



Crl.A.Nos.631, 632, 638, 644, 645, 657, 660, 661 & 713 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Reserved on : 07.07.2023

Pronounced on: 07.08.2023

Coram:

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

Criminal Appeal Nos.631, 632, 638, 644, 645, 657, 660, 661 & 713 of 2013

Crl.A.No.631 of 2013

K.Subramanian
S/o.Late Kalyanasundaram,
No.F-1, 24, Land Marvel Apartments,
Raja Street, Mandaiveli,
Chennai - 600 028.

... Appellant/Accused No.8

/versus/

State Rep. by Inspector of Police,
CBI.EOW, Chennai.
(RC No.16(E)/1997)

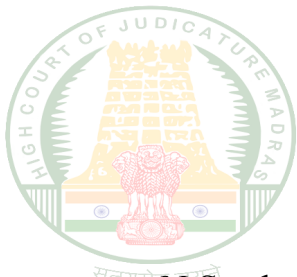
... Respondent/Complainant

Prayer: Criminal Appeal has been filed under Section 374 of Cr.P.C., pleaded to set aside the order of conviction dated 06.09.2013 passed in C.C.No.17 of 2001 on the file of the Learned Principal Special Judge for CBI Cases, Chennai and acquit the appellant and pass such further other orders.

For Appellant : Mr.Kumar Talreja,
for Mr.K.Kannan.

For Respondent : Mr.K.Srinivasan, Senior Counsel,
Special Public Prosecutor, (C.B.I).

Crl.A.No.632 of 2013



CrI.A.Nos.631, 632, 638, 644, 645, 657, 660, 661 & 713 of 2013

N.Seetharaman,
S/o.T.Narayanaswamy,
No.5A, West 2nd Cross Street,
Amaravathy Nagar,
Arumbakkam,
Chennai – 600 106.

... Appellant/Accused No.10

[Reported dead pending appeal. Hence, appeal abated]

/versus/

The Inspector of Police,
CBI/ACB/Chennai.

... Respondent/Complainant

Prayer: Criminal Appeal has been filed under Section 374 of Cr.P.C., pleased to set aside the order of conviction dated 06.09.2013 passed in C.C.No.17 of 2001 on the file of the Learned Principal Special Judge for CBI Cases, Chennai and acquit the appellant and pass such further other orders.

For Appellant : Mr.L.V.Rohith

For Respondent : Mr.K.Srinivasan, Senior Counsel,
Special Public Prosecutor, (C.B.I).

CrI.A.No.638 of 2013

S.Arunachalam,
aged about 69 years,
S/o.R.Subramanian,
No.9, 7th Main Road,
Vijaya Nagar,
Velacherry, Chennai – 600 042.

... Appellant/Accused No.2

/versus/

State by,
The Deputy Superintendent of Police,
CBI/EOW/Chennai.

... Respondent/Complainant

Prayer: Criminal Appeal has been filed under Section 374 of Cr.P.C., pleased



Crl.A.Nos.631, 632, 638, 644, 645, 657, 660, 661 & 713 of 2013

to set aside the judgment dated 06.09.2013 in C.C.No.17 of 2001 on the file of the Principal Special Judge for CBI Cases (VIII Additional City Civil Court) Chennai and acquit the appellant/A2 of all charges.

For Appellant : Mr.S.Kalyanaraman

For Respondent : Mr.K.Srinivasan, Senior Counsel,
Special Public Prosecutor, (C.B.I).

Crl.A.No.644 of 2013

N.Chandrasekhara Rao,
S/o.Sri.N.J.S.Chalapathy Rao,
Old No.31, New No.6, 2nd Street,
Krishnapuri, Raja Annamalaipuram,
Chennai – 600 028.

... Appellant/Accused No.3

/versus/

State Represented by
The Deputy Superintendent of Police,
CBI/EOW/CBI, Rajaji Bhavan,
Besant Nagar, Chennai.

... Respondent/Complainant

Prayer: Criminal Appeal has been filed under Section 374 (2) of Cr.P.C.,
pleaded to set aside the judgment dated 06.09.2013 passed in C.C.No.17 of
2001 by the Principal Judge for CBI Cases, VIII Additional City Civil Court,
Chennai, sentencing the appellant to a Rigorous Imprisonment of One year and
to pay fine of Rs.5,000/- for each offence and pass such further order.

For Appellant : Mr.N.Ramakrishnan,



Crl.A.Nos.631, 632, 638, 644, 645, 657, 660, 661 & 713 of 2013

for Waraon and Sai Rams

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For Respondent : Mr.K.Srinivasan, Senior Counsel,
Special Public Prosecutor, (C.B.I).

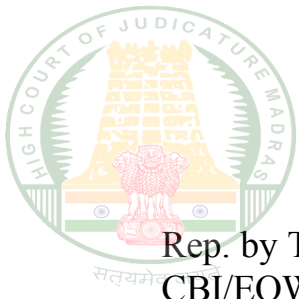
Crl.A.No.645 of 2013

1. S.P.Vairavan, (M/A 67 years)
S/o.V.E.Subbiah,
No.6/2, IV Main Road, Kotturpuram,
Chennai – 600 085.
2. K.Sai Jagannathan, (M/A 62 years),
S/o.Krishnaswamy,
No.26, East Street,
West CIT Nagar,
Nandanam, Chennai – 600 35.
3. M/s.Sathyam Foods Private Limited,
Rep. by Partners/Directors,
H.Arulmanalan & R.Palaniappan,
No.30, HIG Flats,
Nandanam, Chennai – 600 035.
4. H.Arulmanalan, (M/A 50 years)
S/o.C.M.Hariharanathan,
No.57, 3rd Street,
Krishna Nagar,
Virgumbakkam,
Chennai – 600 092.
5. R.Palaniappan, (M/A 50 years),
S/o.Rememijam,
North Raja Street,
OPP. DMK Office,
Pudukottai.

... Appellants/Accused Nos.11 to 15

/versus/

The State,



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Rep. by The Deputy Superintendent of Police,
CBI/EOW,
Chennai.

... Respondent/Complainant

Prayer: Criminal Appeal has been filed under Section 374 (2) of Cr.P.C.,
pleased to set aside the judgment dated 06.09.2013 passed in C.C.No.17 of
2001 by the Principal Judge for CBI Cases, VIII Additional City Civil Court,
Chennai, sentencing the appellants to Rigorous Imprisonment of One year and
to pay fine of Rs.5,000/- for each offence and pass such further order.

For Appellant : Mr.N.Ramakrishnan,
for Waraon and Sai Rams

For Respondent : Mr.K.Srinivasan, Senior Counsel,
Special Public Prosecutor, (C.B.I).

Crl.A.No.657 of 2013

N.Ramakrishnan,
S/o.S.R.Narayanan,
At No.5, Shanthi Nagar,
Pondicherry – 605 011.

... Appellant/Accused No.9

/versus/

State Represented by
Inspector of Police,
CBI, EOW, Chennai.
(RC.No.16(E)/1998)

... Respondent/Complainant

Prayer: Criminal Appeal has been filed under Section 374 (2) of Cr.P.C.,
pleased to set aside the judgment passed against the appellant on 06.09.2013 in
C.C.No.17 of 2001 by the Hon'ble Principal Special Judge for CBI Cases,
Chennai and acquit him from all the charges.

For Appellant : Mr.S.Kingston Jerold



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For Respondent : Mr.K.Srinivasan, Senior Counsel,
Special Public Prosecutor, (C.B.I).

Crl.A.No.660 of 2013

V.Srinivasan, Male/Age – 64 Years,
S/o.Late V.R.Venkatesan,
AP-480, 24th Street, V Sector,
K.K.Nagar, Chennai – 600 078.

... Appellant/Accused No.7

/versus/

State Rep. by
The Deputy Superintendent of Police,
Special Police Establishment,
Central Bureau of Investigation,
Economic Offence Wing,
Rajaji Bhavan, Besant Nagar,
Chennai.
(RC.No.16(E)/1997)

... Respondent/Complainant

Prayer: Criminal Appeal has been filed under Section 374 & 382 of Cr.P.C.,
pleased to admit the appeal, call for the records from the trial Court in
C.C.No.17 of 2001 on the file of the Hon'ble Principal Special Judge for CBI
Cases, Chennai – 104, hear the Counsel for the appellant, set aside the order of
conviction and sentence passed in C.C.No.17 of 2001, dated 06.09.2013 by the
Hon'ble Principal Special Judge for CBI Cases, Chennai – 104 and pass such
further order.

For Appellant : Mr.A.V.Somasundaram, Senior Counsel



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for M/s.Lakshmi Priya Associates

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For Respondent : Mr.K.Srinivasan, Senior Counsel,
Special Public Prosecutor, (C.B.I).

Crl.A.No.661 of 2013

N.Kumaraswamy, Male/Age – 63 Years,
S/o.Late T.M.Natesan,
F1, Sri Kumarakottam,
19/8, Mannar 2nd Street,
Vadapalani, Chennai – 600 025.

... Appellant/Accused No.6

/versus/

State Rep. by
The Deputy Superintendent of Police,
Special Police Establishment,
Central Bureau of Investigation,
Economic Offence Wing,
Rajaji Bhavan, Besant Nagar,
Chennai.
(RC.No.16(E)/1997)

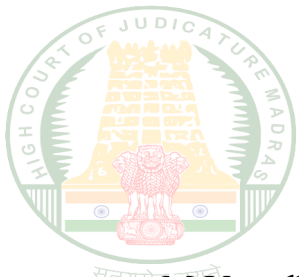
... Respondent/Complainant

Prayer: Criminal Appeal has been filed under Section 374 & 382 of Cr.P.C.,
pleased to admit the appeal, call for the records from the trial Court in
C.C.No.17 of 2001 on the file of the Hon'ble Principal Special Judge for CBI
Cases, Chennai – 104, hear the Counsel for the appellant, set aside the order of
conviction and sentence passed in C.C.No.17 of 2001, dated 06.09.2013 by the
Hon'ble Principal Special Judge for CBI Cases, Chennai – 104 and pass such
further order.

For Appellant : Mr.A.V.Somasundaram, Senior Counsel
for M/s.Lakshmi Priya Associates

For Respondent : Mr.K.Srinivasan, Senior Counsel,
Special Public Prosecutor, (C.B.I).

Crl.A.No.713 of 2013



CrI.A.Nos.631, 632, 638, 644, 645, 657, 660, 661 & 713 of 2013

M.Varadharajulu @ M.V.Raja (Male/Age – 74 Years),
S/o.Muthukrishna Naidu,
No.40-41, Coral Manor,
Raja Annamalaipuram,
Chennai – 600 028.

... Appellant/Accused No.16

/versus/

The State,
Rep. by Deputy Superintendent of Police,
CBI/EOW/Chennai.

... Respondent/Complainant

Prayer: Criminal Appeal has been filed under Section 374(2) of Cr.P.C.,
pleaded to set aside the judgment dated 06.09.2013 passed in C.C.No.17 of
2001 by the Principal Special Judge for CBI Cases, Chennai, sentencing the
appellant to Rigorous Imprisonment for period of one year and to pay fine of
Rs.5,000/- for each offence and pass such further order.

For Appellant : Mr.Mr.N.Ramakrishnan,
for Waraon and Sai Rams

For Respondent : Mr.K.Srinivasan, Senior Counsel,
Special Public Prosecutor, (C.B.I).



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COMMON JUDGMENT

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On 02.05.1997, the Chief Manager, Indian Bank, lodged a written complaint to the Superintendent of Police, CBI/EOW/Chennai, reporting fraud, cheating and breach of trust in the matter of sanctioning import LC limit of Rs.1000 lakhs and FBP/FBN limit of Rs.1000 lakhs by Indian Bank, Muthialpet Branch to M/s.Sathyam Foods (P) Ltd, which belong to MVR Group of Companies.

2. On the information found in the complaint, the Inspector of Police, CBI/EOW, registered case in R.C.No.16(E)/1997/CBI/EOW/Chennai, against M/s.Sathyam Food (P) Ltd., its Directors and other unknown public and private persons. The investigation disclosed materials to prosecute M/s.Sathyam Foods (P) Ltd., a company registered under the Indian Company Act and 15 other persons consisting of 7 public servants and 8 private individuals.

3. Final Report filed against A1 to A16 including Mr.M.Varadharajulu @ M.V.Raja mentioning him as absconding accused. Excluding M.V.Raja, 34 charges were framed against A1 to A15, on



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27.09.2004 and read over to them. After securing Thiru.M.Varadharajulu @

M.V.Raja, five charges exclusively against him was framed and read over to him on 30.08.2005.

4. The name of the accused with their rankings are as below:-

A1 – M.Gopalakrishnan.

A2 – S.Arunachalam.

A3 – N. Chandrasekhara Rao.

A4 – B.Subramanian.

A5 – A.V.Shanmugasundaram.

A6 – N.Kumarasamy.

A7 – V.Srinivasan.

A8 – K.Subramanian.

A9 – N.Ramakrishnan.

A10 – N.Seetharaman.

A11 – S.P.Vairavan.

A12 – K.Sai Jagannathan.

A13 – M/s.Sathyam Foods Pvt Ltd., (Rep. by A-14 & A-15.)

A14 – H.Arul Manalan.

A15 – R.Palaniappan.

A16 – M.Varadharajulu @ M.V.Raja.



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5. The Substance of charge is as below:-

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M/s.Sathyam Foods Private Limited represented by its Directors A-

14 and A-15 has been financed by the Indian Bank, Muthialpet Branch, between 1992 and 1996 by allowing credit facilities in the form of Foreign Bills Purchase/documents against acceptance for Rs.1000 Lakhs between 16.04.1992 and 28.05.1992, 36 FBP bills of A-13 were discounted by Muthialpet Indian Bank, amounting to approximately Rs.10 Crores Import L.C. for Rs.1000 Lakhs without proper appraisal of the proposal of A-13 and its credentials. None of the 36 bills were realized within the stipulated time.

5.1. Without even clearing a single export bill purchased by Indian Bank, Muthialpet Branch, and when the entire FBP liability of Rs.986.75 Lakhs was overdue for payment, A-16 applied for further facilities through A-13. A-1 to A-7 knowing the irregularities and deviations fully well, conspired with each other to commit criminal breach of trust and criminal misconduct and with A-8 to A-16 to cheat the Bank and in furtherance of the criminal conspiracy A-1 to A16, cheated the Indian Bank to the tune of Rs.31.75 Crores. A-11 to A-16 have also conspired with A-1 to A-10 in their misappropriation of Rs.31.75 crores.



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5.2. A-1 to A-7 have committed criminal misconduct relating to the

public funds in their entrustment by defrauding the Indian Bank by recommending/sanctioning various credit facilities to A-13 without adequate security and proper appraisal of the proposal of A-13 and its credentials. The facilities were extended to A-13 even after the expiry of the sanction by the Head Office on 31.03.1994 due to which the Indian Bank has suffered loss to the tune of Rs.31.75 Crores.

5.3. A-16 M.Varadharajulu @ M.V.Raja as the Chairman/Chief Advisor of M/s.MVR Group of Companies and A-11 S.P.Vairavan as Managing Director of M/s.MVR Group of Companies and A-12 K.Sai Jagannathan as its Vice President/Advisor have dishonestly and fraudulently availed credit facilities through A-13 M/s.Sathyam Foods Pvt. Ltd., which by dishonestly and fraudulently opened 47 Bills between 16.02.1995 and 19.07.1995 and 5 L.C. between 14.03.1995 and 16.10.1995 at Indian Bank, Muthialpet Branch, and by making the 47 Import Bills and 11 Import Bills pending for realization to the tune of Rs.31.75 Crores as on January 2001, have caused wrongful loss to the Indian Bank of Rs.31.75 Crores.



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5.4. A-1 as Chairman and Managing Director, A-2 as General

Manager, A-3 as Assistant General Manager, A-4 and A-5 as Zonal Managers, A-6 as Credit Monitoring Officer in Indian Bank, Zonal Office and A-7 as Chief Manager, Indian Bank, Muthialpet Branch, have abused their official position as public servants and have hatched criminal conspiracy with A-8 to A-16 to cheat the Indian Bank for Rs.31.75 Crores by recommending/ sanctioning credit facilities to A-13 without adequate security and without proper appraisal of its proposal and A-8 Auditor by giving false certificate regarding the credit worthiness of A-13.

5.5. A-9 and A-10 by giving false inflated valuation report of the collateral security offered by A-13, land at West Kumaralingam Village, Udumalpet Taluk have facilitated A-13 to get the credit facilities and the bank officers have released the limits to A-13 exceeding their delegated powers, circumventing the laid down procedures of Indian Bank and RBI guidelines and have facilitated A-13 to misutilize the funds of the Bank by diverting the proceeds of FBP of A-13 to MVR Exports Pvt. Ltd., and Maxwell Exim Pvt. Ltd., of A-16, thereby the bank officers have committed criminal breach of trust by allowing misappropriation of public funds in their entrustment by A-11 to A-



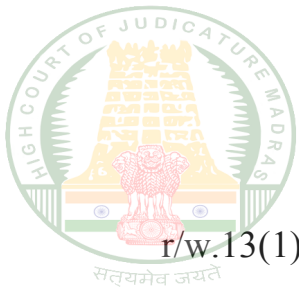
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16 and by defrauding the Indian Bank to the tune of Rs.31.75 Crores, which is

the total amount of outstanding Export Bills mentioned in Charge No.28 amounting to Rs.12.72 Crores and Import Bills for realization which is worth about Rs.10 Crores and the balance being interest accrued thereon which amount is claimed from A-13 in Ex.P.21 Application in O.A.No.116/96 before Debt Recovery Tribunal (DRT).

