 471 read with 467 and 468 (69 counts) 420 (69 counts) and



Crl.A.No.306 of 2010

<i>Accused</i>	<i>Offences under Sections</i>
	Section 109 read with 420 and Section 5(2) read with 5(1)(a) and (d) Prevention of Corruption Act and Section 109 read with 419 and 420 IPC
A6 and A7	120(B) read with 467, 468, 471 read with 467 and 468, 420, Section 109 read with 467, 468, 471 read with 467 and 468 and Section 420 and Section 5(1)(a) and (d) read with 5(2) of Prevention of Corruption Act, 467 (69 counts), 468 (69 counts) IPC. 471 read with 467 and 468 (69 counts) IPC, 109 read with 471 read with 467 and 468 (69 counts) 420 (69 counts) and Section 109 read with 420, Section 419 and 420 IPC.
A5	120(B) read with 467, 468, 471 read with 467 and 468, 420,



Crl.A.No.306 of 2010

<i>Accused</i>	<i>Offences under Sections</i>
	Section 109 read with 467, 468, 471 read with 467 and 468 and Section 420 and Section 5(1)(a) and (d) read with 5(2) of Prevention of Corruption Act, 467 (69 counts), 468 (69 counts) IPC. 471 read with 467 and 468 (69 counts) IPC, 109 read with 471 read with 467 and 468 (69 counts) 420 (69 counts) and Section 109 read with 420 and 109 read with 5(2) read with 5(1)(a) and (d) Prevention of Corruption Act and Section 419 and 420 IPC.
A8	120(B) read with 467, 468, 471 read with 467 and 468, 420,



Crl.A.No.306 of 2010

<i>Accused</i>	<i>Offences under Sections</i>
	Section 109 read with 467, 468, 471 read with 467 and 468 and Section 420 and Section 5(1)(a) and (d) read with 5(2) of Prevention of Corruption Act, 467 (69 counts)IPC, 471 read with 467 and 468 (69 counts) IPC, 109 read with 471 read with 467 and 468 (69 counts) 420 (69 counts) and Section 109 read with 420(69 counts) 109 read with 4(2) read with 5(1)(a) and (d) Prevention of Corruption Act.
A9	120(B) read with 467, 468, 471 read with 467 and 468, 420, Section 109 read with 467, 468, 471 read with 467 and



Crl.A.No.306 of 2010

<i>Accused</i>	<i>Offences under Sections</i>
	468 and Section 420 and Section 5(1)(a) and (d) read with 5(2) of Prevention of Corruption Act, 467 (69 counts)IPC, 471 read with 467 and 468 (69 counts) IPC, 109 read with 471 read with 467 and 468 (69 counts) 420 (69 counts) and Section 109 read with 420 (69 counts) 109 r/w 4(2) r/w 5(1)(a) and (d) Prevention of Corruption Act.

After investigation, the appellant/Police laid a charge sheet for the abovesaid offences as against the respondents before the Sessions Court, Chennai. The case had been taken on file in C.C.No.17 of 1987 and it was made over to the IV Additional Sessions Judge, Chennai. The IV Additional Sessions Judge, after verifying all the records, framed charges against the accused persons. Three of the accused have turned approvers and they have been cited as witnesses.



Crl.A.No.306 of 2010

3. In order to substantiate the charges framed against the accused persons, on the side of the prosecution, as many as 62 witnesses were examined as P.Ws.1 to 62 and 757 documents were marked as Ex.P1 to 757.

4. After completing the examination of the prosecution witnesses, incriminating circumstances were culled out from the evidence of the prosecution witnesses and the same were put before the respondents/accused persons by questioning the accused persons under Section 313 CrP.C., and the same was denied by the respondents/accused persons as false and they pleaded not guilty. On the side of the respondents/accused persons, no witness was examined and only one document was marked as Ex.D1.

