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Crl.A.Nos.376 and 380 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 24.02.2023

CORAM:

THE HONOURABLE MR. JUSTICE **P.VELMURUGAN**

Crl.A.Nos.376 and 380 of 2013

P.Manickam ... Appellant in Crl.A.No.376 of 2013

Thangamani ... Appellant in Crl.A.No.380 of 2013

Vs.

State represented by
Inspector of Police
SPE/CBI/ACB, Chennai
(RC 41 (A) of 2006)

... Respondent in both the Appeals

Prayer i both the Appeals: The Criminal Appeal is filed under Section 374(2) of Cr.P.C. 1973 against Judgment dated 29.04.2013 made in C.C.No.04 of 2007 on the file of the Court of II Additional District Judge (CBI Cases) Coimbatore in Convicting and sentencing the appellants/accused and allow this Criminal appeal and acquit the appellants/accused.



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For Appellant in Crl.A.No.376 of 2013: Mr.R.John Sathyan
Senior Advocate

For Appellant in Crl.A.No.380 of 2013: Mr.K.R.Sankaran

For Respondent in both Appeals : Mr.K.Srinivasan
Spl. Public Prosecutor for
CBI Cases

COMMON JUDGMENT

The criminal appeals have been filed seeking to set aside the judgment dated 29.04.2013 made in C.C.No.04 of 2007 on the file of the II Additional District Judge (CBI Cases) Coimbatore and to allow this Criminal Appeals and acquit the appellants herein.

2 Originally a case was registered by the Kangeyam Police Station in Crime No.469 of 1995 on 13.08.1995 against one V.R.Sivakumar, driver of a Maruti 1000 car bearing Regn.No.GJ 15A 9700 for the offences under Sections 279, 337 and 304 (A) IPC on the basis of a complaint lodged by one B.Sivakumar and after investigation, the then Inspector of Police/A2,



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Kangeyam Police Station filed charge sheet against one P.Manickam/1st

accused herein for the offence under Sections 279, 337 and 304 (A) IPC

before the Judicial Magistrate, Kangeyam. The said Manickam/1st accused

herein admitted his guilt on 21.05.1996 and he was convicted with fine.

Subsequently, it was found that the 1st accused/private individual, 2nd

accused/the then Inspector of Police, Kangeyam Police Station and the 3rd

accused/ Practicing Advocate had entered into a criminal conspiracy in

order to claim false insurance. Hence, as per the order and direction of this

Court in Crl.M.P.Nos. 39956, 39968 of 2006 in respect of Crime No.469 of

1995 of Kangeyam Police Station, a case was re-registered by CBI:ACB:

Chennai, in C.R.No.41(A) of 2006 and after investigation, the CBI inspector

filed a charge sheet against A1 to A3 for the offences punishable under

Sections 120B read with 467, 468, 471 and 420 IPC read with 511 IPC and

Section 13(2) read with 13(i)(d) of Prevention of Corruption Act, 1988 on

28.03.2007 before the II Additional District Judge (CBI Cases),

Coimbatore. The learned Judge after completing the formalities, framed

charges as against the 1st accused for the offences under Sections 120(B)

read with 468, 471, 420 IPC and Section 13(2) read with 13(1)(d) of



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Prevention of Corruption Act 1988 and Section 468 read with 471 IPC and also Section 420 read with 511 IPC and as against the 2nd accused for the offence under Section 120(B) read with 468 IPC, 468 read with 471, 420 IPC and 13(1)(d) read with 13(2) of Prevention of Corruption Act, 1988 and Section 468 read with 471 IPC, 420 read with 511 IPC and 13(2) read with 13(1)(d) of Prevention of Corruption Act 1988. As against the 3rd accused for the offences under Section 120(B) read with 468 IPC, 468 read with 471, 420 IPC and 13(1)(d) read with 13(2) of Prevention of Corruption Act 1988 and Section 468 read with 471 IPC and 420 read with 511 IPC. Further a separate charge sheet was filed against the said V.R.Sivakumar who drove the Maruti 1000 Car GJ 15A 9700.