5.6. Thus, it was concluded that A-1 to A-16 between 1992 and 1996 at Chennai, have in connivance with each other hatched criminal conspiracy to cheat the Indian Bank in order to allow pecuniary advantage for A-11 to A-16 and A-1 to A-7 being public servants have abused their official position servants by recommending/sanctioning various credit facilities without public interest to A-13, without adequate security and by accepting forged/false documents of A-8 to A-10 submitted by A-13 along with his proposal knowing them to be false and A-11 to A-16 have misappropriated Rs.31.75 Crores thereby A-1 to A-16 have cheated the Bank to the tune of Rs.31.75 Crores.

5.7. Hence, the Charge Sheet was laid against the accused under Sec.120B r/w 409, 420, 467, 468, 471 and 471 r/w.468 IPC and Sec.13(2)



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r/w.13(1)(d) of Prevention of Corruption Act, 1988 and Substantive Offences

under Sec.420, 409, 467, 468, 471, 471 r/w.468 IPC and Sec, 13(2) r/w.13(1)

(d) of Prevention of Corruption Act, 1988.

6. The prosecution to prove the charges examined 46 witnesses (P.W.1 to P.W.46), marked 209 documents (Ex.P.1 to Ex.P.209). On the side of the defence, 3 witnesses (D.W.1 to D.W.3) and 73 Exhibits (Ex.D.1 to Ex.D.73) were marked.

7. A1 to A7 are Public Servants employed in Indian Bank holding different post ranging from Chairman-cum-Managing Director to the post of Branch Chief Manager. Ex.P.7, Ex.P.22 and Ex.P.95 are the orders sanctioning prosecution of A2 (S.Arunachalam), A3(N.Chandrasekhara Rao), A6 (N.Kumarasamy) and A7 (V.Srinivasan). Pending investigation A1 (M.Gopalakrishnan), A4 (B.Subramanian) and A5 (A.V.Shanmugasundaram) retired from Service. Hence, prior sanction to prosecute against them was not required.



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8. The prosecution case as spoken through the witnesses and

documents is that, A-1 Mr.M.Gopalakrishnan as Chairman and Managing Director of Indian Bank and A-2 to A-7 as Officers of the Bank, have abused their official position as public servants. A-2 to A-5 and A-7 have exceeded their delegated powers by recommending loan to A-13 and A-6 by putting up wrong and improper notes A-1 by sanctioning FBP/DA, import L.C's and various credit facilities to A-13 M/s.Sathyam Foods Pvt. Ltd., represented by A-14 and A-15 and A-8 to A-10 have facilitated A-13 to get the facilities by furnishing false auditor certificate, valuation reports and A-16 M.V.Raja, Chairman of M/s.Mountamount Singapore Pvt. Ltd., M/s.Nagova Exim Pvt. Ltd., M/s.Sadeco Sarl Pvt. Ltd., included in MVR Group of Companies of which A-11 and A-12 are Managing Director and Vice President/Chief Advisor respectively, were enjoying credit facilities at Indian Bank, Singapore, sanctioned by Indian Bank, Head Office, Chennai, have misutilized the FBP proceeds of A-13 by diverting the same to M/s.MVR Exports Pvt. Ltd., & M/s.Maxwell Exim Pvt. Ltd., who were holding accounts in Indian Bank, Muthialpet Branch, and 47 pending bills of A-13 purchased by A-7 at Muthialpet Branch of Indian Bank were also purchased by Indian Bank, Singapore Branch, without remitting the proceeds in Muthialpet Branch, which amounts to double financing by the Indian Bank,



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thereby defrauding Indian Bank to the tune of Rs.31.75 Crores. All the pending

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9. The Banking terms, procedures to be followed while recommending and sanctioning credit facilities is explained by P.W.1, D.W.2 and P.W.14. In case, if buyer and seller belongs to same group, such bills to be accepted for purchase with utmost caution, the reason is obvious. While so, out of 47 bills, most of the bills were between M/s.MVR group of Companies and same is spoken by P.W.11, P.W.12, P.W.19 and P.W.37 employees of M/s.MVR Groups of Company, besides P.W.4 and P.W.13, staff of Indian Bank.

10. A-13 M/s.Sathyam Foods (P) Ltd., is the borrower which was



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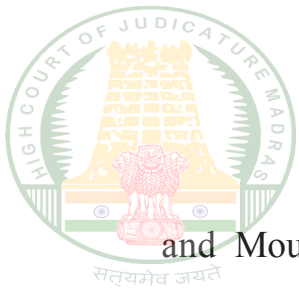
started as a Partnership Firm in the year 1990, later incorporated as a Company

by A-14 (H.Arul Manalan) and A-15 (R.Palaniappan) its partners became the Directors after the conversion.

11. To prove, A-13 is a Shell Company floated by A-16 M.V.Raja, the prosecution has marked Ex.P.160, the appointment details of A-14 (Arul Manalan) as Canteen Manager in the MVR Group of Companies in the year 1993. He had been conferred different designation in MVR Groups of Companies and drawing salary during the period simultaneously while he was the Director of M/s.Sathyam Foods (P) Ltd.

12. The fact that, due to the Criminal Conspiracy to cause wrongful loss to Indian Bank, Muthialpet Branch and corresponding wrongful gain to the Private individuals, who floated A-13 M/s.Sathyam Foods (P) Ltd., mentioning A-14 (H.Arul Manalan) and A-15 (R.Palaniappan) as its Directors. Ex.P.135 to Ex.P.148 relied by the prosecution to prove, the 47 bills raised for availing credit facilities were within the groups of MVR Group of Companies.

12.1. Ex.P.135 in the chart wherein Nagova, Anderson, Sadeco



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and Mountamount are shown as Promoters Company and six companies at

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Guindy are mentioned as Well Store, Indeco Builders, Ramraj Trading. Abhinav

Exim, Jaimatha Farms and Sanjeevi Packaging. In Ex.P.139. Minutes of

Meeting at Rayala Towers On 04.09.1993, the names of A-16 M.V.Raja as

Principal Advisor, A-11 Vairavan as Executive Director and A-12 Sai

Jagannathan as Advisor are mentioned. Ex.P.142 Letter dated 22.04.1995

addressed to M.V.Raja, Singapore, by Chartered Accountant Subramaniam

states that in the balance sheet, payment made by MVR and Maxwell to Arun

Builders has been set off against the payment received from A-13 Sathyam

Foods to MVR and Maxwell. Ex.P.146 Brochure of Mountamount Group,

Singapore with the photos of A-16 and the family members mentions the name

of A-16 as its Chairman. Ex.P.122 Zonal Office Letter to the Branch raises

queries about the group and discloses the group concept Ex.P.39 as deposed by

PW14 reveals the statement made by A-2 and A-3 therein as "the prudential

limits for exposure to the group has been exceeded by Rs.43.41 Crores". Hence,

all these Exhibits, viz. Exs.P.39, P.122, P.135, P.139. P.142 and P.146

establish the link between A-11, A-12 and A-16 to the MVR Group and that A-

13 and Mountamount Singapore Pvt. Ltd.. Sadeco Sarl Pvt. Ltd., Nagova Exim

Pte. Ltd., belong to one and the same MVR Group.



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13. M/s.Sathyam Foods had opened a Current Account in Indian Bank, Muthialpet Branch on 31.03.1992. In the account opening form, A-14 (Arul Manalan) and A-15 (Palaniappan) are shown as its Partners. The account is introduced by A-12 (K.Sai Jaganathan). On the same day, application for advance made by M/s.Sathyam Foods. Ex.P.45, application for advance seeking Rs.19 Crores credit facility for 150 days against FBN/FBP/DP/DA declares that, the firm is worth Rs.50 lakhs as per auditors report. As security, the firm had furnished:-

- 1. Joint and several DPN by the firm and its partners in their individual capacities.*
- 2. Against foreign bills duly supported by LC/confirmed order.*
- 3. EM of landed property belonging to partners reported to be worth Rs.99.56 lakhs. Party has assured to submit the Engineer's valuation certificate.*
- 4. Guarantee by partners.*

14. A-14 Mr.H.Arul Manalan and A-15 Mr.R.Palaniappan have declared themselves as Traders in cashew nuts since 1991. They hold assets



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worth Rs.53 lakhs and Rs.46 lakhs respectively. The Manager of the

Muthailpet Branch had recommended for sanction of FBN/FBP/DA/DP for Rs.19 crores and on 31.03.1992 itself, he has forwarded the proposal to the Zonal Office *vide* Ex.P.44. The Manager, who has recommended the proposal had noted in Ex.P.45 that, he verified orally with one Thiru.Annadurai, M/s.Marina Enterprises, Tailors Road, Kilpauk and got satisfactory opinion about the borrower's worthiness. M/s.Sathyam Foods, a partnership firm, opened Current Account and got the loan proposal sanctioned showing its place of business at No.30, HIG Flats, Nandanam, Chennai. Later, in the year 1992 converted as a Company, got incorporated at Registrar of Companies, Pondicherry, in the style of M/s.Sathyam Foods (P) Ltd., on 27.11.1992 declaring its registered office is located within the UT of Pondicherry. The documents in the file marked as Ex.P.27 pertaining to the Current Account No.3183 of M/s.Sathyam Foods, at Muthiapet Branch speaks volume the manner in which loan request of M/s.Sathyam Foods, processed in haste in complete breach of guidelines and Banking norms. The documents produced to show the partners are experienced in cashew nuts Trade, they have prospective sellers ready with stock and corresponding buyers in India and Abroad are all proved to be false and fabricated. The same 47 bills purchased by A-7



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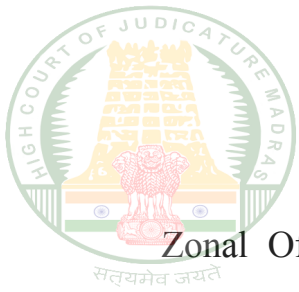
(V.Srinivasan), Muthialpet Branch, were also purchased by Indian Bank,

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Singapore Branch. The double financing had happened in connivance of officials of Indian Bank at topmost level.

15. The scheme of conspiracy between the Officials of Indian Bank and the borrowers, who are part of M/s.MVR Groups of Company, headed by A-16 (M.V.Raja) is unravelled through the following witnesses and documents.

15.1. P.W.1 Balakrishnan had deposed that, when the Branch Manager receives an application from the prospective borrower, it should be analysed with reference to the nature of the facilities required, the parties character, integrity, business skills, creditworthiness and if they are banking with other banks that experience should be analysed by way of getting satisfactory credit information and that market report can also be obtained from the friends and rivals in the business and that credit report is to be prepared based on the market information, assets and liabilities statements, wealth tax, sales tax and Income Tax assessment orders and that after preparing the proposal, the application has to be forwarded with Manager's recommendations to the Regional Office for further process and from Regional Office, it goes to



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Zonal Office with the recommendation of Regional Office and from Zonal

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Office, the proposal has to be submitted to the Head Office, credit Division with due recommendation and in the Head Office, it will be further processed and submitted to the Board of Directors and that for recommending export finance, the borrower experience in export activities has to be analyzed and that the Branch manager can obtain the information about the Overseas Buyers, from ECGC Corporation and that the party has to produce the confirmed order from the buyers.”

15.2. In the cross examination of D.W.2 has explained the process of foreign bills purchase as below:-

“FBP is Foreign Bills Purchase and FBN is Foreign Bills Negotiation. FBN is supported with L.C. along with contract (i.e.,) importer gives his requirement to the exporter as to quantity, value, and the items and the exporter has to send the material as per the contract supported by L.C. in FBN. In FBP, L.C. will not be available. FBP and FBN are safe modes. FBP is supported by stock. FBN is safer than FBP. FBP is having stock coverage as security and FBN has additional coverage of L.C. D.A. means Documents



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against Acceptance. D.P means Documents against Payment. In DP, documents

are released against payment. In DA, documents are released against

acceptance. In DP, bills payment will be paid immediately at the time of delivering the bills, but in DA, due date will be given for realizing the amount.

The norms of the Bank in approving the proposal are satisfactory banking operations, capacity to execute the business orders and the availability of

various infrastructures for conducting the business are the primary needs of the

Bank for considering the proposal. Regarding A-13 Sathyam Foods Pvt. Ltd.,

Zonal Manager has recommended for FBP/DA facility for export of cashew

kernels and later A-13 might have enjoyed L.C. facility for import of cashew

nuts. If the import is made under confirmed L.C., and if the importer fails to

make payments on due date, Bank makes the payment. In exports under

FBP/DA facility, if the buyer defaulted the payment within stipulated date, it is

not loss to the Bank, if the Bank recovers subsequently since recovers the

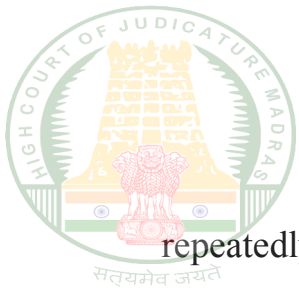
amount with penal interest to save the loss. No recommendation was sent

during his period by the Zonal Officer for FBP/DA facility for A-13 for the

export of Cashew Kernels and for import L.C. facility for A-13 for import of

Cashew nuts with shells. No fresh L.C. can be opened number of times

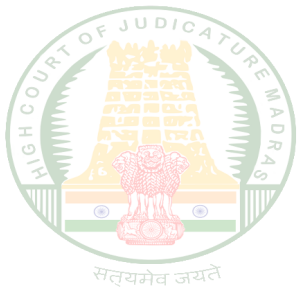
repeatedly for the same party by the Bank when the import L.Cs, are devolved



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repeatedly and the Bank has paid the bills under the L.Cs. number of times and the party is not maintaining satisfactory accounts balance.”

15.3. The credit facilities granted to an exporter by a Bank is called pre-shipment credit facility and post-shipment credit facility. Packing credit comes under pre-shipment facility which is given for the purpose of procurement, processing, packing till shipment. The exporter/borrower having the bill discounting facility can submit the bill of exchange on DA basis along with the shipping documents to the Bank and request the Bank to purchase the bill and give him the proceeds only after the goods are shipped for exports. Once the bank purchases the export bills and gives the proceeds to the exporter it is known as post-shipment finance. This facility is called FBP/DA facility. The post-shipment credit released by the Bank is at the disposal of the borrower and the Bank cannot impose any restrictions on its usage. The Bank will realize the export bill proceeds from the importer abroad and adjust the bill liability of the exporter. This is the normal trade cycle of any export finance under post-shipment finance.



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15.4. The evidence of P.W.4 states that, the Uniform Customs and

Practices of Documentary Credits (UCPDC) are set of rules framed by the International Chamber of Commerce defining the rights and obligations of the pan, involved in the letter of credit transaction in International Trade and "Credits" in UCPDC means Letters of Credit.

15.5. P.W.14 N.Varadhan had deposed that, Foreign Exchange Dealers Association of India (FEDAI) was formed with various Banks in India which are the authorized dealers in Foreign Exchange and FEDAI Rules have been drawn up recognizing the obligations of exporters, importers and authorized dealers under the Foreign Exchange/Import/Export/Trade Control regulations and have been approved by the RBI. These rules cover matters such as hours of business, schedule of charges, foreign exchange contracts including early delivery, extension and cancellation, etc., Balance in ADOVEXBIR account means the amount outstanding on account of overdue export bills already purchased by the Bank. A bill of Lading is a transport document representing movement of goods by sea and is a document of title to goods.

15.6. Ex.P.46:- The Letter of the Manager to Zonal Office on 31.03.1992 to release Rs.10 crores immediately pending regular sanction.



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15.7. Ex.P.49:- The Letter of Assistant Manager of Muthialpet Branch to Regional Office intimating that, they have purchased the foreign Bills mentioned under the account of M/s.Sathyam Foods (P) Ltd.

<i>16.04.1992</i>	<i>Rs.57,66,620/-</i>
<i>20.04.1992</i>	<i>Rs.65,04,679/-</i>
<i>21.04.1992</i>	<i>Rs.34,47,601/-</i>
<i>23.04.1992</i>	<i>Rs.1,16,21,961/-</i>

15.8. Ex.P.50:- Conversion of FBP 32/92 to 34/92 of M/s.Sathyam Foods as FOBCS.

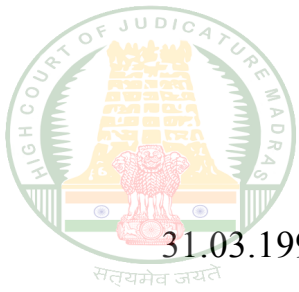
15.9. The following documents and evidences which proves that, the offer letters by suppliers were fake.

Annexure-II in Ex.P.111, contains details of contact and tie up letters for supply of cashew nuts.

Ex.P.96:- Offer letter of Prasanthi Cashew Company dated 31.03.1992.

Ex.P.112:- Offer letter of Safair Cashew Company dated 30.03.1992.

Ex.P.42:- Offer letter of Southern Cashew Exports Company dated



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31.03.1992.

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Ex.P.117:- Offer letter of Divya Export Enterprises dated 30.03.1992.

These letters enclosed along with loan request of A-13 M/s.Sathyam Foods (P) Ltd., dated 31.03.1992 are all identically worded and dated 30.03.1992 or 31.03.1992.