5. On completion of trial, after hearing the arguments advanced on either side and by considering the material facts, the Trial Court found that the prosecution has not proved its case beyond reasonable doubt and held that the respondents are not guilty of the offences as alleged against them and acquitted all the respondents in respect of the charges framed against them. Aggrieved by the same, the State has filed this Criminal Appeal before this



Crl.A.No.306 of 2010

WEB COPY

6. The case of the prosecution is that, during the period from February 1983 to September 1983, there was scarcity in electricity and due to that, there was frequent power cuts in the State. Therefore, production of cement was not adequate to meet out the heavy demands of public. Hence, during 1982 to 1983, the Government of India has issued Import and Export Policy and imported the cement through State Trading Corporation of India and the State Government and Union Territories. The Tamil Nadu Cement Corporation [herein after called as TANCEM] was the designated State Agency to import cement under open general licence. The TANCEM had imported cement from North and South Korea during the year 1982 - 1983. The imported cement was not for sale through stockist. TANCEM invited applications from the public from 03.03.1983 onwards, stipulating that the filled-up applications should be accompanied by copies of the approved plans, Engineer's certificates regarding cement requirement and permission issued by the Municipality Authority for construction of superstructure. A1 is the Marketing Officer of TANCEM.



Crl.A.No.306 of 2010

7. A9 who is the cement stockist, approached P.W.1, who is the approver and during February 1983, he requested P.W.1 to assist them for preparing bogus building plan, cement adequacy certificate and building permission for applying cement to TANCEM in fictitious name and address. P.W.1 initially was reluctant, but later agreed to co-operate with A1 and A9, since A9 promised to pay Rs.500/- for each bogus application. P.W.1, with the assistance of his son P.W.2, A1, A4 and A10 started preparing bogus documents and supplied the same to A9. A2 was the Personal Secretary to the Marketing Manager and A3 is the Accountant of TANCEM, who approached A5, who is yet another cement stockist at Nanganallur and suggested him of the letter which speaks about bogus cement applications for requirement up to 10 tons, and they could hold it in getting allotment of cement. A5 prepared bogus application with the help of P.W.3, as requested by A2 and A3. Based on the bogus application, delivery orders were handed over to A5 to A9 on payment of necessary amount due. Therefore, the accused persons cheated TANCEM and obtained stocks of imported cements, for which, they are not legally entitled to. In this connection, 69 bogus applications were taken up for investigation and final report was filed against the accused persons for the



Crl.A.No.306 of 2010

offences under Section 120-B read with Sections 467, 468, 471 read with Sections 467 and 468, 420, 109 IPC read with Sections 467, 468, 471 read with Sections 467 and 468 and 420 IPC and under Section 5(1)(a) and (d) read with Section 5(2) of the Prevention of Corruption Act.

8.Learned Additional Public Prosecutor appearing for the appellant submitted that the trial Court failed to appreciate the evidence of prosecution witnesses P.Ws.1 to 5 and P.W.59 and the documents marked as exhibits Exs.P1 to P.757, in proper prospective to hold the charges against the accused persons are proved and resultantly, the trial Court ought to have convicted the accused persons. He further submitted that all the contradictions pointed out by the trial Court are only minor, which would not go to the root of the case of the prosecution. The trial Court failed to appreciate the evidence of P.Ws.1 to 3 who are the approvers in this case, who have stated that the entire case of forgery, falsification of documents etc., were committed by them along with the other accused persons. The trial Court gave much importance to the minor contradictions regarding consultation of sanctioning authority with the Investigating Officer, which are not material contradictions in deciding the



Crl.A.No.306 of 2010

competency of the sanctioning authority. The F.I.R was registered only after the preliminary enquiry, as per the law laid down by the Hon'ble Supreme Court of India in the case of Sirajudeen Vs. State of Madras reported in A.I.R.1977 in Page No.520 which is a pre -requisite formality to register the F.I.R against a public servant. The trial Court failed to consider the same and erroneously held that during the commencement of investigation, the appellant/Police registered F.I.R, which is erroneous. The evidence of P.Ws.1 to 3, who are the approvers, is corroborated by the evidence of P.Ws.4 and 5 (Town Planning Officers) working in the Alandur Municipality, who compared the original application forms given in the Alandur Municipality for approval of house plan and other original documents by the applicants with that of the forged application forms and other documents meant for seeking cement, seized from the premises of P.Ws.1 to 3 and the other accused persons and they have identified the documents seized from P.Ws.1 to 3 and the other accused persons and the same were forged. The trial Court failed to consider the evidence of P.W.59, the document expert, who compared the specimen signature of A5, who was originally shown as A6 in the charge sheet in C.C.No.17 of 1987, A6 who was originally shown as A7 in the charge sheet in