3 In order to substantiate the charges framed against A1 to A3, on the side of the prosecution, as many as 46 witnesses were examined as P.Ws.1 to 46 and marked 108 documents as Exs.P1 to P108 and no material object was exhibited. However, 2 Court documents were marked as Exs.C.1 and C2. On completion of examination of prosecution witnesses, when incriminating circumstances culled out from the evidence of prosecution



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witnesses were put before the accused by questioning under Section 313

Cr.P.C., they denied the same as false and pleaded not guilty. On the side of the defence, no oral evidence was let in and two documents were marked as Exs.D1 and D2.

4 During pendency of trial, the 2nd accused died and hence, the charge against the 2nd accused was abated.

5 After completing trial and hearing of arguments advanced on either side, the learned trial Judge found the 1st accused guilty for the offences punishable under sections 120(B) read with 468, 471, 420 IPC and 13(2) read with 13(I) (d) of Prevention of Corruption Act 1988 and Sections 468 read with 471 and 420 read with 511 IPC. The 3rd accused was found guilty for the offence punishable under Sections 120(B) read with 468, 471, 420 IPC and 13(2) read with 13(i)(d) of Prevention of Corruption Act 1998; Section 468 read with 471 and 420 read with 511 IPC and the 1st accused was convicted and sentenced to undergo rigorous imprisonment for a period of 3 years and to pay fine of Rs.5,000/- in default to undergo simple imprisonment for a further period of six months for the offence under Section 120(B) read with 468, 471, 420 IPC and 13(2) read with 13(i)(d) of



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Prevention of Corruption Act 1988; to undergo rigorous imprisonment for a period of 2 years and to pay fine of Rs.3,000/- in default to undergo simple imprisonment for a further period of six months for the offence under Section 468 read with 471 IPC; to undergo Rigorous imprisonment for a period of 3 years and to pay fine of Rs.2,000/- in default, to undergo simple imprisonment for further period of 6 months for the offence under Section 420 read with 511 IPC. The 3rd accused was convicted and sentenced to undergo rigorous imprisonment for a period of 3 years and to pay fine of Rs.5000/- in default, to undergo simple imprisonment for a further period of six months for the offence under Section 120(B) read with 468, 471, 420 IPC and 13(2) read with 13(i)(d) of Prevention of Corruption Act 1988; to undergo rigorous imprisonment for a period of 2 years and to pay fine of Rs.3,000/- in default, to undergo simple imprisonment for a further period of 6 months for the offence under Section 468 read with 471 IPC; to undergo rigorous imprisonment for a period of 3 years and to pay fine of Rs.2,000/- in default to undergo simple imprisonment for a further period of 6 months for the offence under Section 420 read with 511 IPC and the sentences were ordered to run concurrently.



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6 Aggrieved against the said judgment of conviction and sentence, the 1st and 3rd accused have preferred the present appeals.

7 The case of the prosecution is that on 13.08.1995 at about 4.15 p.m, a Maruti 1000 car bearing Regn.No.GJ 15A 9700 driven by one V.R. Sivakumar, while crossing a lorry coming from the opposite direction, met with an accident and in that accident, one Venkatesan and Senthil Kumar died on the spot. One Ramaraj died on the way to hospital and one Balbeer Singh and V.R.Sivakumar sustained grievous injuries. Hence, originally a case was registered by the Kangeyam Police Station in Crime No.469 of 1995 on 13.08.1995 against the said V.R.Sivakumar, driver of a Maruti car, for the offences under Sections 279, 337 and 304 (A) IPC. Subsequently, one R.Sugumaran, the then Inspector of Police, Kangeyam Police Station investigated the case and filed a charge sheet against one P.Manickam as an accused who is a owner cum driver of a lorry bearing Regn.No.MDN 8039 for the offences under Sections 279, 337 and 304(A) IPC before the Court concerned and the said Manickam also admitted his guilt before the trial Court on 21.05.1996 and after trial, he was convicted with fine by the



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Judicial Magistrate, Kangeyam. Subsequently, the parents of the deceased