16. P.W.15 A.Thomas, working as Manager in M/s.Abdul Rehuman Kunju Company had deposed that, Ex.P.41 letter dated 30.03.1992 was not issued by his Company and that, his Company has not dealt with any business with A-13. P.W.16 Shamshudeen, Managing Partner of Southern Cashew Exports had deposed that, Ex.P.42 letter dated 31.03.1992 was not issued by his Company and that copy of letter pad in Ex.P.42 does not belong to his Company but the address referred in it belong to his Company. P.W.23 J.Ravindran working as Manager in M/s.Prashanthi Cashew Company had deposed that, Ex.P.96 letter was not issued by his Company and the signature in letter Ex.P.96 does not relate to any of the authorized signatories of his Company. P.W.15 and P.W.16 have admitted their dealings in Cashew



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business with MVR Group of Companies but denied the issuance of Ex.P.41

and Ex.P.42 letters to A-13 M/s.Sathyam Foods (P) Ltd and the evidence of P.W.15, P.W.16 and P.W.23 prove the falsity of letters Ex.P.41, Ex.P.42 and Ex.P.96 submitted by A-13 along with proposal. The copies of letter pad denied by P.W.16 and the signatures denied by P.W.23 specifically disclose the forgery and fabrication of documents by A-13 represented by A-14 and A-15.

16.1. That apart, the intention to cheat the Bank, the Valuation of the properties given as collateral security highly inflated and same established from the facts, the property of A-14 Arul Manalan valued as Rs.88.87 lakhs by A-9 Ramakrishnan, as per Ex.P.90 dated 25.05.1992. Whereas, the title document shows this property was purchased on 21.03.1992 for just Rs.7.48 lakhs. The valuation report Ex.P.91 for the properties held by A-15 is estimated by A-10 as Rs.112.26 lakhs. P.W.24, the VAO of that area had deposed that the said property is agricultural land worth only Rs.25,000/- per acre in the year 1999. The guideline value fixed by the Government for the property spoken by P.W.26. According to him, the guideline values for the year 1992 was Rs.24,700/- per acre; for the year 1993-1994 as Rs.40,000/- per acre; for the year 1999 onwards Rs.63,100/-. The Investigating Officer P.W.44 had engaged

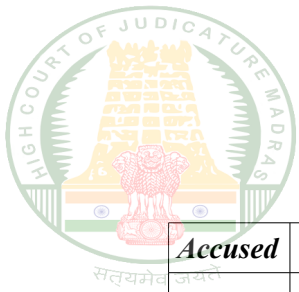


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a valuer by name P.M.Natarajan, who had valued the property at the rate of Rs.50,000/- per acre as on 18.05.1999 in so far as land in S.No.511 and Rs.5000/- for lands in S.Nos.794/2 and 794/3. These inflated value for the properties by the valuers A9 and A10 certificate of the auditor A8 had facilitated the borrower to dishonestly cheat the Bank and avail loan.

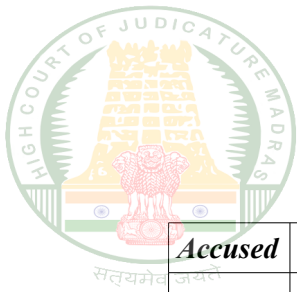
17. The trial Court passed judgment of conviction and sentenced as below:-

<i>Accused</i>	<i>Offences</i>	<i>Conviction and Sentence passed by the Trial Court</i>
A1	u/s.120-B r/w 420, 409 of IPC and u/s.13(2) r/w 13(1)(d) of P.C Act, 1988.	To undergo R.I for One year and also to pay fine of Rs.5,000/-, in default to undergo R.I for two months.
	Section 409 of I.P.C (4 counts)	To undergo R.I for One year for each count and also to pay fine of Rs.5,000/-, for each count and in default to undergo R.I for two months for each count.
	Section 13(2) r/w 13(1)(d) of P.C. Act, 1988 (4 counts)	To undergo R.I for One year for each count and also to pay fine of Rs.5,000/-, for each count and in default to undergo R.I for two months for each count.
A2	Section 120-B r/w 420, 409 of I.P.C and Section 13(2) r/w 13(1)(d) of P.C, 1988	To undergo R.I for One year and also to pay fine of Rs.5,000/-, and in default to undergo R.I for two months.
	Section 409 of I.P.C (5 counts)	To undergo R.I for One year for each count and also to pay fine of Rs.5,000/-, for each count and in default to undergo R.I for two months for each count.
	Section 13(2) r/w 13(1)(d) of P.C Act, 1988. (5 counts)	To undergo R.I for One year for each count and also to pay fine of Rs.5,000/-, for each count and in default to undergo R.I for two months for each



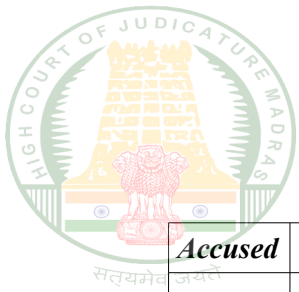
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Accused	Offences	Conviction and Sentence passed by the Trial Court
		count.
A3	Section 120-B r/w 420, 409 of I.P.C and Section 13(2) r/w 13(1)(d) of P.C. Act	To undergo R.I for One year and also to pay fine of Rs.5,000/-, and in default to undergo R.I for two months.
	Section 409 of I.P.C (3 counts)	To undergo R.I for One year for each count and also to pay fine of Rs.5,000/-, for each count and in default to undergo R.I for two months for each count.
	Section 13(2) r/w 13(1)(d) of P.C Act, 1988 (3 counts)	To undergo R.I for One year for each count and also to pay fine of Rs.5,000/-, for each count and in default to undergo R.I for two months for each count.
A4	Section 120-B r/w 420, 409 I.P.C and Section 13(2) r/w 13(1)(d) of P.C Act.	To undergo R.I for One year and also to pay fine of Rs.5,000/-, and in default to undergo R.I for two months.
	Section 409 of I.P.C (6 counts)	To undergo R.I for One year for each count and also to pay fine of Rs.5,000/-, for each count and in default to undergo R.I for two months for each count.
	Section 13(2) r/w 13(1)(d) of P.C Act (6 counts)	To undergo R.I for One year for each count and also to pay fine of Rs.5,000/-, for each count and in default to undergo R.I for two months for each count.
A5	Section 120-B r/w 420, 409 of I.P.C and Section 13(2) r/w 13(1)(d) of P.C Act, 1988	To undergo R.I for One year and also to pay fine of Rs.5,000/-, and in default to undergo R.I for two months.
	Section 409 of I.P.C (3 counts)	To undergo R.I for One year for each count and also to pay fine of Rs.5,000/-, for each count and in default to undergo R.I for two months for each count.
	Section 13(2) r/w 13(1)(d) of P.C Act, 1988 (3 counts)	To undergo R.I for One year for each count and also to pay fine of Rs.5,000/-, for each count and in default to undergo R.I for two months for each count.
A6	Section 120-B r/w 420, 409 of I.P.C and Section 13(2) r/w 13(1)(d) of P.C, 1988	To undergo R.I for One year and also to pay fine of Rs.5,000/-, and in default to undergo R.I for two months.



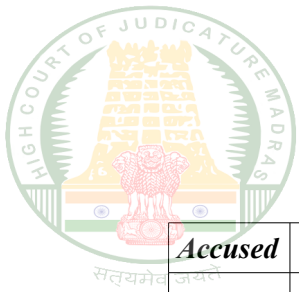
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Accused	Offences	Conviction and Sentence passed by the Trial Court
	Section 409 of I.P.C (5 counts)	To undergo R.I for One year for each count and also to pay fine of Rs.5,000/-, for each count and in default to undergo R.I for two months for each count.
	Section 13(2) r/w 13(1)(d) of P.C. Act, 1988 (5 counts)	To undergo R.I for One year for each count and also to pay fine of Rs.5,000/-, for each count and in default to undergo R.I for two months for each count.
A7	Section 120-B r/w 420, 409 of I.P.C and Section 13(2) r/w 13(1)(d) of P.C Act	To undergo R.I for One year and also to pay fine of Rs.5,000/-, and in default to undergo R.I for two months.
	Section 409 of I.P.C (2 counts)	To undergo R.I for One year for each count and also to pay fine of Rs.5,000/-, for each count and in default to undergo R.I for two months for each count.
	Section 13(2) r/w 13(1)(d) of P.C. Act, 1988 (2 counts)	To undergo R.I for One year for each count and also to pay fine of Rs.5,000/-, for each count and in default to undergo R.I for two months for each count.
A8	Section 120-B r/w 420, 409 of I.P.C and Section 13(2) r/w 13(1)(d) of P.C Act.	To undergo R.I for One year and also to pay fine of Rs.5,000/-, and in default to undergo R.I for two months.
	Section 420 of I.P.C	To undergo R.I for One year and also to pay fine of Rs.5,000/-, and in default to undergo R.I for two months.
A9	Section 120-B r/w 420, 409 of I.P.C	To undergo R.I for One year and also to pay fine of Rs.5,000/-, and in default to undergo R.I for two months.
	Section 420 of I.P.C	To undergo R.I for One year and also to pay fine of Rs.5,000/-, and in default to undergo R.I for two months.
A10	Section 120-B r/w 420, 409 of I.P.C and Section 13(2) r/w 13(1)(d) of P.C Act, 1988	To undergo R.I for One year and also to pay fine of Rs.5,000/-, and in default to undergo R.I for two months.
	Section 420 of I.P.C	To undergo R.I for One year and also to pay fine of Rs.5,000/-, and in default to undergo R.I for two months.



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Accused	Offences	Conviction and Sentence passed by the Trial Court
		months.
A11	Section 120-B r/w 420, 409 of I.P.C and Section 13(2) r/w 13(1)(d) of P.C Act.	To undergo R.I for One year and also to pay fine of Rs.5,000/-, and in default to undergo R.I for two months.
	Section 420 of I.P.C	To undergo R.I for One year and also to pay fine of Rs.5,000/-, and in default to undergo R.I for two months.
A12	Section 120-B r/w 420, 409 of I.P.C and Section 13(2) r/w 13(1)(d) of P.C Act.	To undergo R.I for One year and also to pay fine of Rs.5,000/-, and in default to undergo R.I for two months.
	Section 420 of I.P.C	To undergo R.I for One year and also to pay fine of Rs.5,000/-, and in default to undergo R.I for two months.
A13	Section 120-B r/w 420, 409 of I.P.C and Section 13(2) r/w 13(1)(d) of P.C Act.	Being a Company only fine is imposed against A-13 to be paid by A-14 and A-15, a fine of Rs.5000/- in default to undergo R.I for two months.
	Section 420 of I.P.C (3 counts)	Being a Company only fine is imposed against A-13 to be paid by A-14 and A-15, a fine of Rs.5000/- in default to undergo R.I for two months for each count.
A14	Section 120-B r/w 420, 409 of I.P.C and Section 13(2) r/w 13(1)(d) of P.C Act.	To undergo R.I for One year and also to pay fine of Rs.5,000/-, and in default to undergo R.I for two months.
	Section 420 of I.P.C (2 counts)	To undergo R.I for One year for each count and also to pay fine of Rs.5,000/-, for each count and in default to undergo R.I for two months for each count.
A15	Section 120-B r/w 420, 409 of I.P.C and Section 13(2) r/w 13(1)(d) of P.C Act	To undergo R.I for One year and also to pay fine of Rs.5,000/-, and in default to undergo R.I for two months.
	Section 420 of I.P.C (2 counts)	To undergo R.I for One year for each count and also to pay fine of Rs.5,000/-, for each count and in default to undergo R.I for two months for each count.
A16	Section 120-B r/w 420, 409 of I.P.C and Section 13(2) r/w 13(1)(d) of P.C. Act.	To undergo R.I for One year and also to pay fine of Rs.5,000/-, and in default to undergo R.I for two months.



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Accused	Offences	Conviction and Sentence passed by the Trial Court
	Section 420 of I.P.C (3 counts)	To undergo R.I for One year for each count and also to pay fine of Rs.5,000/-, for each count and in default to undergo R.I for two months for each count.
A4 & A6	Section 13(2) r/w 13(1) (d) of P.C Act and Section 409 of I.P.C	Found not guilty
A7	Section 13(2) r/w 13(1)(d) of P.C Act, 1988 and Section 409 of I.P.C	Found not guilty
A14 and A15	Sections 468, 471 and 467 of I.P.C	Found not guilty
A16	Section 471 r/w 468 of I.P.C	Found not guilty
The period of sentence already undergone by each accused ordered to be set off. The sentences for each account ordered to run concurrently.		

18. Being aggrieved by the judgment of the trial Court in C.C.No.17 of 2001, the following Criminal Appeals are preferred by the convicted accused:-

A1 – M.Gopalakrishnan has preferred Crl.A.No.630 of 2013 **

A2 – S.Arunachalam has preferred Crl.A.No.638 of 2013

A3 – N. Chandrasekhara Rao has preferred Crl.A.No.644 of 2013

A4 – B.Subramanian has preferred Crl.A.No.662 of 2013 **

A5 – A.V.Shanmugasundaram has preferred Crl.A.No.646 of 2013 **

A6 – N.Kumarasamy has preferred Crl.A.No.661 of 2013

A7 – V.Srinivasan has preferred Crl.A.No.660 of 2013

A8 – K.Subramanian has preferred Crl.A.No.631 of 2013



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A9 – N.Ramakrishnan has preferred Crl.A.No.657 of 2013

A10 – N.Seetharaman has preferred Crl.A.No.632 of 2013**

A11 – S.P.Vairavan has preferred Crl.A.No.645 of 2013

A12 – K.Sai Jagannathan has preferred Crl.A.No.645 of 2013

A13 – M/s.Sathyam Foods Pvt Ltd

Rep. by A-14 & A-15 has preferred Crl.A.No.645 of 2013

A14 – H.Arul Manalan has preferred Crl.A.No.645 of 2013

A15 – R.Palaniappan has preferred Crl.A.No.645 of 2013

A16 – M.Varadharajulu @ M.V.Raja has preferred Crl.A.No.713 of 2013

**Pending appeal, the appellants in Crl.A.No.630 of 2013 filed by Thiru.M.Gopalakrishnan [A1]; Crl.A.No.646 of 2013 filed by A.V.Shanmugasundaram [A5], Crl.A.No.662 of 2013 filed by B.Subramanian [A4] died and these appeals are dismissed as abated, *vide* order of this Court dated 03.12.2021. The Learned Counsel for the appellant in Crl.A.No.632 of 2013 has produced photocopy of death certificate of N.Seetharaman indicating that, the appellant/N.Seetharaman [A10] died on 16.02.2022, hence, the Criminal Appeal No.632 of 2013 is dismissed as abated.

19. Grounds of appeal, contention raised by each accused/appellants, the case of the prosecution and Court findings:-



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Crl.A.No.638 of 2013 filed by Arunachalam (A2):-

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A2/Arunachalam was General Manager MS Capital, Central Office, Indian Bank, Chennai, during the period from May 1992 to 22.01.1996. P.W.22 Ms.Ranjana Kumar, Chairperson-cum-Managing Director, Disciplinary Authority accorded sanction to prosecute to him and her sanction order dated 01.03.2001 is marked as Ex.P.95. In the grounds of appeal, it is contended that, Ex.P.95 is vitiated by reason of non-application of mind. In the cross examination, P.W.2 has admitted that, the Prosecution Agency has not placed all the documents connected with the loan transaction and there were missing pages. She has not appended the list of documents which she has perused before according sanction and she has also not made any attempt to get clarification regarding the missing document. In the cross examination, it has been suggested to her that, she is inimical to A2 and she has accorded sanction in spite of CVC suggestions to drop action against A2.

19.1. Ex.P.95, the sanction order to prosecute him by P.W.22 is heavily assailed by the appellant on the ground, it was not granted on application of mind. No attempt made by P.W.22 to get the missing document



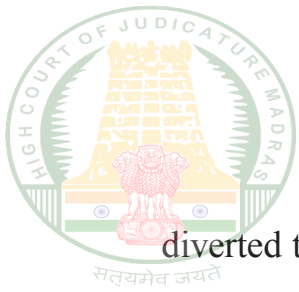
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to arrive at the said decision. The advice of CVC to drop the proceedings against

A2 not taken into consideration. No evidence to prove conspiracy or derivation of any pecuniary advance by A2 placed by the prosecution. No entrust or dominion with A2 to punish him under Section 409 of I.P.C

19.2. The Learned Counsel for the appellant/A2 Arunachalam submitted that, the evidence adduced by the prosecution does not attract offence under Section 409 of I.P.C. According to the Learned Counsel for the appellant/A2, there was no entrustment to A2 as a Banker or Clerk. A2 had no dominion over the property of the bank. It is not the allegation that, he disposed the property entrusted to him, in violation of any direction of Law. While there is no evidence to show this appellant had intention to cheat or had misappropriated any property entrusted to him or dominion over it, conviction under these Sections are not sustainable since the ingredients required to punish under these Sections not satisfactorily proved by the prosecution.