Crl.A.No.306 of 2010

C.C.No.17 of 1987 and A7 who was originally shown as A8 in the charge sheet in C.C.No.17 of 1987, and the signatures tallied with forged documents such as challans of Canara Bank, Nanganallur and other files created by P.Ws.1 to 3 in connivance with the other accused persons and the abovesaid three accused persons were working under A5 and originally A5 was shown in the charge sheet as “dead” during trial and A8 was originally shown as A9 in the charge sheet in C.C.No.17 of 1987. Since one of the accused persons absconded and three of accused persons have turned as approvers, the rank of the accused persons shown in the F.I.R and charge sheet were re-arranged in C.C.No.17 of 1987. In order to get wrongful gain, all the accused persons prepared bogus applications and bills and they supplied cement through stockists and therefore, the purpose of the scheme itself is defeated. Hence, actual users are unable to get the cement in actual price. All the accused persons have committed the charged offences. However, the trial Court erroneously held that the prosecution has not proved its case “beyond reasonable doubt” and the evidence of approvers did not corroborate with the independent witnesses. Except three persons, ie., P.Ws.41, 45 and 54, no other persons were examined. Hence, the impugned judgment of the Trial Court is perverse and he prayed



Crl.A.No.306 of 2010

that the Criminal Appeal may be allowed and the accused persons may be convicted.

9. Learned counsel for the respondents/accused persons submitted that the sanctioning authority, without applying mind, had accorded sanction and he has not obtained authority to accord sanction to prosecute the accused persons. Only based on the evidence of approvers, the conviction cannot be recorded. In the present case, the evidence of approvers did not corroborate with the evidence of independent witnesses.

10. Further, the learned counsel for the respondents contended that P.W.1 failed to comply with the mandate of Section 154 Cr.P.C. before registering the First Information Report. From the evidence of P.W.1, it is seen that, before registering the First Information Report, he collected the entire materials based on the information provided by one individual. P.W.61, who registered the First Information Report, is not an Officer attached with the Office of TANCEM. The TANCEM never preferred any complaint before P.W.61. There are no materials to show that all the accused persons have



Crl.A.No.306 of 2010

entered into criminal conspiracy to cheat TANCEM. The prosecution has not proved that all the applications are bogus and the persons mentioned in the list are fictitious persons. No independent witnesses were examined in this case. The trial Court had rightly given finding that the prosecution has failed to prove its case beyond all reasonable doubts and thereby acquitted the respondents/accused persons. Hence, for the reasons stated supra, there is no merit in the Criminal Appeal and the same may be liable to be dismissed.

11. Learned counsel appearing for the 8th respondent/A9 submitted that the cement imported from South Korea was not seized during the search conducted by the Investigating Officer. The documents alleged to have been seized from A9, do not pertain to purchase of the cement through TANCEM. The Demand Drafts issued in favour of TANCEM were not obtained from the Bank Account of A9 and therefore, there is no proof to show that A9 colluded with P.W.1 in fabricating the documents. None of the seizure mahazar witnesses have been examined in this case. Learned counsel for the respondents further submitted that P.W.4 and P.W.5 who were the Town Planning officers of Alandur Municipality, have stated that the applications



Crl.A.No.306 of 2010

were genuine, but the signatures and the names have been modified. The Investigating Officer failed to investigate as to how the original building plans have been fabricated.

12. Heard the learned Additional Public Prosecutor appearing for the appellant/State and the learned counsel appearing for the respective respondents/accused persons.

13. Admittedly, the Tamil Nadu Cement Corporation Limited (TANCEM) is a Government of Tamil Nadu undertaking Company. A1 to A4 were working in the said Company and they are public servants as defined under Section 21 IPC. During 1982-1983, there was a power cut in the State of Tamil Nadu. The production of cement was not adequate to meet the heavy demand of the public. The consumers have to pay premium for purchase of cements in open market. Therefore, the Government of India, as per the Import and Export Policy of the year 1982-1983, allowed cement to be imported under OPEN GENERAL LICENCE on selective basis by the State Trading Corporation of India and also by designated agencies of the State Government