Senthil Kumar, Venkatesh and Ramaraj filed claim petitions before the MACT, Tiruppur seeking compensation for a sum of Rs.5 lakhs, Rs.7 lakhs and Rs.6 lakhs respectively against the National Insurance Company with whom the lorry bearing Regn. No.MDN 8039 alleged to have been involved in the accident was insured. The said insurance company disputed the claim and got the case to be investigated by the CBI. Subsequently, the investigation of the CBI revealed that one V.R.Sivakumar who drove the Maruti Car along with Ramaraj, Senthil Kumar, Venkatesh and Balbeer Singh on the date of accident, had dashed against a road side tree on the right side near Nallipalayam Piruvu due to his over speed, rash and negligent driving, whereas during the course of investigation, the 2nd accused R.Sugumaran (deceased) the then Inspector of Police, Kangeyam Police Station, entered into a criminal conspiracy with the 1st and 3rd accused by accepting bribe of Rs.10,000/- from the 3rd accused and created false records implicating a lorry bearing registration No.MDN 8039 which was insured with the National Insurance Company for the purpose of making fraudulent insurance claim as if, the said lorry dashed against the



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Maruti Car at the time and place of the said accident. In pursuance of the above criminal conspiracy, the 2nd accused, the then Inspector of Police, Kengeyam Police Station knowing fully well that the said lorry was not involved in that accident, filed a charge sheet against the 1st accused who is the owner cum driver of the lorry, before the Judicial Magistrate, Kangeyam and the 1st accused also knowing fully well that he had not committed any offence, falsely admitted his guilt before the Magistrate in order to facilitate the 3rd accused to claim false insurance. Likewise, the 3rd accused knowing fully well that the accident has taken place due to the rash and negligent driving of one V.R.Sivakumar, the driver of the Maruti Car, induced the parents of the deceased persons and filed fraudulent compensation claims before the MACT Court, Tiruppur. Hence, the Case.

8 Mr.R.John Sathyan, Senior Advocate, appearing for appellant in Crl.A.No.376 of 2013 who is arrayed as 1st accused in this case, would submit that the driver of the Maruti Car namely V.R.Sivakumar was not examined by the Investigating Officer during investigation by the Investigating Officer or before the trial Court during trial as witness and his



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non examination as a witness, is fatal to the case of the prosecution. He would further submit that there is no nexus between A1, A2 and A3 and that there is no criminal conspiracy between them. The prosecution failed to prove either express conspiracy or any conspiracy between the accused persons by the contact of this appellant/1st accused. The evidence of P.W.5 and P.W.16 have not supported the case of the prosecution, whereas the trial Court erroneously held that the evidence of P.W.5, P.W.16 and Exs.P12, P29 and P96 supported the case of the prosecution. The evidence of P.W.6 and Ex.P96 will no way helpful to the prosecution to arrive at a conclusion that this appellant/1st accused entered into criminal conspiracy along with the 3rd accused and committed the charged offences and that there is absolutely no evidence to prove that the accused entered into conspiracy in order to get the insurance claim. He would further submit that this appellant/1st accused only drove the said lorry and caused the accident and therefore, a case was registered against him in Crime No.469 of 1995 and during trial before the trial Court, he also admitted his guilt for the charged offences and after the Judgment of conviction, he also paid the fine amount. Till now, the competent Court has not set aside the said order of



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conviction. Further, neither the said Insurance Company nor the State, have filed any appeal against the said Judgment which clearly shows that on the date of occurrence, this appellant only drove his lorry bearing Regn. No.MDN 8039 in a rash and negligent manner and dashed against the Maruti 1000 Car bearing Regn.No.GJ 15A 9700 and caused the accident and that the 2nd accused/the then Inspector of Police rightly investigated the case and filed the charge sheet against this appellant. He would further submit that the 3rd accused is a Practicing Advocate and only based the information given by the parties, he filed a case before the Motor Accident Claims Tribunal for claiming insurance. Therefore, there is no question of conspiracy between the 1st and 3rd accused. Further, the evidence of P.W.25 is no way connected to this case which will not helpful to the case of the prosecution. Therefore, the starting point of criminal conspiracy was not at all proved by the prosecution. He would further submit that the present case was registered only based on the report of the private Investigating agency. But the said private Investigating Officer who was engaged by the Insurance Company, was not examined which is also fatal to the case of the prosecution. Even the earlier investigation report was also not produced