19.3. Regarding the discount of 36 FBP bills for Rs.986.75 lakhs which has fallen overdue, the appellant/A2 states that, the charge that, none of the 36 FBP purchased exports were made by A-13 directly. The amounts were



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diverted to M/s.MVR Export and M/s.Maxwell Exim, who exported as shown in

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the bills mentioned. All the FBP bills are shown as drawn on

M/s.Mountamount Singapore Pvt Ltd., M/s.Nagova Exim Pvt Ltd., Singapore

and M/s.Sadeco Sarl Pvt Ltd, Singapore and the beneficiary of LC is shown as

M/s.Mountamount Singapore Pvt Ltd, and Rs 12.72 crores of 47 FDP bills were

transferred to ADOVEXBIR on the dates mentioned therein. Therefore, the

charge A2 had committed misconduct under Section 13(2) r/w 13(1)(d) of the

Prevention of Corruption Act is factually incorrect. The Learned Judge had

failed to see that, A2 was not the General Manager when the branch purchased

the FBP bills purchased prior to the sanction and that the bills purchased

subsequently after the sanction were only credited to the current account of A-

13 as per the evidence of P.W.17 and in the face of the said evidence the

Learned Judge was not right in holding that, A2 had permitted the branch to

discount 36 bills and to divert the proceeds to the group Companies.

19.4. Regarding the charge of recommending FBP for Rs.1000

lakhs with dishonest intention even after recording the deliberation of

Management Committee Meeting on 08.05.1992 in the own hand writing in the



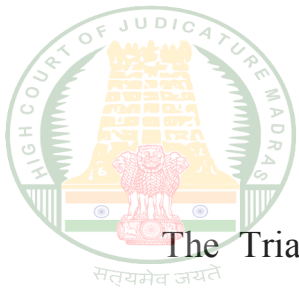
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rough register, suppressing the deliberation recommended to the board, sanction

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of Rs.10 crores FBP/DA till 31.03.1994 to A13 Company, the Counsel for A2

contended that, the Learned Trial Judge had erred in concluding that the Prosecution proved that Appellant/A2 had withheld the information of the Management Committees decision for watching the performance of A-13 account for three months and approach for consortium in future through the concerned department while sanctioning Rs.10 crores one time FBP/DA facility even though on 08.05.1992 he was the Board Secretary and privy to the Board decision. The said conclusion is erroneous Firstly, the charge against Appellant/A2 is that, as General Manager, he withheld decision of the Management Committee on 08.05.1992 but he was not then General Manager, who recommended the proposal Ex.P.64 and Secondly, the decision of the Board as found in Resolution No.35 in Ex.P.20 and Ex.D.57 containing the direction that, the adjustment of this one time limit should be reported to the committee was indeed conveyed and not withheld. Ex.P.43 is not a true copy of the resolution No.35 and it is only a letter sent by P.W.13 to Joint Chief Officer, RBI, Industrial and Export Credit Department, Bombay exporting the sanction on 08.05.1992 and the true copy of the Board resolution found next to Ex.P.43 as observed by the learned Judge was not marked as a prosecution exhibit at all.

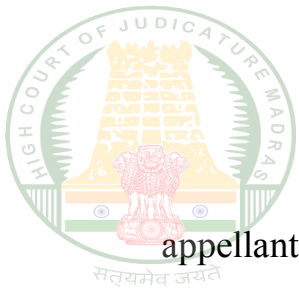


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The Trial Judge in this regard completely overlooked the evidences of the

Prosecution witnesses in particular P.W.14 who has clearly stated in the course of his evidence that the deliberations and discussions regarding the loan proposal in the Management Committee meeting are not decisions and what is reflected in the minutes approved by the Management Committee, alone is the decision and that any observation made during the deliberations or discussions, which does not form part of the minutes will have no meaning and only the minutes confirmed by Management Committee alone will be communicated to the concerned department and that in the instant case the decision of the Management Committee as contained in the minutes had been communicated and that the prosecution has not produced any evidence to show that watching the performance of A-13 account for three months and to approach for consortium in future while the Managing Committee accorded sanction for the credit facility of Rs.10 Crores, as FBP/DA facility for A-13 was a decision, taken by the Management Committee in the meeting held on 08.05.1992.

19.5. According to the appellant, what he has done was in accordance with the normal Banking Practice and Procedure. He has not suppressed any information in fact, he had reported pendency of one over due bill to the Management Committee. Further, the Learned Counsel for the

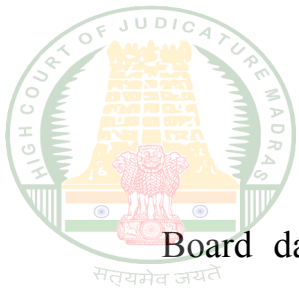


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appellant submitted that, the performance of M/s.Sathyam Food (P) Ltd was

apparently good and recommendation to the Board about his performance. The Bank Higher Officials like P.W.20, P.W.21, P.W.31 and P.W.32 who are Directors participated in the Board meeting have also expressed same opinion about the M/s.Sathyam Foods Private Limited. Therefore, as a Board Secretary, jottings in Ex.P.40 made by A2 will no way incriminate the appellant to invite a conviction. In fact, the performance of M/s.Sathyam Foods (P) Limited was in good condition till 1995. The appellant had no opportunity to know about the performance of M/s.Sathyam Foods Pvt Ltd, after 31.03.1994. He will come to know about the transactions only if it is reported to him. Prior knowledge to prevent out flow of funds from the bank on expiry of loan sanction period never brought to his notice. The transactions are monitored by concurrent auditors and the end use is monitored by the Branch which could be seen from Ex.P.173. While so, the appellant cannot be held responsible for not preventing the outflow of fund after expiry of sanction limit.

19.6. Also the contention of the appellant that, it is impracticable to suddenly stop the outflow or transaction on the date of expiry of sanction limit. In business, such sudden halt of transaction is impossible is not a sustainable argument. This defence might hold good if A-2 had not withheld the decision of



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Board dated 08.05.1992 or had no knowledge about the decision to have

performance watch for three months and to approach the consortium for future finance. It is contended by the Learned Counsel for the appellant/A2 that, the prosecution witnesses P.W.22 and P.W.46 have conceded that, there was no loss to the Bank with reference to the limits recommended by A2. The recommendation of the loan limit under various facilities was appraised and accepted at Zonal Office level. Merely because, some deficiency is pointed out in the process. The trial Court has erroneously concluded that, there was criminal conspiracy between the accused. From the documents marked as Ex.D.6, Ex.D.12, Ex.D.22 which are letters from RBI informing that, sanction of loan to A13 under the Credit Monitoring System was transparent and no fault in A13's Export and Import transaction. When there is no evidence against this appellant regarding circumvention of the procedure and clean chit by RBI about the export and import transaction of A13 go to show that, there was no dishonest intention or misconduct on the part of this appellant while handling the loan file of M/s.Sathyam Foods (P) Ltd.

19.7. After suppressing material fact that the seller Company and the buyer Company belongs to same group and deliberating not placing on

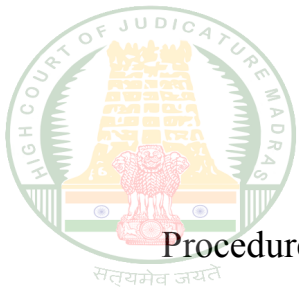


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record that the performance watch was instructed by Board, RBI and been mislead to give a clean chit to the dubious transaction. Therefore, the opinion of RBI not based on the crucial information cannot be taken advantage by this appellant.

19.8. The fact that, Bank has approached the DRT for recovery of loan would go to show that, the borrower fail to repay the loan avail credit facility deceptively producing at the time of sanctioning the loan false documents.

19.9. The Learned Special Public Prosecutor for the respondent/ C.B.I in response to the submission stated that, the sanctioning authority has to independently take decision whether to accord sanction or not. In the sanction order Ex.P.95, he has referred about the 47 export bills purchased by Muthailpet Branch of Indian Bank and 11 import LC's which were discounted contrary to the Banking Rules and the materials collected leads to an independent conclusion that, A2/Arunachalam in conspiracy with the other accused, abused his official position and dishonestly facilitated to release of credit facility to M/s.Sathyam Foods (P) Ltd against Banking Norms and



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Procedure. The total amount been cheated is around Rs.21.49 crores (+)

interest and having accorded sanction, after applying the mind and that been taken into consideration by the trial Court before taking cognizance.

19.10. In the appeal, a Public Servant cannot re-agitate these grounds in view of Section 19(3) of the P.C Act, 1988, which categorically say that, Notwithstanding anything contained in the Code, no finding, sentence or order passed by the Special Judge shall be reversed or altered by a Court in appeal, on the ground of error, omission or irregularity in the sanction order, unless in the opinion of that Court, a failure of justice has in fact been occasioned.

19.11. In this case, there is no failure of justice occurred, fair opportunity been given to the accused to defend and justify his action of sanctioning loan to M/s.Sathyam Foods (P) Ltd., suppressing the decision of the board. Having found that, his misconduct had enabled the other accused person, who are interested in A13 M/s.Sathyam Foods (P) Ltd., to derive pecuniary advantage, questioning the validity of Ex.P.95 is unsustainable.



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19.12. This Court finds that, the documents sufficient and

necessary to decide about sanction to prosecute had been placed before P.W.22 (Mrs.Ranjana Kumar). She had perused the documents and accorded sanction. Even assuming few documents not produced before her, that has no bearing in her decision. Merely because, some papers were missing, her subjective satisfaction with the available documents to accord sanction cannot be brushed aside or faulted. Further, before framing charge, the trial Court has gone through the materials and had framed charges against this appellant/A2. Therefore, after conviction, there is no point in questioning the sanction order Ex.P.95 on the ground few statement of witnesses not place before her when there is no failure of justice occasioned.

19.13. The over tact of A2 Arunchalam is the deliberate suppression of Board decision dated 08.05.1992. He claims as a defence that, he as Board Secretary not duty bound to inform this to the Branch since not all deliberations of the Board are conveyed. This defence only expose the guilt of this accused. The dishonest suppression of the decision had enabled A-13 M/s.Sathyam Foods (P) Ltd., to discount the FPB Bills and the intention to the Board to curtail the out flow been defeated. Having signed in the hand written



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deliberation which specifically recorded that Rs.10 crores credit facility to A-13

Company subject to performance watch for 3 months and the borrower should seek finance from consortium of Bank in future. Contrarily even after the loan period fund continued to out flow because in the minutes of the Board conveyed to the Branch this pre-condition to have watch conspicuously omitted.

20.Crl.A.No.644 of 2013 filed by N.Chandrasekhara Rao (A3):-

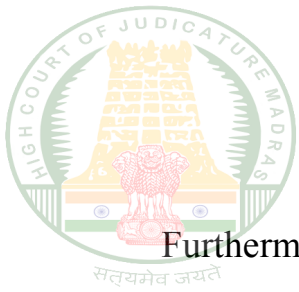
The Learned Counsel appearing for the appellant/A-3 that, N.Chandrasekhara Rao, Assistant General Manager, Indian Bank, Central Office, Chennai, submits that, the appellant followed the procedures and RBI circulars and guidelines scrupulously while recommending the credit limit to A13's Company. He had not circumvented or by-pass any Banking procedure. However, the trial Court had erroneously held that this appellant along with the other accused had conspired to cheat the bank and cause pecuniary loss to the Bank by financing A13's Company to discount 47 Export bills and 11 Import bills, after the expiry of the Head Office sanction. According to the appellant, the bills which were purchased/discounted in the year 1995 after the expiry of loan sanction was not done with his knowledge or consent and he being functionary in the Head Office had no role in financing these bills at the branch



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level. He has no connection with the other accused persons in respect of the

loan transaction extended to A-13 M/s.Sathyam Foods (P) Ltd. While so, he had been wrongly implicated by the prosecution in this case attributing knowledge and meeting of mind with the other accused persons to conspire for the purpose of cheating. This appellant had no dominion over the property and had no control over the property by any entrustment. When the appellant had no authority to sanction or reject the loan proposal, the trial Court has erroneously held the appellant guilty of offence like misappropriation and cheating, besides misconduct of a public servant. The day-to-day transactions of the Muthailpet Branch is reflected in Ex.P.26, Ex.P.184 and Ex.P.199 neither these documents nor P.W.1, P.W.4 and P.W.5, who had spoken these entries in the document had implicated A3 for knowledge about the loan transaction of A13's Company. The appellant cannot be held responsible for the credit sanctioned prior to his joining as Assistant General Manager, particularly the credit sanction on 08.05.1992 and prior to that was done by P.W.13 who is his predecessor. Similarly, the transaction show that Ex.P.87 relates to the credit disbursed by the Bank in the year 1995 though after the expiry of the Head Office sanction, such transactions are permissible in the Banking practice since the account cannot be brought to halt on the date of expiry of loan.



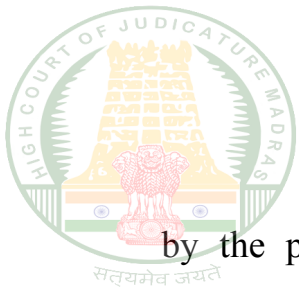
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Furthermore, the extension of loan or renewal of the loan is the practice in the

bank giving post-sanction approval. When the Investigation Officer P.W.46 has admitted that, there is no evidence to show that, this appellant has diverted the funds and dishonestly facilitated the release of credit facility in favour of A13 Company for them to utilise his fund for adjusting their dues, conviction against this appellant for Charge No.11 and Charge No.12 is without any basis. The Court below ought to have taken note of the admission by Investigating Officer P.W.46 that, credit facility sanctioned to the A13 Company on 04.01.1993 was duly repaid by the Company in the normal course.

20.1. Ex.D.5 the letter forwarded to RBI, Mumbai for the post-sanction scrutiny of the credit sanctioned on 01.04.1993 and RBI not made any adverse remark about the post-sanction credit facility would show that the appellant had no malafidy intention.

20.2. The Learned Counsel for the appellant/A3 states that, sanction order Ex.P.7 accorded by P.W.2 is not valid. The sanction to prosecute Ex.P.7 was subsequent to the recording. The statement of P.W.20, P.W.21, P.W.31 and P.W.32, under Section 161 of Cr.P.C. This establishes that, without applying the mind and after considering all the documents relied

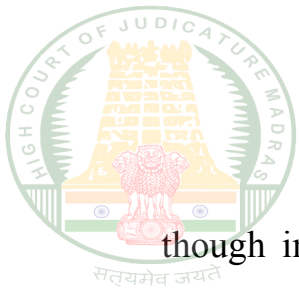


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by the prosecution, the sanction has been accorded. Further, P.W.2 was declared hostile. Hence, sanction order Ex.P.7 to be treated as non-est in law, which leads to an inevitable conclusion that, the trial Court has taken cognizance without proper sanction under Section 19 of Prevention of Corruption Act, 1988.

20.3. The Learned Special Public Prosecutor appearing for CBI contended that, P.W.2 who accorded sanction to prosecute was declared hostile because of non-disclosure of certain facts which she had special knowledge. As far as the satisfaction to accord sanction this witness had clearly deposed that, on application of mind been satisfied, there is a *prima facie* material to prosecute the appellant (A3). She (P.W.2) has accorded the sanction order marked as Ex.P.7. There is no illegality in the order and even if there is any error since no failure of justice, omission or irregularity is saved under Section 19(3) of P.C Act.

20.4. As far as this appellant (A3) is concerned, he has signed the letter (Ex.D.6) dated 27.07.1994 informing the RBI for post sanction scrutiny under Credit Monitoring Management. Ex.P.39 Board Note dated 19.05.1994



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though indicates that, the account of A-13 which has exposure of prudential

limit to be monitored. A-3 N.Chandrasekhara Rao had favoured A-13

Company to sanction one time FBP and L.C Limits, suppressing group

affiliation. Recommendations been made and purchase of FBP permitted

dishonestly which is well within the knowledge and approval of this accused.

The breach of trust been clearly proved by explicit, suppression of the true face

of the borrowing Company. Therefore, the appeal has no substance.

21. Crl.A.No.661 of 2013 filed by N.Kumarasamy (A6):-

N.Kumarasamy arrayed as A6, was serving in Zonal Office, Indian Bank, as Credit Monitoring Officer during the period from August 1990 to May 1996.

21.1. The Learned Senior Counsel for the appellant submitted that, P.W.2 N.Ramanan, who has accorded sanction to prosecute turned hostile and his sanction order bristles with non-application of mind. Some of the witnesses for the prosecution were examined by Investigating Officer, much after sanction was accorded and therefore, sanction order granted with incomplete documents



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will vitiate the entire trial. Pointing out defects in Ex.P.7 sanction order, the

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Learned Senior Counsel for the appellant submitted that, sanction to prosecute is not a formality but a sacrosanct act which prevents vexatious and frivolous prosecution. In this case, due to non-application of mind and non- submission of entire document, failure of justice had occurred.

21.2. It is contended that, the trial Court without any material had convicted the appellant for the charge of conspiracy, even though the appellant had no role in taking decision regarding sanction of loan. The responsibility of the appellant is to prepare notes and place it before the Zonal Manager, after approval of Chief Manager. The proposals cleared by Zonal Office will be appraised at Credit Department in the Head Office and then, place it before the Board of Directors. The Final Authority is the Chairman-cum-Managing Director, who implement the decision of the Board of Directors. Therefore, the appellant, as credit Monitoring Officer has no role in decision making hence cannot be held responsible for the alleged wrongful loss caused to the Bank.