Crl.A.No.306 of 2010

and Union Territories. The Designated State Agency imported cement under Open General Licence of authorisation issued in their favour by the State Government for supply of actual users. The Government of Tamil Nadu in G.O.Ms.No.819, Industries Department, dated 06.03.1982, nominated TANCEM as an agency to import cement from abroad and in pursuance of the above G.O, the TANCEM had imported cement from North and South Korea during the year 1982-1983. The Import Control Order provided that the actual users should be supplied with imported cement only against their registration with TANCEM and that the cement was not meant for sale through Cement Stockists. In pursuance of the above policy, TANCEM invited applications from “Public” from 03.03.1983 onwards, stipulating that the filled-in applications should be accompanied by copies of the approved plans, Engineer's certificates regarding cement requirement, etc., At the time of submitting the cement applications, an amount equivalent to 10% of the value of the cement applied for, was collected by way of Earnest Money Deposit (E.M.D) and the balance 90% had to be paid on allotment before issuance of the delivery order by the TANCEM up to 15.04.1983. The duly filled-in applications were accepted by TANCEM. The amounts had to be remitted



Crl.A.No.306 of 2010

through Bank Demand Drafts.

WEB COPY

14. The disputed facts according to the prosecution are that during the period from February 1983 to September 1983, A1 to A10, along with approvers/P.Ws.1 to 3, were parties to the criminal conspiracy having agreed to commit or abet the commission of forgery of records like applications for issuance of cement, cement adequacy certificate, planning permissions and building plans etc., connected with the supply of imported cement through TANCEM, to use or abet the use of the said forged documents as genuine, to commit or abet the commission of offences of cheating by obtaining delivery orders from TANCEM for issuance of imported cement through such forged applications and to commit or abet, the commission of offences of criminal misconduct by public servants in discharge of their official duties, thereby A1 to A9 and the absconding accused, namely one Vaidyanathan, committed the offences under Section 120-B read with Sections 467, 468, 471 read with Sections 467 and 468, 420 IPC and under Section 5(1)(a) and (d) read with Section 5(2) of the Prevention of Corruption Act 1947. Since the said accused Vaidyanathan had been absconding for a very long time, the case against him



Crl.A.No.306 of 2010

was split up in C.C.No.34 of 1987. Subsequently, charges were framed against the existing accused persons and three of them have turned as approvers and they have been examined as P.Ws.1 to 3. In the evidence of P.Ws.1 to 3, they have clearly stated about the conspiracy and the role of the parties and how they filed the bogus applications and created bogus documents. The main contention of the learned counsel for the respondents/accused persons is that evidence of approvers is not corroborated by the evidence of independent witnesses and at the time of search, the appellant/Police seized certain documents, which were not reflected in the statement recorded under Section 164 Cr.P.C., and therefore the evidence of approvers is not acceptable.

15. Admittedly, the case of the prosecution as well as the accused persons is that the TANCEM is an agency to import cement from abroad and as per the said G.O, the TANCEM had imported cement from foreign countries and it was authorised to get applications from the actual users in prescribed format and the cement was supplied to the actual users registered with TANCEM. A1 to A4 were working under the TANCEM and A5 to A9 are the cement stockists. They filed a list of users, who were said to have filed the



Crl.A.No.306 of 2010

applications. The other accused persons are the employees of the said cement stockists. They filed a list of users who are said to have filed applications.

But, the investigation reveals that they are not the actual users and they are only fictitious persons. The only reason stated by the trial Court is that all the witnesses were not examined, especially the Village Administrative Officer (V.A.O) was not examined to prove that all the applicants are not actual users and they are only fictitious persons.

16. P.W.1 to 3 are approvers and they have categorically stated that the names mentioned in the above list are fictitious persons and they have adduced evidence as to how the bogus applications were prepared. In this case, on a reading of the entire materials available on record, it is found that A1 to A4 are the officials of TANCEM and they are public servants, who entered into a criminal conspiracy with the stockists ie., with A5 to A9 and other accused persons.

17. Even applications have also been sent to Forensic Lab, which also clearly proved the case of the prosecution, though the trial Court held that, in



Crl.A.No.306 of 2010

order to prove that 69 applicants are fictitious persons, they have not examined all the witnesses except P.W.41, 45 and 54. P.W.45 clearly admitted in his evidence that there is no such person in the said address for the past 20 years and his evidence is not challenged by the respondents/accused persons.

18. Even assuming that the prosecution has not proved that all the applications were bogus, but it has proved that some of the applications are in the name of fictitious persons. All the witnesses have clearly stated that they have purchased cement from the local market and constructed the building which clearly shows that no cement was supplied to those applicants. The trial Court acquitted the accused persons mainly on the ground that the evidence of approved witnesses is not corroborated by the evidence of independent witnesses. Further, all the 69 persons and VAO were not examined.