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before the Court which is nothing but suppression of genesis of the case which are all absolutely fatal to the case of the prosecution. The charge sheet in Exs.P26 and P96 were returned by the learned Judicial Magistrate, Kangeyam with an endorsement to seek opinion of the Additional Public Prosecutor. But the prosecution has not produced his opinion. Even in the FIR in Crime No.469 of 1995 itself, it is clearly mentioned that there was a lorry crossed the Maruti Car at the time of accident and therefore, the possibility of hit by the lorry, cannot be denied. As already stated, this appellant/1st accused is the one who caused the accident and after investigation, the 2nd accused/the then Inspector of Police, filed charge sheet against this appellant and during trial, this appellant admitted his guilt before the trial Court and based on his plea of guilty, he was convicted and till now, the said Judgment was not set aside. It is settled proposition of law that no man can be vexed twice on the same cause of action. Already, this appellant/1st accused was convicted with a punishment of fine. Unless the said Judgment of conviction is set aside, he cannot be tried and punished again for the same cause of action. Hence, the Judgment of the Court below is liable to be set aside and this appellant/1st accused has to be acquitted.



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9 Mr.K.R.Sankaran, the learned counsel for the appellant in

Crl.A.No.380 of 2013 would submit that this appellant/3rd accused is only a Practicing Advocate and he never entered into conspiracy with the any of the accused. Further, no criminal case can be filed against an Advocate and whatever the facts informed to him by his clients, cannot be revealed. He would further submit that this appellant never admitted that the Maruti Car dashed against a tree on the road side. But the trial Court, without any material, has observed that this appellant admitted the same and withdrew the claim petitions. He would further submit that no conviction can be made based on the statement of the accused under Section 313 Cr.P.C. which is legally untenable in criminal law. The trial Court failed to consider the fact that the driver of the Maruti car namely V.R.Sivakumar was not examined either during trial or during investigation by the Investigating Officer. The non examination of the said V.R.Sivakumar, is fatal the case of the prosecution. Further, from the evidence of P.W.12/B.Sivakumar, the trial Court came to the erroneous conclusion that this appellant criminally conspired with the other accused and that the trial Court, failed to consider the material contradictions between the evidence of P.W.12 and P.W.22. He



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would submit that absolutely there is no material to show that this appellant on behalf of the dependents of the deceased persons, gave bribe to the 2nd accused/the then Inspector of Police. There is no need for this appellant to give any bribe to the 2nd accused/the then Inspector of Police. He only obtained instructions/informations for filing the case and subsequently, he found that the claim was not correct and therefore, he withdrew the claim petitions. The trial Court has not properly appreciated the evidence and erroneously relied on the statement of P.W.6 and Ex.P.96 and gave a finding against this appellant. Therefore, there is a perversity in the findings of the trial Court that this appellant and other accused entered into criminal conspiracy especially when there is no material to infer either express or implied agreement to prove the conspiracy. He would submit that absolutely there is no material to prove that the appellant has committed the charge of forgery and also falsification of records. Further, the trial Court erroneously relied on the evidence of P.W.25 which is next to nothing. This appellant as an Advocate, only acted on the instructions of his clients and the Ex.C1 and Ex.C2 would prove the same. But the trial Court failed to consider Ex.C1 and Ex.C2 and erroneously held that this appellant has committed the



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charged offences. Further, the Advocate who appeared for the Insurance Company in the MCOP claim and who infact filed counter, has not been examined and the same is also fatal to the case of the prosecution. Further, the private investigation is not permissible in the criminal law, whereas only based on the report of the private investigator of the Insurance Company, this appellant has been erroneously implicated and found guilty of the charged offences and absolutely there is no evidence to substantiate the same. Already, a case was registered against the driver of the lorry/1st accused herein and he also admitted his plea of guilty. While so, only based on the report of the private investigating agency of the insurance company, the trial Court came to the erroneous conclusion that the said lorry never dashed against the said Maruti car and that the accident took place since the Maruti Car dashed against the road side tree. But absolutely there is no evidence to prove the same. Only based on the assumption and conjunction, the trial Court disbelieved the defence taken by this appellant and erroneously accepted the case of the prosecution without any material evidence. Therefore, the Judgment of the trial Court is liable to be set aside and this appeal has to be allowed and this appellant has to be acquitted.