21.3. The Bank Officials like P.W.1, P.W.11, P.W.14, P.W.17, P.W.33 and the Investigating Officer P.W.46, who laid the final report as well

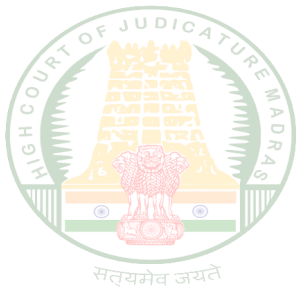


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as D.W.2 had deposed that, the note/appraisal put by the appellant/A6 was in

order and as per the procedure of the Bank and RBI guidelines, the Court below had ignored the positive accession of these witnesses. The experience, credit worthiness and efficiency in the business of the Directors of the Company ought to have been enquired by the Branch and not at Zonal Office level. In this case, the Zonal Office entries the import LC facility to M/s.Sathyam Foods Private Limited only based on the Branch Office letter dated 01.06.1993 informing that, the borrower has cleared all the pending bills and there is no FBP pending. Based on this information, the appellant has prepared notes to increase the L.C limits from Rs.5 crores to Rs.10 crores. The Investigating Officer has not conducted any investigation at Singapore, whether the bills alleged to have been discounted creating double charge on the same bill. The transfer of export document is permissible under the Exchange Control Regulation. While so, when none of the transaction is in violation of export regulation, if any violation at Singapore Branch, the appellant herein cannot be held liable. The logic for acquitting the appellant from charge Nos.7 & 8 equally applies to the other charges:-

“As per D-65 (Ex.P.153) dated 25.01.1993, the Zonal Office has recommended increase of import L.C. facility from Rs.5 crores to Rs.10 crores based on the



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branch office letter dated 06.01.1993 informing that all pending bills are realized and the present balance in FBP is nil.

Ex.P.153 is the recommendation by the Zonal Office to the Head Office for enhancing the import LC limit of A13 company from Rs.500 lakhs to Rs.1000 lakhs. One of the reasons given for this recommendation is that the value of one chartered cargo of raw cashew nuts would not be less than Rs.1000 lakhs. It is also stated in Ex.P.153 that all the bills purchased earlier under the sanction of the Management Committee on 08.05.1992 were fully realized. Ex.P.150, Ex.P.152 and Ex.P.153 were properly appraised and were put up to the sanctioning authorities according to the procedures of the bank and the guidelines of RBI.”

21.4. According to the Learned Special Public Prosecutor for C.B.I, this appellant at Head Office been dealing the loan file of M/s.Sathyam Foods (P) Ltd. He was rightly found guilty and convicted and sentenced to undergo one year Rigorous Imprisonment with fine amount of Rs.5,000/- in default to undergo R.I for two months for the offence under Section 120-B r/w 420, 409 IPC and 13(2) r/w 13(1)(d) of Prevention of Corruption of Act, 1988 and to



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undergo R.I. for one year with fine of Rs.5,000/- for (5 Counts) in default to

undergo R.I. for 2 months for the offence under Section 409 of I.P.C and to

undergo RI for 1 year with a fine of Rs.5,000/- for (5 Counts) in default to

undergo R.I. for 2 months for the offences u/s.13 (2) r/w 13 (1) (d) of the P.C.

Act 1988. The trial Court, while considering the evidence had excluded the

discount of bill to tune of Rs.5.89 crores between 16.04.1992 to 28.04.1992 by

the branch even before getting formal sanction from Head quarters. Therefore,

had acquitted A-6 from charges 7 and 8, for misconduct of a Public Servant

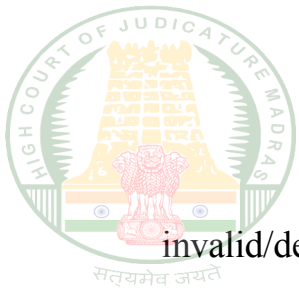
under Section 13(1)(d) of P.C Act and breach of trust by a banker under

Section 409 of I.P.C.

22. Crl.A.No.660 of 2013 filed by V.Srinivasan (A7):-

The Learned Counsel appearing for the appellant/Srinivasan(A7), submitted that, the appellant as Chief Manager of Indian Bank, Muthialpet Branch, succeeded Mr.George Isaac, on 03.11.1994 and continued in the said Branch till June 1996.

22.1. The Learned Senior Counsel appearing for the appellant submitted that the cognizance taken by the trial Court based on an



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invalid/defective sanction order, hence the trial is vitiated. The none application

of mind by P.W.2 while granting the sanction order marked as Ex.P.7 exposed

by his own testimony and he was treated as hostile witness by the prosecution.

The loan sanctioned to M/s.Sathyam Foods (P) Ltd., was during the period of

his predecessor George Isaac and whatever error or defect alleged in sanctioning

the said loan, it is attributable only to then Chief Manager, George Isaac and not

this appellant(A7). The appellant, who joined as Chief Manager of Muthialpet

Branch much after the proposals to sanction loan to M/s.Sathyam Foods (P)

Ltd. While so, the appellant (A7) cannot be penalised for the alleged offence of

conspiracy which commenced during the period of his predecessor Mr.George

Isaac. The prosecution had failed to prove that the trade of A-13's Company

relating to the 47 bills were within their group of Companies itself not proved

beyond doubt. There is no cogent evidence to prove the said allegation. The 47

bills purchased by the appellant since he is the Authority to do so and it is well

within the established procedure of the bank. The account of A-13

M/s.Sathyam Foods (P) Ltd., been periodically reported to RBI, Credit

Monitoring Management of post-sanction scrutiny. The renewal proposal was

submitted to the Higher Authorities much before the expiry of the due date i.e.,

31.03.1994. The credit facility was continued even after expiry on 31.03.1994



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in anticipation of ratification of renewal proposal said much before the expiry of the date.

22.2. P.W.11 Mr.V.Sekar had relied upon the RBI report of the Committee of structures of export credit had considered that the existing facilities will not be withdrawn for the further period or even sanction of additional limit. The borrower will continue to enjoy the existing limit and the follow of credit not to be hampered at any point of time. The facility allowed to any borrower cannot be stopped immediately after expiry of Head Office sanction pendency renewal. It is also practically not possible to stop the follow of credit to the borrower, such action will affect the liquidity cycle. The delay in renewal of credit facility can be for various reason. In case of business exigency, the Branch Manager is empowered to allow the adhoc credit facilities and seeking confirmation from the Higher Authorities.

22.3. P.W.17 C.K.Devaraj had spoken the said procedure and had given a clean chit to the action of this appellant. A-13 M/s.Sathyam Foods (P) Ltd., is a running firm and had cleared the earlier commitments, out flow was permitted bonafidely and in expectation of approval to extend the loan facility.



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This practice and procedure followed in the Bank in case of business exigency.

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The wisdom of this appellant (A7) sanctioning loan in tune with Banking procedure and guidelines cannot be suspected in the absence of reliable evidence to prove beyond doubt that his act or decision had resulted in unlawful pecuniary advantage for himself or others.

22.4. P.W.17 in cross examination admitted that, A-13 M/s.Sathyam Foods (P) Ltd., is not a fictitious Company and it had been in trade till the Bank filed petition for recovery of money before the DRT in the month of December 1996. P.W.17 has admitted that, the credit facilities were sanctioned to A13 Company only after proper appraisal as per the systems and procedures of the Bank. It is an admitted fact that, from 1992 to 1996 several export bills were realised and several import bills were paid by A13 in the normal course of banking business. In some cases bills were over due the bank has collected over due interest from A13. During the five year period of transaction with A-13 Company, the bank has earned substantial income and commission. Further, this witness has stated that, he has visited the Tuticorin Port and cashew nuts processing factories of A13 Company in Kerala, which were taken on lease and he was satisfied that, A13 had adequate stock to cover

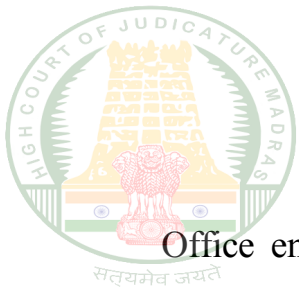


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the credit facility as per the requirement of the bank and in his opinion as a

WEB COPY Loan Officer A-13 Company is a credit worthy Company. The transaction of A13 Company with the bank was transparent. Therefore, the Learned Counsel for the appellant (A7) contended that, the appellant who become the Chief Manager of Muthialpet Branch at the end of November – 1994 had only continuing the same procedure of FBP bill purchased pertaining to A13 Company and there was nothing wrong in the process of adhoc credit facility given to A13 Company under Ex.P.83 since shipment may be made by another exporter on behalf of the borrower. On account shipment by M/s.MVR Export Private Limited and M/s.Maxwell Exim Private Limited made on behalf of A13 Company is legally permissible and in accordance with the procedure of RBI.

22.5. As far as this appellant, M/s.Sathyam Foods as partnership firm on 31.03.1992 proposal was sent from Branch Office to the Zonal Office by the then Chief Manager Mr.George Issac recommending FBP/FBN/DP/DA for Rs.19 crores to M/s.Sathyam Foods. On 07.04.1992 based on the request of M/s.Sathyam Foods, the Branch Office informed the Zonal Office that the borrower desire to immediately avail loan limit upto Rs.10 crores pending regular sanction. On the receipt of the said letter marked as Ex.P.46, the Zonal



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Office enquired about the previous experience with the buyer M/s.Anderson

Associates (P) Ltd., Singapore. Very evasive reply sent from Branch to Zonal Office, thereafter, 47 Foreign Bills were purchased, pending regular sanction, for a total sum of Rs.5.89 crores. Later, on the request of M/s.Sathyam Foods, *vide* letter dated 04.05.1992 marked as Ex.P.55, export bills drawn on account of M/s.MVR Export (P) Ltd who effected shipment for M/s.Sathyam Foods Private Limited was purchased. This appellant (A7) who assumed office as Chief Manager, Muthialpet Branch on 03.11.1994. Since then, he had been dealing with the account of A13 Company though the loans were secured through demand pro-note, hypothecation of stock agreement executed in favour of Indian Bank. The equitable mortgage created in favour of Indian Bank as a security for the credit facility. The fact that extension of loan even after expiry of sanction period. Failure to stop outward transaction after expiry of loan period occurred when A7 was the Chief Manager of the Bank. Therefore, this appellant who allowed the on sea transfer of Bills ignoring the fact that the seller Company and buyer Company are from same group and he had allowed the diversion of loan amount to clear the loan of M.V.R Groups instead of clearing the loan arose on purchase of Bills.



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22.6. As against him, the trial Court held Charge Nos.1, 11, 12, 24

& 25 proved and Charge Nos.26 & 27 not proved. In substance, as per the judgment of the trial Court, this appellant (A7) been found guilty of offence and convicted to undergo one year R.I and to pay fine of Rs.5000/- in default 2 months R.I for the offence under Section 120-B r/w 420, 409 and 13(2) r/w 13(1)(d) of P.C Act; for the offence under Section 409 of I.P.C (2 counts) to undergo one year R.I for each count and to pay fine of Rs.5000/- for each count in default two months R.I for each count; for the offence under Section 13(2) r/w 13(1) (d) of P.C Act (2 counts) to undergo one year R.I for each count and to pay fine of Rs.5000/-, for each count, in default two months R.I for each count.

22.7. If only we ignore Ex.P.146, the argument of A-7 will sustain.

Ex.P.146 Brochure of M/s.Mountamount Group Singapore mentioning A-16 M.V.Raja as its Chairman claims that, the prospective buyers mentioned in the loan proposal are the marketing centres of M/s.MVR Groups. Having got the sanction to a loan limit upto Rs.19 crores projecting as if, there are money local sellers, ready to sale cashew nuts to them and they have also foreign buyers to purchase the same. The bills which were discounted were not for the goods



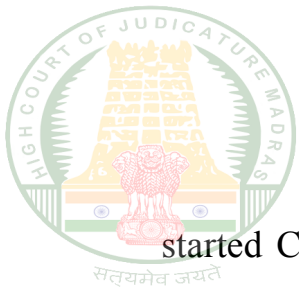
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purchased from the local buyers but by Transfer of Export documents.

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22.8. This Court confirms the view of the trial Court as far as A1 to A7 are concerned, from the evidence let in by the prosecution, it is proved beyond any pale of doubt that the Bank officials, who were dealing the loan file of M/s.Sathyam Foods a partnership firm later converted into a Private Limited Company in violation of their own decision in the Board meeting and guidelines leading to pecuniary loss to the Bank. However, each one blame either the Officer above him or below him for the loss. A-7 as Chief Manager of the Branch, did not care to stop flow of fund even after expiry of loan period conveniently blames his predecessor and seek excuse that flow of loan cannot be stopped suddenly. It is also contended on behalf of A-7 that the 150 days period of loan in many case not expired when action sought to be taken for recovery by the Zonal office.

22.9. The officials at Zonal office blame officials at Branch Office for misleading them with incorrect facts or shift the burden on the Head Office for permitting the loan limits. Without knowledge and connivance of A1 to A7, who occupied position at Head Office, Zonal office in the Branch, a newly

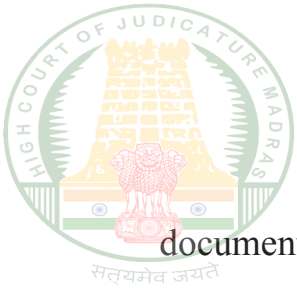


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started Company without any track record of experience, loan of Rs.19 crores sanctioned without margin could not have happened. The loan dues were not paid in time. Though on paper, Head office instructed to watch performance credit limit extended, 47 FBP's were allowed ignoring the fact that supplier and buyer are from same group. The payments were allowed to be diverted to the group Company to clear their OCC account and not the account of the borrower. It is obviously clear that, the firm which did not provided with FBP credit facility indirectly got the said facility by abusing the scheme of “on transfer shipment.”

23. CrI.A.No.631 of 2013 filed by K.Subramanian (A8):-

The Learned Counsel appearing for the appellant/K.Subramanian (A8), submitted that, the appellant/Accused-8 has been wrongly or inadvertently implicated in the case, because he happened to act as a professional auditor for the past 42 years with unblemished record and till date there is not even a single incident of enquiry or other action during his tenure and that, he has no connection whatsoever with the accused made against the Bank officers namely A-1 to A-7, M/s.Sathyam Foods namely A-13, Partners of A-14 and A-15 and the bare facts admitted and brought out by prosecution through the



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documentary evidence proves the same.

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23.1. The Court below failed to consider that, Charge No.1 and Charge No.29 does not implicates the appellant.

i). **Charge No.1:-** Constituting offence coupled with IPC offences.

The 8th Accused has no role in the matter. It is a commercial transaction between the Bank and its customer, as per the prosecution evidence and spoken by P.W.3 and other Bank Officers. The certificate dated 01.04.1992 is not related for any purpose in processing, recommending and sanctioning facilities either the partnership firm or A-13 Company and at all levels of the Bank from Zonal Office, Regional Office, Head Office Credit Board and Managing Committee. They took conscious decision to sanction loan on their own and not based on his report.

ii). **Charge No.29:-** It is stated that, A-8 dishonestly and fraudulently submitted a false certificate on 01.04.1992 stating that, A-13 firms credit balance is Rs.50.00 lakhs as on 01.04.1992 and thereby, induced the

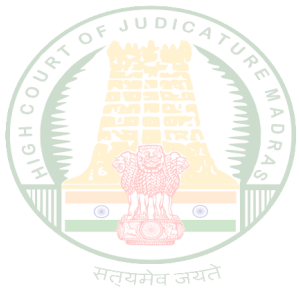


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Bank for getting sanction credit facility to A-13 firm and thereby, A-8 has committed the offence punishable under Section 420 of I.P.C.

23.2. In this regard, it is submitted by the Counsel for A-8 (K.Subramanian) that, the Appellant/A-8 has not acted dishonestly or fraudulently and he cannot act in such a manner. The certificate was issued based on books/records produced and it is sufficient in auditing practice to give a certificate of general nature.

23.3. The Court below failed to consider that the appellant/A-8 has issued certificate as per the books and records produced by the partners and the appellant was implicated without any legal basis but with conjectures and surmises. The only document placed on record is Ex.P.119, a General Certificate to whomsoever it may concern and it is not even referred as document for considering the proposal from the beginning at all levels of the Indian Bank and therefore, the conviction imposed on the appellant is liable to be set aside.



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23.4. This Court, on considering the grounds of appeal and

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Ex.P.33 report addressed whomsoever concern and for M/s.Sathyam Foods partnership firm for which, certificate was issued, taken as a false document given by A-8 to enable the other accused to cheat the Bank. The partnership firm became a Private Limited Company and loans sanctioned to the Company is the subject matter of the prosecution case. M/s.Sathyam Foods (P) Ltd is the defaulter and whatever loan sanctioned to Sathyam Foods, partnership firm cleared the report of A-8 is not for M/s.Sathyam Foods (P) Limited.

23.5. The Court below failed to see that, the auditor certificate dated 01.04.1992 issued by the appellant only for Sathyam Foods and also not given to the Indian Bank, Muthialpet Branch for loan purpose. It is given based on IT Returns and the declaration made by A-14 and A-15 as partners of M/s.Sathyam Foods. It is not clear from the prosecution evidence that, A-8 gave his report falsely or with knowledge that, it will be used for sanctioning loan to a Company which was not at all in existence on the date he gave the report. Therefore, the Criminal Appeal No.631 of 2013 is allowed.

24. Crl.A.No.657 of 2013 filed by S.Ramakrishnan (A9):-



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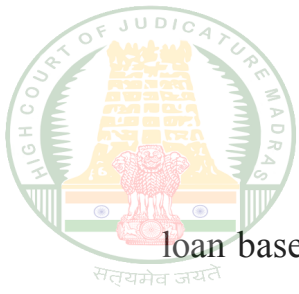
The Learned Counsel appearing for the appellant/N.Ramakrishnan

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(A9), submitted that, the Court below had wrongly come to the conclusion that, A-9 as the Approved Valuers of the Indian bank, dishonestly and fraudulently gave false valuation certificates stating highly inflated value of Rs.88 lakhs for the lands situated at West Kumaralingam Village, Udumalaipet Taluk, which were given as collateral security to the Bank by A-13 firm for availing the credit facilities and thereby, A9 committed the offence punishable under Section 420 of I.P.C.