19. As already stated, the imported cement was not for sale through stockists. Hence, TANCEM invited applications from public stating that the filled-up applications should be accompanied by copies of the approved plans, Engineer's certificates regarding cement requirement and permission issued by



Crl.A.No.306 of 2010

the Municipal Authority for construction of superstructure and the amount equivalent to 10% of the value of the cement supplied for, was collected by way of E.M.D and the balance amount of 90% had to be paid on allotment before issuance of the delivery order by the TANCEM, whereas, A1 to A4 being officials of TANCEM, have entered into criminal conspiracy with the private stockists and prepared bogus lists and applications with fictitious names. The evidence of P.Ws.41, 45 and 54 strengthens the same. The cements supplied have not reached the actual users, which clearly shows that the documents themselves proved that A1 to A4 have not acted upon as per the export policy at the relevant period. The prosecution has proved that all the names present in the list, are not actual users and the actual users were not benefited under the relevant scheme. It is not a case under Section 7 of Prevention of Corruption Act and pre-requisite demand, acceptance and recovery have to be proved in the manner known to law. It is also a case under Section 5(2) of the Prevention of Corruption Act and when once the prosecution has proved that actual users were not benefited, the presumption under Section 20 of the Prevention of Corruption Act would come into play. It is for the public servant to rebut the presumption and in this case, the cement



Crl.A.No.306 of 2010

was supplied only to the actual users and all the applications are genuine. No doubt, it is the duty of the prosecution to prove its case beyond all reasonable doubt. In a cases of this nature, the prosecution has to prove the foundational fact that the cements are not supplied to the actual users and the accused persons themselves have prepared the bogus documents showing the fictitious persons and with the connivance of private stockists, absolved the stocks as if they were supplied to the actual users. It is for the public servant to prove as to who are all the actual users who made applications and based on the applications, they imported cements and supplied the same to them. Therefore, in cases of this nature, it is for the public servant to rebut the presumption. Once it is proved that the cement was not supplied to the actual users, those who have made applications and it was only in the name of fictitious persons, and the applications were made available and cement was also supplied, it is duty of the TANCEM to prove their defence. A1 to A4 are the public officials who are involved in this case. Therefore, it is for them to rebut the presumption that they have given the list mentioning the names of the persons are not fictitious and the stocks are supplied to the actual users.



Crl.A.No.306 of 2010

20. Therefore, this Court finds that A1 to A4 who are public servants, have committed the offences as stated above and the prosecution has proved the charges against them beyond reasonable doubt. As far as the other accused persons are concerned, no doubt, P.Ws.1 to 3 have turned approvers. But the prosecution has not proved its case beyond all reasonable doubts that they entered into a criminal conspiracy and had also supplied cements. Therefore “benefit of doubt” has to be extended to A6 to A9. In an Appeal against acquittal, there must be compelling circumstances to show that appreciation of evidence is perverse. In this case, there are though certain materials, the link of the other accused persons regarding the supply of stocks, is not proved beyond reasonable doubt. If two views are possible, the view which is favour of the accused persons has to be extended. Therefore, the present appeal against A6 to A9 are dismissed, confirming their acquittal in respect of the charges framed against them.

21. The present appeal against A1 to A4 are allowed. In view of reversal finding rendered by this Court, before giving punishment, A1 to A4 have to be questioned. A1 to A4 are directed to appear before this Court for



Crl.A.No.306 of 2010

questioning regarding the sentence to be imposed on them. Accordingly, list this appeal under the caption “questioning of A1 to A4” on 21.07.2023.

22. In the result, the Criminal Appeal is partly allowed.

17.07.2023

mfa

Index: Yes/No

Speaking Order: Yes/No

Neutral Citation: Yes/No

To

1. The IV Additional Sessions Judge,
Sessions Court,
Chennai.
2. The Deputy Superintendent of Police,
Vigilance and Anti Corruption
(Special Investigation),
Chennai 600 008.
3. The Public Prosecutor,
High Court, Madras.