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10 Mr.K.Srinivasan, Special Public Prosecutor for CBI Cases,

would submit that from the evidence of the prosecution witnesses, the prosecution proved that the accident took place due to the Maruti car dashing against the road side tree and not as projected by the defence. The eyewitness P.W.13 to P.W.15 who are residents of the occurrence place, have clearly deposed that the said Maruti car came in a high speed and dashed against a road side tree and that no lorry had crossed at the time of accident, either side of the road. The said eyewitness P.W.13 to P.W.15 are independent witnesses and they are neither relatives nor interested witnesses. He would further submit that P.W.4 who was Grade-I Constable in the Kangeyam Police Station, has clearly stated that the accident took place due to the rash and negligent driving of one V.R.Siavkumar and the said fact was also known to the 3rd accused who is a Practicing Advocate. Further, P.W.22/Head Constable (retired) has clearly spoken about the presence of the 3rd accused in the Kangeyam Police Station after four months of the accident i.e. 13.12.1995 and recording statement of one Kittan and Rajendran/cleaner of the lorry of the 1st accused, on the instruction of the then Inspector of Police/2nd accused and through the



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statements of the witnesses, it was recorded that a lorry bearing Regn.No.MDN 8039 was involved in this accident. He has further spoken about the receipt of bribe amount of Rs.10,000/- by the 2nd accused from the 3rd accused. Therefore, if at all the said lorry had dashed against the Maruti car and caused the accident, either soon after the accident or within a reasonable time, the lorry would have subjected for inspection before the Motor Vehicle Inspector, whereas the said lorry was subjected to Inspection only on 15.12.1995 which is 4 months later to the date of accident which clearly shows that after due deliberation and conspiracy, the lorry has been implicated in this case for claiming insurance. Further, P.W.5 who is one of the injured persons, has clearly stated that the Maruti car which met with an accident, belongs to his father and that the said car was not insured with any of the Insurance Company. Therefore, from the evidence of the prosecution witnesses the prosecution proved that the accident took place due to the Maruti car dashed against a tree on the road side and in order to facilitate the dependents of the deceased persons to claim insurance, the 3rd accused with the connivance of 2nd accused implicated the 1st accused and falsified the documents as if, the 1st accused caused the accident. The trial Court



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rightly appreciated the evidence of the prosecution witnesses and convicted the appellants herein. Therefore, there is no merit in the appeals and the appeals are liable to be dismissed.

11 Heard Mr.R.John Sathyan, learned Senior Counsel for the appellant in Crl.A.No.376 of 2013, Mr.K.R.Sankaran, learned counsel for the appellant in Crl.A.No.380 of 2013 and Mr.K.Srinivasan, Spl. Public Prosecutor, CBI Cases appearing for respondent police and also perused the materials available on record.

12 The specific case of the prosecution is that in order to claim insurance, the accused A1 to A3 have entered into a criminal conspiracy and falsified certain documents for which, the 2nd accused who is a public servant, has received money from the 3rd accused who is a Practicing Advocate. The 3rd accused, in order to screen the actual accident, concocted a false case and forged certain documents and thereby, suppressed the actual manner of accident and implicated the 1st accused as if, the 1st accused caused the accident and made the insurance company to believe that the insured vehicle belong to the 1st accused only caused the accident.



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13 In order to substantiate the case of the prosecution, as already stated, on the side of the prosecution, totally 46 witnesses were examined and 108 documents were marked. Though there was no material object, on the side of the defence, 2 documents were marked besides 2 Court documents were also marked.

14 Out of the 46 witnesses, it is relevant to refer to the evidence of P.W.4 to P.W.7 and P.W.12 to P.W.15.

15 Perused the evidence of P.W.4 who was the Grade-I Constable in the Kangeyam Police Station and was attending the Court cases of Kangeyam Police Station at the relevant point of time wherein, he has clearly deposed that on 13.08.1995, a Maruti 1000 Car dashed against a tree in Kangeyam-Tirupur road at Nallipalayam Pirivu and in that accident one Venkatesh and Senthilkumar died on the spot and another co-traveller died on the way to hospital and two other co-travellers sustained injuries. The said accident was registered in Crime No.469 of 1995 on the file of the Kangeyam Police Station and subsequently, they took steps to conduct



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postmortem on the dead bodies who died in the accident. Even the history of the case records reveals that the accident took place due to the rash and negligent driving of one V.R.Sivakumar and the said fact was also known to the 3rd accused/the appellant in Crl.A.No.380 of 2013 who is a Practicing Advocate.