24.1. The evidence of P.W-46, clearly prove that even before obtaining the valuation report itself, the loan was sanctioned, the report was received by the Bank Authorities subsequent to the sanctioning of loan.

24.2. Ex.P.90 the valuation certificate of A-9 is not given for Indian Bank. Ex.P.90 is dated 25-05-1992. Whereas M/s.Sathyam Foods got loan facilities even before the date of the valuation report Ex.P.90. It is mentioned in Ex.P.90, that the value of the land surveyed has been determined at Rs.88.87 Lakhs.” The re-valuation report submitted by Appraiser, at the request of Bank is Rs.112 lakhs. Therefore, it is not correct to hold the Bank has disbursed the



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loan based on the report of this appellant (A9). The bank has advanced loan to the M/s.Sathyam Foods not on the basis of the Valuation report of A-9. The valuation certificate for the property used by the Bank officials and the borrower, though it was not meant for loan purpose.

24.3. The appraiser report is not the basic thing for granting the loan and not on the basis of appraiser report, the loan sanctioned. The report had been given by the appellant as per the market value after proper investigation by the appellant and there is no fraud or falsification made by the appellant in appraisal report.

24.4. The above contention of A-9 is sustainable since his valuation certificate is open and not for availing loan or given to Indian Bank. The valuer is a professional, who use his expertise to assess the value of the property to the best of his knowledge in the absence of any material evidence that Ex.P.90 is a false valuation certificate and given dishonestly to commit cheating, the charges against A-9 is bound to fail. Accordingly, the Criminal Appeal No.657 of 2013 is allowed.



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25. Crl.A.No.632 of 2013 filed by N.Seetharaman (A-10):-

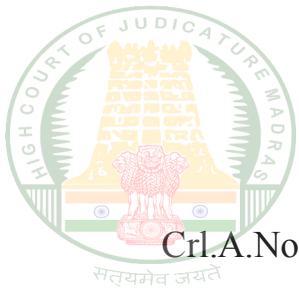
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The appellant Mr.N.Seetharaman is the 10th accused before the trial Court. Pending appeal, he died. The death certificate produced by the respondent indicates, he died on 16.02.2022. In view of his demise, the Criminal Appeal is dismissed as abated.

26. Crl.A.No.645 of 2013 filed by S.P.Vairavan and 4 others

(A11 to A5):-

The Learned Counsel appearing appellants/accused 11 to 15 submitted that, out of the nine offer letters submitted by A-13 Company along with the loan application Ex.P.104 which were issued by the various suppliers of cashew nuts at Kollam, only the veracity of three of the said letters viz., Ex.P-41, Ex.P-42 & Ex.P-96 have been put to question by the prosecution through the evidence of P.W-15, P.W-16 & P.W-23, who, in the course of their cross examination have denied any knowledge of the transactions between their Companies and the MVR Group and thereby, admitted their inability to speak about the genuineness of the said three letters. To appreciate the fact that, these tie-up letters issued by the cashew nut suppliers at Kollam does not have any bearing in respect of the sanction of credit facilities to the 3rd appellant in



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CrI.A.No.645 of 2013 in as much as the 3rd Appellant had not availed any

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Packing Credit facility from the Indian Bank nor did the sanction terms stipulate that the cashew nuts had to be procured only from the persons who had given the offer letters. These offer letters produced by A-13 Company were only for the purpose of indicating the availability of raw materials in the market to be procured for meeting the confirmed export orders available in the hands of the A-13/Company and the same cannot be treated at par with a Proforma Invoice/Quotation obtained from a supplier of machineries/ equipments in the case of borrower, who has availed the term loan facility.

26.1. The contents of Ex.P.119 certificate issued by the Auditor (A-8) has not been disproved by the prosecution either through oral or documentary evidences and therefore, mere allegation that, the said certificate is a false certificate issued by A-8 continues to remain an allegation based on the assumptions and presumptions of the prosecution. The finding of the Learned trial Judge that, the said certificate lacks particulars would not render the same false certificate unless otherwise proved by the prosecution.

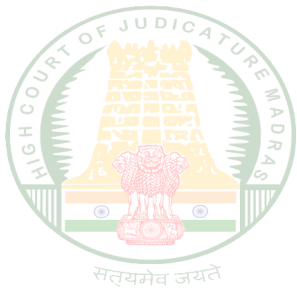


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26.2. The contra evidence through P.W.24 to P.W.27 to establish

Ex.P.90 & Ex.P-91 are valuation reports given by A-9 & A-10 showing exorbitant value for the properties offered as collateral security by the A-13 Company to avail the credit facilities cannot be taken at its face value since the said persons have categorically admitted in their cross examination that, they are neither competent nor experienced in the valuation of lands and identifying its nature and whatever, they have stated in respect of the valuation are only based on their assumptions and presumptions.

26.3. The charge levelled against these Appellants on the assumption by the prosecution that, after availing FBP limit of Rs.10 Crores, the A-13 Company did not carry on any exports and had diverted the said moneys to the Group companies viz, M/s.MVR Exports and M/s.Maxwell Exim (P) Ltd., while the same has been disproved in entirety by the evidence of P.W-17, P.W-4 and P.W-46, who have categorically stated that, the A-13 had in fact carried on exports under the Transfer of Export Documents Scheme (Deemed Exports) permitted by RBI under Rule 6 C. 4 of the Exchange Control Regulations under Ex.D-10, which is permissible under Law and therefore, the allegation made by the prosecution was baseless.



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26.4. The Appellants were found guilty of offence under Section 420 of I.P.C in respect of Charge No.28 alleging that, the A-13 Company represented by the A-14 & A-15 had fraudulently opened 47 FBP and 5 L.C's to the tune of Rs.31.75 lakhs which were pending realization, giving complete go by the documentary and oral evidences on record, to prove the contrary.

26.5. The A-13 Company carrying on business from 1992 and had availed the credit facilities from Indian Bank from 1992 to 1995 and admittedly, there was no default in the repayment of the amount by A-13 till the end of the year 1994. The A-13 Company had done import and export business in excess of Rs.110 Crores and had earned substantial amount of foreign exchange for the nation. The fact that, the default in the repayment of the payment of 47 export bills and 11 import bills, the proceeds of which is termed as the alleged loss sustained by the Bank arose out of genuine Commercial business disputes between the A-13 Company and its Foreign buyers and there is nothing to indicate fraud or the intention to cheat the Indian Bank at any point of time. When the allegation of forgery and fabrication been unproved by the prosecution, the allegation that the 47 export bills and 11 import bills with an



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intention to defraud the Indian Bank also stands unproved and the civil commercial default in the instant case which arose out of adverse business developments cannot be treated as an offence of cheating in pursuance of an imaginary conspiracy.

26.6. Ex.P-134 to Ex.P-140 and Ex.P-161 all goes to show that, the Indian Companies as well as the foreign buyers were not part of the same group. In as much as, none of the said documents have any evidentiary value or been proved by the prosecution and mere perusal of the same would show that, the contents of the said documents do not support the said finding in any manner whatsoever and that, the same cannot be relied upon by reason of the fact that, the prosecution has failed to sustain the objections raised at the time of marking the said documents.

26.7. The A-13 Company and the other Companies in India were all Private Limited Companies incorporated under the provisions of the Companies Act and registered with the Registrar of Companies. The records relating to these are all public records which would reveal that, there were no common shareholders or directors or controlling authorities in respect of these



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Companies to come to the conclusion that, they were part and parcel of the same group.

26.8. No loss has been caused to the Indian Bank by reason of the fact that, the account of A-13 Company along with the other Companies have been taken over by ARCIL by making the payment of Rs.180 Crores, upon receipt of which sum, the account of the A-13/Company stands fully and finally closed with Indian Bank. The contention of the prosecution that the same does not fully satisfy the dues of Indian Bank does not hold any relevance since the Indian Bank itself had voluntarily received the said amounts in full satisfaction of its claims.

26.9. The Learned Trial Judge has failed to appreciate the fact that the contents of Ex.P-3 and the evidence given by the various witnesses that, the default on the part of A-13/Company can only be attributable to Civil Commercial default. The conclusion that, the said letter is a ploy by the Officers of Indian Bank to save their skins, since the said letter has been written by the Asset Recovery Branch of Indian Bank, much after the registration of the F.I.R and none of the Public Servants in this case are signatory to the said letter.



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The loan facilities sanctioned to the A-13 Company on 04.01.1993 and

04.02.1993 were done by the Board of Directors, have categorically deposed that, the said facilities were sanctioned after thorough appraisal and study of the account and then, they were fully satisfied about the conduct of the account when the sanction was accorded.

26.10. On analysis of the evidence and hearing the rival submissions, this Court finds that, the appellants in this Criminal Appeal No.645 of 2013 are A-11 and A12, who are Managing Director and Vice President of M/s.MVR Groups of Companies. A-13 the Shell Company of M/s.MVR Groups of Company. A-14 and A-15 are the named Directors of A-13 Company. A-12 who signed the Bank Account introduction form. A-11 is the person all along been with A-14 (H.Arul Manalan) and A-15 (R.Palaniappan). A-11, A-12, A-14 and A-15 are employees under A-16. The Shell Company A-13 incorporated at Pondicherry only with intention to divert fund to the parent Company run by A-16. The alleged business shown over the years are between the Group of Companies created for the purpose of discounting the Bills.

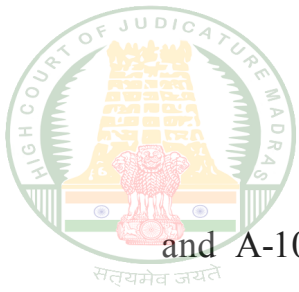


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26.11. A-13 at the time of opening the account in the Indian Bank

was shown as a partnership firm by name M/s.Sathyam Foods Pvt Limited. A-14 (H.Arul Manalan) and A-15 (R.Palaniappan) were shown as its Partners. Though they claim that they have experience for more than 7 years, no document in support of their experience is available. Contrarily, they were working as Canteen Manager and Assistant Manager in MVR Group of Company. This fact been spoken by witnesses and documents. On the very next day, they sought for loan to the tune of Rs.19 crores. The then Manager Mr.George Isaac has recommended for sanctioning loan and same has been accepted within a week without any margin, credit limit upto Rs.10 crores been sanctioned in anticipation of sanction from the Zonal Office.

26.12. Conspiracy between the Bank Officials and the persons behind A-13 Company to cheat the bank is proved from the haste manner in which the above processing of loan happened. To deceive the bank, false documents in the name of suppliers been produced. MVR Group of Companies at Singapore were shown as prospective purchasers. The statement of accounts obtained from A-8 to show as if A-14 & A-15 have working capital upto Rs.50 lakhs. The valuation report marked as Ex.P.90 and Ex.P.91 obtained from A-9



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and A-10. These valuation reports are subsequent to the sanction of loan.

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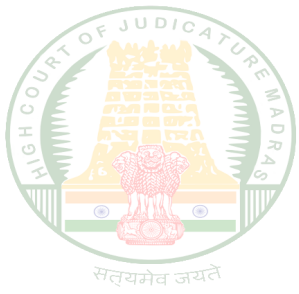
Under the guise of 'on account shipments' fund has been diverted and same has been spoken by P.W.5. Thus, 47 FBP's and 5 L.C's finance has been availed for a transaction which are sham and nominal between the MVR Group of Companies. The money was diverted and loan was not paid, leading to declaration of assets as NPA. Therefore, the trial Court has rightly held the appellant guilty and the grounds raised in the appeal are found unsustainable. The so called clearance by RBI and Export Council is not to taken as clean chit of the transaction because, they were obtained by the misleading statements of the Bank officials, who are accused in the case.

27. Crl.A.No.713 of 2013 filed by M.Varadharajulu @

M.V.Raja (A-16):-

The Learned Counsel appearing for the appellant/M.V.Raja (A-16) seeks permission of this Court to withdraw this appeal and he has also made an endorsement to that effect. In view of the endorsement made by the Learned Counsel for the appellant, this ***Criminal Appeal No.713 of 2013 is dismissed as withdrawn.***

28. Sum up:-



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Two pertinent grounds raised in these batch of appeals, one by the

WEB COPY Learned Counsels appearing for the appellants/Public Servant (A1 to A7) regarding the validity of the sanction to prosecution and by all the appellants regarding the charge of Conspiracy. Therefore, before summing up and recapsulize the facts these two grounds are discussed.

29. Sanction:-

A1 to A7, who are all Bank Employees within the meaning Public Servant. Their prime contention in common is the validity of Sanction order. Hence, this point is discussed separately in detail.

30. One of the prosecution witness P.W.2, who accorded sanction to prosecute A3, A6 and A7 turned hostile. His order granting sanction is marked as Ex.P.7. For the retired Bank Employees A1, A4 and A5 sanction to prosecute not required. The arguments put forth by the defence Counsels that, P.W.2, who granted sanction for A3, A6 and A7 turned hostile hence, his evidence regarding application of mind and perusal of entire documents before according sanction negated by the trial Court. Similarly, the argument that, even for retired Public Servant, sanction under Section 197 of Cr.P.C is



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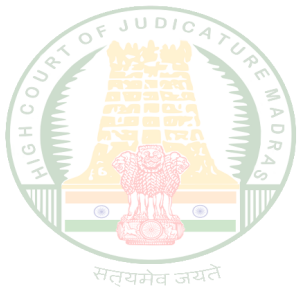
required, since they are also prosecuted for I.P.C offences beside offence under

Prevention of Corruption Act, also negated by the trial Court.

31. In view of the settled Principle of Law, the trial Court rightly held so, the testimony of a hostile witness not wholly unreliable and need not be eschewed in *toto*. The part of the evidence which are reliable can be accepted. Only caveat while appreciation is that, it should be looked with suspicion and must require corroboration. '*Falsus in uno, falsus in omnibus*' is not the Law.

32. Section 19(3) of Prevention of Corruption Act, 1988, says sanction order with any error or omission in the sanction order if it does not cause *such error, omission or irregularity has resulted in a failure of justice*.

33. Likewise, sanction under Section 197 of Cr.P.C., is required only in case of misconduct during discharge of duty by a Public Servant under the employment of Government either State or Central. The Bank Officials does not fall under this category, hence, the trial Court has rightly held to prosecute A1 to A7. Sanction under Section 197 of Cr.P.C., is not required.



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34. The public policy behind providing immunity from prosecution

without the sanction of the State is to insulate the public servant against harassment and malicious prosecution. It is not every offence committed by a public servant required sanction for prosecution only act done in discharge of duty which have the trapping of crime requires prior sanction to take cognizance.

35. Section 197 of Cr.P.C., will be attracted where the act falls within the scope and range of official duties, if an act is entirely unconnected with the official duty prior sanction is not required under Section 197 of Cr.P.C.

36. It is suggested to P.W.22, who accorded sanction to prosecute A2 that, she was inimical to A2. It is the Investigating Agency, on *prima facie* satisfaction with the material available seek sanction from the Competent Authority. The suggestions P.W.22 that, she was inimical to A2 otherwise, she could have not accorded sanction does not carry any merit.

37. P.W.2 who accorded sanction for A3, A6 and A7 declared hostile by the prosecution since he did not support the case of the prosecution in *toto*. However, regarding the sanction to prosecute namely Ex.P.7, he has



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clearly stated that, he accorded sanction only after application of mind. No

doubt, it is contended by the Learned Counsel for the appellants some of the documents were not placed before him while seeking sanction. But having applied his mind on the documents available and accorded sanction, the appellants were not able to demonstrate how certain statement of witnesses not placed before the authority had cause failure of justice.

38. Conspiracy:-

The Trial Court initially framed 34 charges against A1 to A15, thereafter, M.V.Raja absconded at the time of framing charge, later secured and arrayed as A-16 and 5 charges were framed against him. The sum and substance of the charge as pointed out earlier centres around the conspiracy hatched between them to cheat Indian Bank. In pursuance of the said conspiracy, A1 to A7 Officials of Indian Bank sanctioned Packing Credit facilities to A-13 M/s.Sathyam Food (P) Ltd. It is a fictitious Company floated by A-16 through its henchman A-14 (Arul Manalan) and A-15 (R.Palaniappan). The account was opened in the name of A-13 Company by A-14 (Arul Manalan) and A-15 (R.Palaniappan), on the instruction of A-12 Sai Jagannathan, who was also a staff under A-16 M.V.Raja and with the active

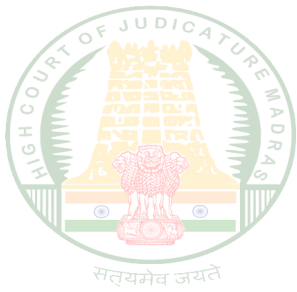


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assistance and aid by another employee by name S.P.Vairavan (A-11). For

sanctioning loan, K.Subramanian A8 the Auditor for MVR Group of Companies, A-9 Ramakrishnan and A-10 N.Seetharaman, Approved Valuers of Indian Bank had provided false documents by inflating the assets and liability details and value of the property given as collateral security. A-16 M.V.Raja, who faced the trial was also charged for the offence of conspiracy. A1 to A7 are public servant employed in Indian Bank. A8, A9 and A10 are Professionals. A-10, A-12, A-14 and A-15 are the Agents and henchman of A-16 M.V.Raja were employed in MVR Group of Companies controlled by A-16. A-13 is one of the group Company in the name and style of M/s.Sathyam Foods (P) Ltd, for which, A-14 (Arul Manalan) and A-15 (R.Palaniappan) are its Directors. The charge of conspiracy against these three categories been framed and the other charges individually were regarding the overt act of each accused done in pursuance of conspiracy. The offence of conspiracy been dealt by the Courts on various occasion and broadly been understood as below:-

39. In the words, the Hon'ble Supreme Court in ***Central Bureau of Investigation, Hyderabad -vs- Narayana Rao*** reported in ***CDJ 2012 SC 639***, wherein, it held as below:-



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“120-A. Definition of criminal conspiracy.- When two or more persons agree to do, or cause to be done,-

1) an illegal act, or

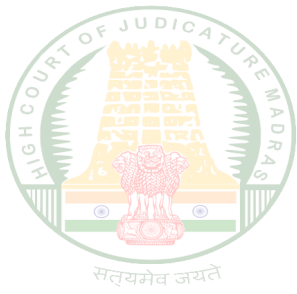
2) an act which is not illegal by illegal means, such an agreement is designated a criminal conspiracy:

Provided that no agreement except an agreement to commit an offence shall amount to a criminal conspiracy unless some act besides the agreement is done by one or more parties to such agreement in pursuance thereof.