WEB COPY



Crl.A.No.306 of 2010

P.VELMURUGAN, J.

mfa

Crl.A.No.306 of 2010

17.07.2023



Crl.A.No.306 of 2010

Crl.A.No.306 of 2010

P.VELMURUGAN, J.

The Criminal Appeal is arising out of the judgment of acquittal, dated 16.04.2008 in C.C.No.17 of 1987 passed by the trial Court. This Court, as an Appellate Court, after re-appreciating the entire materials and hearing the arguments of both sides, reversed the judgment of acquittal and directed to list the appeal today under the caption “for questioning of sentence”.

2. Today, when the matter is taken up for hearing, the learned Additional Public Prosecutor appearing for the appellant/State submitted that as per the directions of this Court A2 to A4 were secured and produced before this Court and he also submitted that A1 died on 17.11.2020 and produced a death certificate in proof of the same.

3. On questioning, A2 to A4 have stated that they are old-age persons, suffering from multiple ailments and therefore, they prayed that some leniency may be shown to them.



Crl.A.No.306 of 2010

4. The learned counsel appearing A2 to A4 submitted that the accused persons have not committed any charged offences and they are aged about 71 years, 76 years and 68 years and suffering from multiple ailments. Hence, this Court may show some leniency and award lesser punishment to the respondents A2 to A4.

5. Heard the learned counsel on either side.

6. Since A1 died on 17.11.2020, the charged offences stood abated against him and hence, the appeal is dismissed as abated as far as A1 is concerned.

7. Considering the facts and circumstances and also considering the mitigating circumstances, this Court is inclined to award minimum punishment for the charged offences against A2 to A4 and they are convicted and sentenced as under:

<i>Accused</i>	<i>Offence</i>	<i>Sentence</i>
A2 to A4	Sections 120(B) r/w 467, 468, 471 r/w 467 and 468, 420, 109 r/w	each of the accused to undergo rigorous imprisonment for a period of four years for each of these



Crl.A.No.306 of 2010

<i>Accused</i>	<i>Offence</i>	<i>Sentence</i>
	467, 468, 471 r/w 467 and 468, 420 IPC and 5(1)(a) and (d) r/w 5(2) of Prevention of Corruption Act.	offences and to pay a fine of Rs.5,000/- each, in default, to undergo rigorous imprisonment for a period of six months each.
A2 to A4	467 IPC	each of the accused to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.1,000/- each, in default, to undergo rigorous imprisonment for a period of three months each.
A2 to A4	468 IPC	each of the accused to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.1,000/- each, in default, to undergo rigorous imprisonment for a period of three months each.
A2 to A4	471 r/w 467 and 468 IPC and 109 r/w 471 r/w 467 and 468 IPC	each of the accused to undergo rigorous imprisonment for a period of one year for each of these offences and to pay a fine of Rs.1,000/- each, in default, to undergo rigorous imprisonment for a period of three months each.
A2 to A4	420 and 109 r/w 420 IPC	each of the accused to undergo rigorous imprisonment for a period of one year for each of these offences and to pay a fine of Rs.1,000/- each, in default, to undergo rigorous imprisonment for a period of three months each.



Crl.A.No.306 of 2010

<i>Accused</i>	<i>Offence</i>	<i>Sentence</i>
A2, A3, A4	5(2) r/w 5(1)(a)(d) of Prevention of Corruption Act	each of the accused to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.1,000/- each, in default, to undergo rigorous imprisonment for a period of three months each.
A2	109 r/w 419 and 420 IPC	to undergo rigorous imprisonment for a period of four years and to pay a fine of Rs.5,000/-, in default, to undergo rigorous imprisonment for a period of three months.

8. The sentences of imprisonment now imposed on A2 to A4 are ordered to run concurrently.

9. A2 to A4 who are present before this Court today, are directed to be committed to Central Prison, Puzhal, Chennai, through the Police officials.

21.07.2023

ms



WEB COPY



Crl.A.No.306 of 2010

Note :

- (i) Registry is directed to issue copy of both the judgment dated 17.07.2023 and 21.07.2023 by today itself
(i.e, on 21.07.2023)
- (ii) Registry is also directed to send a copy of the judgment dated 17.07.2023 and today (21.07.2023)'s order to the Superintendent, Central Prison, Puzhal, Chennai.



WEB COPY



Crl.A.No.306 of 2010

P.VELMURUGAN, J.

ms

Crl.A.No.306 of 2010

21.07.2023