16 P.W.5 is the owner of the said Maruti car and he is one of the co-travellers in the said car and also sustained injury in the accident. He has deposed that he was a Baniyan Agent in Tiruppur. He and one Venkatachalam/P.W.6, V.R.Sivakumar and the deceased persons namely Venkatesh, Senthil Kumar, Ramaraj were friends. On 13.08.1995, P.W.6 invited them for his village function. Therefore, he planned to travel by Maruti 1000 car bearing Regn.No.GJ 15A 9700 which belongs to his father, along with his friends to the said festival. Accordingly, he took the said car and attended the festival along with his friends and after attending the festival, while they were returning to Tiruppr, the said car was driven by his friend V.R.Sivakumar and he was seated in the front seat adjacent to the driver seat and his other deceased friends namely Ramaraj, Venkatesh and



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Senthil Kumar were seated at the backside. When the car was about to cross Sivanmalai near Kangeyam, the car lost its control and due to the shock, he became unconscious. Thereafter, in the evening, when he regained conscious, he was told that the car was dashed against a tree and after, 10 days he was informed that 3 of his friends died in the accident. Further, his evidence would go to show that at the relevant point of occurrence, the said car was not insured with any of the insurance company and at the time of accident, no lorry crossed their car.

17 In order to prove whether P.W.5 along with his friends went for the village function of his friend Venkatachalm, the said Venkatachalam was examined as P.W.6 and he has deposed that there was a function at his village and he invited his friends namely B.Sivakumar, Balbeer Singh/P.W.5, V.R.Sivakumar and the deceased persons and that his friends also attended the function. After the function, they returned by Maruti and Ambassador cars. Subsequently, he was informed that the Maruti car met with an accident. Hence, he went to the hospital Kangeyam Government Hospital where the said V.R.Sivakumar was admitted. But he was



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discharged and admitted in Ramakrishna Hospital, Coimbatore and when he went to Ramakrishna Hospital, he was informed that 3 of his friends died. Thereafter, he visited the accident spot wherein the Maruti 1000 car was near a tree.

18 The nephew of one of the deceased namely Senthil Kumar was examined as P.W.7 and he has deposed that on 13.08.1995 at about 6 p.m., he heard the news that his nephew Senthil Kumar met with an accident and died. Further he has deposed that he also visited the place of accident wherein, he saw the car near the road-side tree and he came to know that two of his nephew's friends also died in the accident.

19 P.W.12/B.Sivakumar, in his evidence has stated that he was invited by his friend/P.W.6 for his village function and he attended the function along with his friends. One Magesh/P.W.23 and Muruganandam travelled with him in an Ambassador car. P.W.5 travelled along with V.R.Sivakumar and the deceased persons. After attending the function, while they were returning in the same vehicles, they had stopped their



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vehicle to drink soda/water. At that time, the Maruti car of his friend/P.W5 crossed their Ambassador. Thereafter, when they proceeded toward Tiruppur, they had seen a lorry which overtook. About 2 to 3 kms towards Tiruppur from Sivanmalai, they saw a car on the curve, which was dashed on a tree and when they got down and went near the car, they came to know that it was the Maruti car in which, their friends had travelled. Two of his friends were found dead at the spot and they made arrangements to send the 3 of their injured friends to the hospital. He further deposed that an Advocates clerk visited the accident spot as well as the hospital and he only took him to Kangeyam police station for lodging complaint. The evidence of P.W.23 and P.W.38 who accompanied P.W.12, has also corroborated the evidence of P.W.12.

20 P.W.13 who is an eyewitness to the occurrence has deposed that when he was supervising a construction work, he saw a Maruti car coming with a very high speed towards Tiruppur. The Mason and other workers had also seen the Maruti car coming in very high speed and commented whether this Maruti car could reach its destination.



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Subsequently the said Maruti car met with an accident and on hearing the sound, he and his co-workers rushed to the accident spot and saw the car dashed against a tree and in the upside down position. He has further deposed that no vehicle crossed neither in front nor at the back side of the car at that time.