Explanation.- It is immaterial whether the illegal act is the ultimate object of such agreement, or is merely incidental to that object.” [Section 120-B](#) speaks about punishment of criminal conspiracy. While considering the definition of criminal conspiracy, it is relevant to refer [Sections 34 and 35](#) of IPC which are as under:

“34. Acts done by several persons in furtherance of common intention.-

When a criminal act is done by several persons in furtherance of the common intention of all, each of such persons is liable for that act in the same manner as if it were done by him alone.” *“35. When such an act is criminal by reason of its being done with a criminal knowledge or intention. - Whenever an act, which is criminal only by reason of its being done with a criminal knowledge or intention, is done by several persons, each of such persons who joins in the act with such knowledge or intention is liable for the act in the*



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same manner as if the act were done by him alone with that knowledge or intention.”

20) The ingredients of the offence of criminal conspiracy are that there should be an agreement between the persons who are alleged to conspire and the said agreement should be for doing of an illegal act or for doing, by illegal means, an act which by itself may not be illegal. In other words, the essence of criminal conspiracy is an agreement to do an illegal act and such an agreement can be proved either by direct evidence or by circumstantial evidence or by both and in a matter of common experience that direct evidence to prove conspiracy is rarely available. Accordingly, the circumstances proved before and after the occurrence have to be considered to decide about the complicity of the accused. Even if some acts are proved to have committed, it must be clear that they were so committed in pursuance of an agreement made between the accused persons who were parties to the alleged conspiracy. Inferences from such proved circumstances regarding the guilt may be drawn only when such circumstances are incapable of any other reasonable explanation. In other words, an offence of conspiracy cannot be deemed to have been established on mere suspicion and surmises or inference which are not supported by cogent and acceptable evidence.”

40. The period of conspiracy as per the charge commenced on 31.03.1992, the date on opening of current account in the name of M/s.Sathyam Foods represented by its Partners A-14 (H.Arul Manalan) and A-15



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(R.Palaniappan). The account was introduced by A-12 Sai Jagannathan. On

31.03.1992 the partnership firm M/s.Sathyam Foods (P) Ltd had sought for FBP/FBN/DP/DA limit of Rs.19 crores on the same day. For the said requisition letter which is marked as Ex.P.104 under the caption “Present Proposal.” The partners of the firm had claimed that they have received export order from M/s.Richardson and Roger Ltd, Amsterdam and M/s.Anderson Associates of Singapore for export of cashew nuts value at USD 60 million equivalent to Indian Currency Rs.48 crores. The terms of payment will be at site/DA usance under FBN/FBP/DP/DA basis. To execute the above order, we require FBN/FBP/DP/DA limit of Rs.19 crores with Nil margin. A new firm and new account holder claiming that, it has order from Foreign buyers for a tune of Rs.48 crores and therefore, sought for finance assistance of Rs.19 crores with “Nil” margin. The partners have claimed that, they are well experienced in the proposed line of business and ready to offer collateral security worth Rs.90 crores. This has been accepted on the face value by the Board in view of the influence of A1 (deceased), who was Chairman -cum- Managing Director of the Bank. On 31.03.1992 itself the then Manager of Indian Bank, Muthialpet Branch had recommended for sanctioning finance assistance upto Rs.19 crores without margin for a period of 150 days by discounting foreign bills. The



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auditor's certificate claiming that, the borrowing firm has a net worth of Rs.50

lakhs and the individual partners have property worth of Rs.99 lakhs. The said recommendations has been made by the then Manager.

41. Strangely, the Manager has also noted in his recommendation that, he had orally enquired about the credibility of the borrowers and he has satisfied from his enquiry that these two persons are worth sanctioning loan to an extent of Rs.19 crores. On the very same day, the Manager has sent a letter to the Zonal Office Ex.P.46 that the borrower desires to avail loan limit upto Rs.10 crores immediately pending regular sanction. The conspiracy hatched between the officials of Indian Bank and the borrowers could be easily seen from the alacrity in which, the bank officials had acted to advance loan to a firm which had no past record worth mentioning and whatever documents filed are not worth considering to sanction a loan of such a huge magnitude that too without any verification of documents. Immediately, after this recommendation, letters marked as Ex.P.49 dated 23.04.1992, Ex.P.50 dated 27.04.1992 and Ex.P.51 dated 28.04.1992 indicates that, the said FBP is purchased as per the instruction of Zonal Office. It is also worth noting that for the proposal and request made by M/s.Sathyam Foods for sanctioning Rs.19 crores credit facility



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and Rs.10 crores immediately, the Zonal Manager *vide* Ex.P.29, had recommended to extent loan as requested subject to post-shipment guarantee cover from ECGC. From summary of this recommendation, it is observed that, though the Firm was established on 03.12.1990, they have not carried out any business till date. While so, it is also observed that, the partners have brought Rs.50 lakhs as capital as per the auditor's certificate.

42. The partners of M/s.Sathyam Foods appears to have impress upon the Zonal Manager that, most of the processors/exporters selling their excess production for which they are unable to get export orders and they are selling such excess stocks to them on deemed export scheme. To support this claim, offer letters which were identically retuned by Inland traders particularly from Kollam were relied by the borrowers. The examination of those local traders had proved that, those offer letters are false and fabricated in their name and in fact, they have never gave such offer letters. Ex.P.41 and Ex.P.42 which are sample letters offering cashew nuts to M/s.Sathyam Foods were all prepared in and around the date of opening the account and making loan application and the authorities of those documents were examined by prosecution as P.W.15 and P.W.16 who have categorically stated that, these letters did not emanate

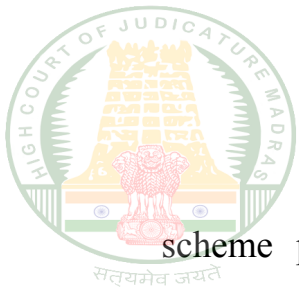


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from their firm. Similarly, the information by the borrower regarding the proposed buyer also happens to be a fake pretence and the Company which they claim ready to buy cashew nuts from them namely M/s.Anderson Singapore Pvt Ltd and M/s.Richardson & Roger, Amsterdam were also fake

43. Conspiracy is an act done in secrecy. Meeting of mind between the conspirators surfaces on the execution of the crime and by the circumstantial evidences. In white-collar crimes, the document which speaks for itself will mostly expose the meeting of mind among the conspirators. It is not necessary that, all the conspirators must take part in the crime from the commencement till end. They may join and leave in the chain of Criminal Act which is executed pursuant to the conspiracy. They need not know each other also. The ingredient required to convict a person for charge of conspiracy is that, there should be an agreement between them and that agreement should be, to do an illegal act or to do an act by illegal means.

44. The Learned Counsel appearing for the private respondents argued that, there was no default on the part of A-13 Company till the bank delayed the renewal of loan after 31.03.1994 and Transfer of Export document



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scheme permissible under RBI Rules. In fact, ECGC had occasioned to

scrutinise all these documents and found that, it was default in honouring the

bills purchased by the bank was due to the default of the buyer at Singapore.

While so, when there is no dishonest intention to cheat or meeting of mind to do

any illegal act between themselves or with the bank officials, the very fulcrum of

the prosecution case that, there was a conspiracy between the accused persons

and in pursuant to the conspiracy and offence of cheating, created a false

document and used the false document as genuine will not get attracted.

Furthermore, the offence under Section 409 of I.P.C which relates to criminal

breach of trust by a public servant or by banker, merchant or agent, will not

apply to a private person. However, the trial Court has convicted them for

conspiracy with the Bank officials for the offence under Section 409 of I.P.C.

45. The main offence is conspiracy and the allied offence is I.P.C offences under Section 420, 409, 468, 467, 471 r/w 468 of I.P.C as well as offences under Prevention of Corruption Act. The communications between the officials of Indian Bank at Head Office level, who are at Zonal level and Branch level clearly show that there is clear breach of guidelines and a superficial examination of documents been done at all levels. Even a limited scrutiny and



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observations at Zonal level was not abide at Branch level in view of the influence and pressure exerted on them from the Head Office.

46. The statement of accounts given by the auditor stating that, the partnership firm by name M/s.Sathyam Foods (P) Ltd have capital worth of Rs.50 lakhs. A-8 claims its assets and liability was given only to M/s.Sathyam Foods, a partnership firm whereas, the defaulter A-13 is a Company. The records clearly show that, the loan was sanctioned to M/s.Sathyam Foods which is a firm in the name of A-14 and A-15 which later took an incarnation as a Company registered at Pondicherry ROC. There is a force in the prosecution case that, M/s.Sathyam Foods (P) Ltd is a fictitious firm. No doubt, the conspirators have created records to show as if, it is an existing Company and carrying on business. In reality, it was not truly carrying on business, only documents been created in the name of M/s.Sathyam Foods (P) Ltd as if, they are engaged in trading of cashew nuts. Even the bills which has been discounted were not really purchased by them and sold to the buyers at Singapore, it is an on board shipment transfer.

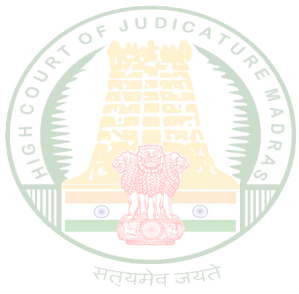
47. The Learned Counsel representing P.W.13 and its Directors claim that, such transfer is legally permissible. In this case, the facility extended



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for genuine traders been wrongly misused by this Company A-13 and had created fake documents for the purpose of availing FBP and LC. In addition, the importer at Singapore has also availed loan based on the very same bill at Indian Bank, Singapore branch. Without meeting of mind between the accused persons, the offence of this magnitude could not have occurred. Therefore, the conclusion of the trial Court, as far as A1 to A7 and A11, A12, A14 to A16 are concerned that they had prior meeting of mind to do illegal act viz., to cheat the bank by accepting the fake documents produced by A-13 for availing loan and violated the banking norms is upheld. However, for A8 to A10, who are professionals given their opinion cannot be roped for charge of conspiracy. Since no evidence available to prove their knowledge of dishonest intention or meeting of mind with other accused to do any illegal act.

48. As far as the breach of trust of a public servant for offence under Section 409 of I.P.C, the trial Court had acquitted A7 for the loan sanctioned prior to the period he took charge as the Manager of Muthialpet Branch and also the charge under Prevention of Corruption Act for the correspondent period.



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49. As far as A-16 is concerned, he was acquitted for charge under

Section 471 r/w 468 of I.P.C since the documents found to be false and used as genuine did not emanate from him but from his employees A-14 (H.Arul Manalan) and A-15 (R.Palaniappan). However, his role as founder of MVR Groups of Company and M/s.Sathyam Foods (P) Ltd is part of it proved through oral and documentary evidence. The veil been pierced to expose the man behind the scam.

50. The trial Court has segregated the period in which the officials handling the loan account of A-13 and held them guilty of those period apart from the charge of conspiracy. The sustainable argument placed on behalf of the Auditor and Valuer. They being Professionals, applying the Principle laid down in *Central Bureau of Investigation, Hyderabad -vs- K.Narayana Rao reported in CDJ 2012 SC 630* and *N.L.Rajagopalan -vs- State reported in CDJ 2009 MHC 3754*. This Court considered that their role in giving the statement of assets and liability as well as valuation report cannot be attributed with any dishonest intention.

51. As far as the Statement of assets and liability given by A-8 is the base document to accept the loan proposal of M/s.Sathyam Foods a



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partnership firm. As pointed out by the Learned Counsel that, it is not the

reason for sanctioning loan in fact, the Zonal Manager's report marked as

Ex.P.29 have observed that, the partnership firm though established on

03.12.1990, they have not carried out any business till 02.04.1992. Therefore,

by no stretch of imagination A-8, who had given his audit report for a

partnership cannot be stated as cause of the loan granted to the Company which

defaulted and diverted the loan amount.

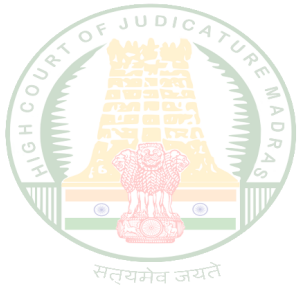
52. As far as Arunchalam (A2) and Chandrasekhar Rao (A3), they are the Authors of the summary of the proposal Ex.P.39 which has reviewed the account of M/s.Sathyam Foods (P) Ltd on 19.05.1994. Their report indicates that, the limit last sanction on 04.01.1993 and reviewed on 28.03.1994. It is recorded that, prudential limits for exposure to the group has exceeded by Rs.43.41 crores although credit to the borrower Company as such is within the prudential limit. The review done by these two bank officials were not done properly but for the name sake, the report been prepared by these two accused without taking note of illegal diversion of loan amount. This could be seen from the proceedings of the Management Committee dated 15.11.1995 for the period as on 30.09.1994. Their report reveals that, the account of M/s.Sathyam Foods



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(P) Ltd is due for renewal 04.02.1994 not submitted by the branch, despite

reminders expect periodical review submitted to the board. The performances of the Company during 1994-1995 was dismal. As against the projected sale of Rs.489 lakhs, the Company achieved only sale of Rs.177.29 lakhs and no reason given by the Company for the poor performance. The earlier meeting of the board on 20.07.1994. The advice of the Zonal Manager is Ex.P.39 in which A-2 and A-3 are signatories. The stock audit as on 31.07.1994 was ordered and the stock audit conducted by Mr.Kalayanasundaram, Chartered Accountant on 31.08.1994 and 31.01.1995 indicate that, the outstanding balance adequately covered with stock. At the same time, the stock audit had stated that, on the date of inspection, there was no stock in process and goods were finished. The stock statements submitted by the Company to the bank are derived from the stock registers maintained by the Company. Thus, it could be seen a clear suppression of facts by using deceptive expression of language to camouflage non-existence of stock and same been accepted by the Bank officials, leads to irresistible conclusion that the Indian Bank been cheated by its own officials and in the course of their criminal misconduct the Indian Bank has incurred loss to tune of Rs.12.72 crores by improper discounting 36 export bills in Ex.P.7.