21 Another eye witness P.W.14 who is a local resident of the accident place has deposed that 12 years back, at about 4 p.m. when he came to fetch water from the well situated nearby his Rice Mill at Tiruppur-Kangeyam road, he had seen the Maruti car passed his Rice Mill in an uncontrollable manner from East to West and dashed against the road side tree on the right. Immediately he rushed to the spot wherein two person died on the spot and the injured were sent to the Hospital through a car. He has also deposed that no lorry crossed neither side of the Tiruppur-Kangeyam road and one Jeyamani who was working in his Rice Mill had also seen the occurrence.



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22 The son of P.W.13 was examined as P.W.15 and he is also an eyewitness to the accident. He has deposed that when he was in his house garden, he saw a car in Kangeyam-Tiruppur road going with a high speed and subsequently, he heard a sound. When he rushed and saw, the car had met with an accident in a road side tree. He has also deposed that no lorry passed towards either side.

23 In this case, P.W.13 to P.W.15 are independent eyewitness. They are neither relatives nor interested witnesses and they have clearly stated that the Marti Car only came in a high speed and met with an accident and when they went to the scene of occurrence, the car was found dashed against the road side tree and that no lorry had crossed at the time of accident on either side. One of the injured persons namely P.W.5 has clearly deposed that the Maruti car belongs to his father and on the date of occurrence, he had travelled in the said car along with his friends and one V.R. Sivakumar only drove the car at the time of accident and that there was no insurance for the car. He has further clearly stated that at the time of accident, he was seated in the front seat adjacent to the driver seat and when



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the car was about to cross Sivanmalai near Kangeyam, the car lost its control which clearly shows that the accident took place due to the Maruti Car dashing against a tree and not as projected by the defence. The 3rd accused who is an Advocate knowing fully well that the accident took place due to the Maruti car dashing against a tree and the said Maruti car was not insured with any of the insurance company, in order to avoid owners liability and get money from the insurance company, the 3rd accused/Advocate entered into a criminal conspiracy with the 2nd accused/the Inspector of Police and they set up the 1st accused who has got insurance for his lorry and concocted a false case as if, the 1st accused drove the lorry and dashed on the Maruti car due to which, the accident took place.

24 As stated above, from the evidence of prosecution witnesses, the prosecution has proved that the accident took place as projected by the prosecution and not as projected by the defence. The defence have not produced any material to show that the car was insured with any of the insurance company. Even P.W.5 himself has admitted that the car was not insured with any of the Insurance Company.



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25 A perusal of entire evidence clearly shows that the 3rd accused who is a Practicing Advocate, in order to facilitate his claimants to get insurance claim, filed claim applications with the help of 1st and 2nd accused subsequently, he withdrew the claim petitions which clearly shows that the prosecution proved its case beyond reasonable doubt. The trial court rightly appreciated the evidence and convicted the accused.

26 The main contention raised by the learned counsel for the 1st appellant is that the 1st accused has already admitted his guilt in the case in Crime No.469 of 1995 before the Court and also paid the fine amount and the said Judgment of conviction is still in force and that the prosecution has not proved that the said Judgment is a false one. He would submit that an accused cannot be convicted twice for a same cause of action. It is made clear that the said Judgment of conviction was only based on the admission of the 1st accused herein and he was not subjected to any cross examination and neither the insurance company nor CBI were party to that case. Except the plea of admission by the 1st accused, no other evidence was recorded. But in this case, all the witnesses were examined and they were also



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subjected to cross examination and the prosecution proved that the accident had taken place as projected by the prosecution and not as projected by the defence. Therefore, on a combined reading of the above said witnesses and also the concerned documents marked by the prosecution, this Court while re-appreciating the entire evidence, finds that the prosecution has proved its case beyond all reasonable doubt. Therefore, there is no perversity in the appreciation of evidence by the Court below. Therefore, there is no merit in the appeals and the appeals are liable to be dismissed.

27 Accordingly, these Criminal Appeals are dismissed. The respondent police is directed to secure the appellants to undergo the remaining period of sentence if any.

24.02.2023

Index : Yes/No
Speaking Order/Non Speaking

cgi/ksa-2

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To

1. Inspector of Police
SPE/CBI/ACB, Chennai
2. The II Additional District Judge (CBI Cases) Coimbatore
3. The Public Prosecutor, High Court of Madras.
4. The Section Officer, Criminal Section, High Court, Madras



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P.VELMURUGAN, J.,

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