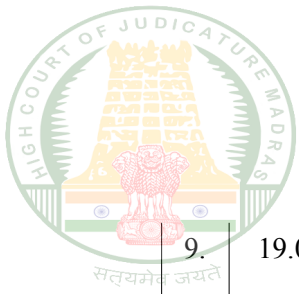


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53. A-13/Sathyam Foods (P) Ltd., consisting of its Directors Arul

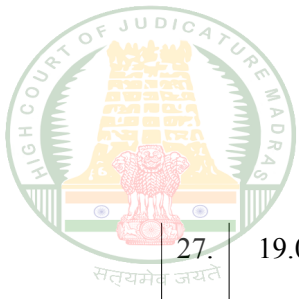
Manalan (A-14) and R.Palaniappan (A-15), had opened 47 FBP and 5 L.C and they have not realised as on January-2001. The total unrealised and outstanding amount is Rs.31.75 crores. The particulars of FBP's and imported L.C's as below:-

Sl. No.	Date of Purchase	Bill (FBP)		Amount	Drawn on	Date of transfer to ADOVEXBIR
		Manual	Computerized			
1.	16.02.1995	470/94	-	31,78,636	Mountamount (Singapore) Pte. Ltd.,	-
2	21.04.1995	12/95	-	14,82,814	Mountamount (Singapore) Pte. Ltd.,	20.10.95
3.	21.04.1995	11/95	-	13,12,388	Mountamount (Singapore) Pte. Ltd.,	25.10.95
4.	26.04.1995	17/95	-	26,05,280	Mountamount (Singapore) Pte. Ltd.,	02.11.95
5.	28.04.1995	20/95	-	17,86,840	Mountamount (Singapore) Pte. Ltd.,	02.11.95
6.	19.07.95	-	640503	22,37,869	Mountamount (Singapore) Pte. Ltd.,	13.12.95
7.	19.07.95	-	640506	17,69,072	Mountamount (Singapore) Pte. Ltd.,	22.12.95
8.	19.07.95	-	640508	25,94,670	Mountamount (Singapore) Pte. Ltd.,	29.12.95



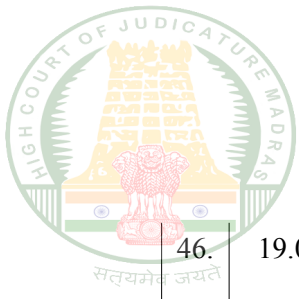
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9.	19.07.95	-	640513	19,69,217	Mountamount (Singapore) Pte. Ltd.,	(not available)
10	27.02.95	503/95	-	32,10,572	Nagova Exim Pte. Ltd., Singapore	28.09.95
11.	13.03.95	506/95	-	34,07,818	Nagova Exim Pte. Ltd., Singapore	28.09.95
12.	13.03.95	510/95	-	35,71,132	Nagova Exim Pte. Ltd., Singapore	28.09.95
13.	24.03.95	527/95	-	20,16,996	Nagova Exim Pte. Ltd., Singapore	28.09.95
14.	29.03.95	528/95	-	35,50,262	Nagova Exim Pte. Ltd., Singapore	28.08.95
15.	29.03.95	531/95	-	35,51,360	Nagova Exim Pte. Ltd., Singapore	-
16.	30.03.95	532/95	-	35,39,277	Nagova Exim Pte. Ltd., Singapore	28.09.95
17.	30.03.95	533/95	-	33,78,468	Nagova Exim Pte. Ltd., Singapore	28.09.95
18.	30.03.95	534/95	-	35,40,375	Nagova Exim Pte. Ltd., Singapore	28.09.95
19.	26.04.95	19/95	-	17,89,317	Nagova Exim Pte. Ltd., Singapore	02.11.95
20.	19.07.95	-	640512	17,52,969	Nagova Exim Pte. Ltd., Singapore	02.11.95
21.	03.05.95	21/95	-	26,09,325	Nagova Exim Pte. Ltd., Singapore	02.11.95
22.	03.05.95	22/95	-	26,09,325	Nagova Exim Pte. Ltd., Singapore	02.11.95
23.	03.05.95	23/95	-	26,09,325	Nagova Exim Pte. Ltd., Singapore	02.11.95
24.	03.05.95	24/95	-	23,48,500	Nagova Exim Pte. Ltd., Singapore	02.11.95
25.	19.07.95	-	640515	22,20,287	Nagova Exim Pte. Ltd., Singapore	02.11.95
26.	19.07.95		640516	17,54,080	Nagova Exim Pte. Ltd., Singapore	02.11.95



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27.	19.07.95	-	640509	22,41,385	Nagova Exim Pte. Ltd., Singapore	29.12.95
28.	19.07.95	-	640510	15,56,162	Nagova Exim Pte. Ltd., Singapore	29.12.95
29.	19.07.95	-	640511	22,41,385	Nagova Exim Pte. Ltd., Singapore	28.09.95
30.	13.03.95	507/95	-	35,70,034	Nagova Exim Pte. Ltd., Singapore	28.09.95
31.	13.03.95	508/95	-	35,70,034	Sadeco Sarl Pte. Ltd., Singapore	28.09.95
32.	13.03.95	509/95	-	35,70,034	Sadeco Sarl Pte. Ltd., Singapore	28.09.95
33.	13.03.95	511/95	-	35,72,231	Sadeco Sarl Pte. Ltd., Singapore	28.09.95
34.	12.03.95	512/95	-	34,14,108	Sadeco Sarl Pte. Ltd., Singapore	28.09.95
35.	24.03.95	526/95	-	35,55,754	Sadeco Sarl Pte. Ltd., Singapore	28.09.95
36.	24.03.95	525/95	-	35,57,751	Sadeco Sarl Pte. Ltd., Singapore	28.09.95
37.	29.03.95	529/95	-	37,66,741	Sadeco Sarl Pte. Ltd., Singapore	28.09.95
38.	29.03.95	530/95	-	35,50,262	Sadeco Sarl Pte. Ltd., Singapore	28.09.95
39.	30.03.95	535/95	-	35,41,474	Sadeco Sarl Pte. Ltd., Singapore	28.09.95
40.	05.04.95	3/95	-	33,91,047	Sadeco Sarl Pte. Ltd., Singapore	28.09.95
41.	24.04.95	14/95	-	17,92,393	Sadeco Sarl Pte. Ltd., Singapore	25.10.95
42.	24.04.95	15/95	-	19,70,767	Sadeco Sarl Pte. Ltd., Singapore	25.10.95
43.	26.04.95	18/95	-	19,08,349	Sadeco Sarl Pte. Ltd., Singapore	02.11.95
44.	19.07.95	-	640504	25,93,042	Sadeco Sarl Pte. Ltd., Singapore	22.12.95
45.	19.07.95	-	640505	25,93,856	Sadeco Sarl Pte. Ltd., Singapore	22.12.95

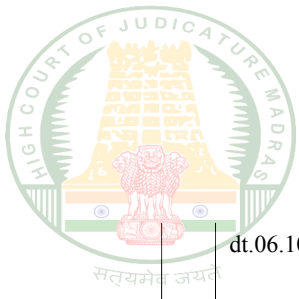


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46.	19.07.95	-	640507	25,93,856	Sadeco Sarl Pte. Ltd., Singapore	29.12.95
47.	19.07.95	-	640513	22,41,385	Sadeco Sarl Pte. Ltd., Singapore	29.12.95

**PARTICULARS OF IMPORT L.Cs. OPENED AND DEVOLVED AND THE
CONNECTED IMPORT BILLS**

Sl. No	L.C.No. and Date of Opening	Beneficiary of the L.C	Contract No. and Date	Amount of L.C (USD)	Last Date for Shipment	Last Date for Negotiation	FBC No.	Value of Bill (USD)	Invoice and No and Date
1	800082/95 dt. 14.03.95	Mount amount Singapore Pte.Ltd	0785 dt.14.02.95	9,36,000	31.03.95	21.04.95	1124	9,36,000	MMT-11 22/94, dt 17.03.95
2.	8001129/95 dt.28.04.95	-do-	0842 dt.27.04.95	13,60,047.60	30.04.95	21.05.95	1170	3,57,561.68	MMT-10 02/95 dt. 29.04.95
							1171	4,82,800	MMT-10 06/95, dt. 29.04.95
							1172	5,19,685.92	MMT-10 05/95, dt. 29.04.95
3.	800136/95, dt.04.05.95	-do-	0842 dt.27.04.95	4,93,318.40	31.05.95	21.06.95	1184	2,41,400	MMT-10 09/95 dt 05.05.95
							1185	2,54,918.40	MMT-10 08/95 dt 05.05.95
4.	800167/95 dt.30.05.95	-do-	0850 dt.27.05.95	3,50,625	30.05.95	20.06.95	1246	2,98,686	MMT-10 29/95 dt 16.06.95
							1261	51,000	MMT-10 31/95 dt 17.06.95
5.	829703/95	-do-	0691	4,99,863.27	-	-	9/95	48,673,46	MMT-10



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dt.06.10.95	dt.04.10.95							31/95 dt 09.10.95
						10/95	2,48,787.43	MMT-11 31/95 dt 07.10.95
						11/95	2,18,467.19	MMT-11 31/95 dt 07.10.95

54. The total sum of Rs.986.75 lakhs availed by A-13 M/s.Sathyam Foods (P) Ltd., through the above bills. In 47 Foreign Bills Purchase of A-13 Company received from Indian Bank, Singapore Branch, the seal of Indian Bank, Muthialpet Branch with purchase number of the bill find place. When the limits were not available in the Muthialpet Branch, bills were taken on collection basis and when the limit was available FOBC was converted into FBP.

55. The Learned Counsel for the appellants put forth the arguments that, Exchange Control Manual of RBI permits transfer of Export document. A.13 Company which procure stocks for export from M/s.MVR Export Pvt Ltd and M/s.Maxwell Exim Pvt Ltd., and transfer of export document had paid the amount to the supplier M/s.MVR Export Pvt Ltd and M/s.Maxwell Exim Pvt Ltd. For this purpose, the proceeds of export finance obtained from the Branch



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paid to these Companies and such transaction is perfectly legitimate. Had

M/s.MVR Export Pvt Ltd and M/s.Maxwell Exim Pvt Ltd are distinct and separate entities unconnected with M/s.Sathyam Foods (P) Ltd then, the submission of the Learned Counsel for the appellant would have been accepted as a valid argument. However, the fact that all these three Companies M/s.MVR Export Pvt Ltd, M/s.Maxwell Exim Pvt Ltd and M/s.Sathyam Foods (P) Ltd been controlled by A-16 (M.Varadharajulu @ M.V.Raja) and they are come under the umbrella of MVR Group of Companies expose the transactions were dubious. Among the sister Companies, one Company availing loan facility showing purchase from another Company and selling it to third sister Company and discounting the bills at the supply end as well as in the purchase end in connivance of Bank Official is the scheme of crime which has been exposed in this case. Though, it is contended that, there is no proof that, M/s.MVR Export Pvt Ltd, M/s.Maxwell Exim Pvt Ltd and M/s.Sathyam Foods (P) Ltd all controlled by A.16 (M.V.Raja). The fact that, the two Directors of M/s.Sathyam Foods (P) Ltd., namely H.Arul Manalan (A14) and R.Palaniappan (A15) were in fact employees of A16 (M.V.Raja) drawing salary from A16 even after floating A-13 Company speaks volume. A-14 H.Arul Manalan is the Canteen Manager in MVR Exports Pvt Ltd. He has been shown as Director of



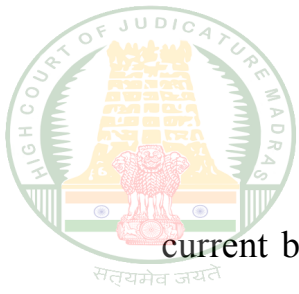
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M/s.Sathyam Foods Pvt Ltd at the same point of time. The broacher of

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Mountamount group, Singapore, marked as Ex.P.146 clinches the case of the prosecution and it goes to the root of the matter. Richardson and Roger Ltd, Anderson Associates Pvt, Nagova Exim Pvt Ltd and Sadeco Sarl Pvt Ltd were all shown as marketing centres for MVR Group of Companies. If one go back to the particulars of FBP, it would be clear that, the Foreign importers from A-13 Company are all the sister Company of MVR Group of Companies. As far as the supply of cashew nut before availing the loan, stereo type consent to supply without even mentioning the rate and quantity, documents been created and produced before the bank for sanction of loan. Before getting loan, neither the Directors not the Company by itself had any experience in the trade and they had no intention to do real trade. Even after the Zonal Office inspected that the performance of A-13 Company has to be watched for three months. A2 had withheld the communications and allowed A-13 Company to discount 36 FBP bills for a sum of Rs.986.75 lakhs.

56. From the evidence of P.W.17, the prosecution able to establish that, on 07.10.1992, letter (Ex.P.61) was addressed from the Branch Office to Zonal office intimating that A-13 had availed FBP limit of Rs.10 lakhs and



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current balance in the account is Rs.986.75 lakhs since the party not enjoying

any Packing Credit Limit, the proceeds of FBP amounting to Rs.486 lakhs was credited to the current account of A-13 and proceeds of FBP amount to Rs.500.75 lakhs was credited into the Packing Credit account of M/s.MVR Exports Pvt Ltd who did not account shipment for A-13. This post-action intimation from the branch to the Zonal Office in spite of instruction to keep watch on the transaction of A-13 Company, permitting A-13 to enjoy the credit facility availed under FBP as ordinary credit facility though superficial look a normal transaction, the prosecution witnesses in depth had exposed the fraud by examining P.W.17 and other witnesses that, by the conversion of FBP sanction to M/s.Sathyam Foods (P) Ltd and crediting the same in the Packing Credit account of MVR Export (P) Ltd, the bill discounted which ought to have been paid within 150 days never paid, even after prosecution.

57. The Learned Counsel appearing of the appellants in CrI.A.No.645 of 2013 representing A-13/Company submitted that, till 1994 there was no due but only after the delay in extending the credit facility, A-13/Company was unable to honour the commitments. It is also contended by the Learned Counsel that there is no allegation of non-export of goods through



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those will and goods were delivered to the buyer at Singapore on payment of necessary duty. It is not the case of the prosecution that the bills against which FBP facility availed were not really exported. The only allegation is that, it is a deemed export and not real export by M/s.Sathyam Foods (P) Ltd. For the export made by the other Group of Companies, M/s.Sathyam Foods (P) Ltd., had raise bill and discount it.

58. According to the Learned Counsel for the appellants in Crl.A.No.645 of 2013 the procedure called as Transfer of Export document is permissible under the RBI Exchange Control Manual. A-13 Company procure stocks for export from M/s.MVR Export Pvt Ltd and M/s.Maxwell Exim Pvt Ltd. For the said transaction, finance was obtained from Muthialpet Branch. These transactions are perfectly legitimate and it cannot be termed as diversion or misappropriation of the bank Credit.

59. Contrary to this plea, P.W17 and P.W.33 have explained in their testimony how the Indian Bank, Muthialpet Branch been cheated by A-13 Company and its Directors and other Associates. The transactions covered under Ex.P.87 were shown in the account of M/s.Sathyam Foods. Whereas, the



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actual export of goods was done by MVR Industries. Except 6 bills in Ex.P.87,

WEB COPY MVR Industries or M/s.Maxwell Exim Pvt Ltd are shown as the exporter. While MVR Industries and Maxwell Export Pvt Ltd., being a real exporter, import L.C's and FBP's should have been extended only to the borrower who imports raw materials, process and make it fit for export. By that time, the accused A-13 Company and its Directors in connivance with the Bank officials started operating through A-13 firm. The other sister concern namely M/s.MVR Export and M/s.Maxwell Exim Pvt Ltd having account at Muthialpet Branch, Indian Bank and sanctioned FBP and LC limit were over due outstanding of Rs.19.31 crores by M/s.MVR Export Pvt Ltd and Rs.6.22 crores by M/s.Maxwell Exim Pvt Ltd. Being account holders and having FBP facility, M/s.MVR Export Pvt Ltd and M/s.Maxwell Exim Pvt Ltd could have drawn in their own name. However, with an ulterior design, bills were drawn in the account of A-13 Company. This was done to circumvent the procedure laid down by Indian Bank. Under Ex.P.16, A-13 Company had requested to credit the proceeds into the account of M/s.MVR Export Pvt Ltd and M/s.Maxwell Exim Pvt Ltd. Thereby, indirectly permitted these two Companies to enjoy additional finance facility. As stated earlier, M/s.MVR Export Pvt Ltd and M/s.Maxwell Exim Pvt Ltd., have over drawn their credit limit. They have no further scope to raise loan



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from their account and therefore, bills has been raised in their name but the

credit limit of A-13 Company is made use under the guise of Transfer of Export Document. The amount not credit into the account of A-13 but into the Account of M/s.MVR Export Pvt Ltd and M/s.Maxwell Exim Pvt Ltd. This sought of fake transfers not permissible more so, when M/s.MVR Export Pvt Ltd and M/s.Maxwell Exim Pvt Ltd are the umbrella Company under the MVR Group of Companies controlled by A16.

60. The prosecution through Exhibits and oral evidence had narratively established the conspiracy hatched between the bankers and the borrowers. While A1 to A7 the bankers operating under the direction of A1, the borrowers were operating under the Direction of A-16 M.V.Raja.

61. From the records, it is clearly prove that, M/s.Sathyam Foods (P) Ltd., a partnership firm for the sake of availing the loan had been converted into Company. The Company been registered by Registrar of Companies at Pondicherry, even without disclosing the address of business at Pondicherry. The two Directors of M/s.Sathyam Foods (P) Ltd were the staffs of M.V.Raja under the ploy role of MVR Export Pvt Ltd. To show as if, M/s.Sathyam Foods

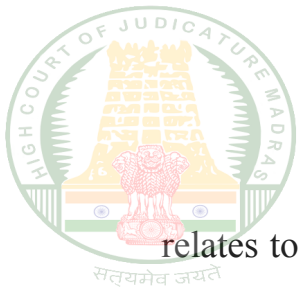


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(P) Ltd is an experienced in dealing with Cashew nuts business. The statement

of accounts been prepared with the help of A8 and the valuation certificate obtained from A-10. A11 being Directors of MVR Industries, A12 is the advisor in the MVR Industries, A12 is the introducer of A13 to the Bank the opening the Bank account. He had been with A14 and A15 to open with the current account in the name of A-13 Company was present while submitting application for Rs.19 crores. Though A-16 attempted to keep a safe distance away from A13 Company, from the bank records and the transaction had exposed their inter connection. While sanctioning credit facility to MVR Exports Pvt Ltd and M/s.Maxwell Exim Pvt Ltd for limit of Rs.20 crores each. Having account in Indian Bank, Muthialpet Branch and three Companies of MVR groups namely M/s.Mountamount Singapore Pvt Ltd, M/s.Sadeco Sarl Pvt. Ltd and M/s.Anderson Associate Pvt Ltd are three Singapore Companies under the MVR Group of Companies holding account in Indian Bank, Singapore Branch. To facilitate accommodation sale among these sister concern, A1 to A7 had conveniently omitted to record this fact in the loan account. This singular conduct sufficient to indicate they all had meeting of mind to facilitate A-13 Company to misuse the funds.

62. The Court below had rightly concluded that, 47 FBP's are



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relates to buying and selling between the same group of Companies in violation

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of RBI guidelines. Under the guise of Transfer of Export documents buying and selling been effected between the same group of Companies. In the Board meeting, A1 has given assurance regarding the credit worthiness the account of MVR Group of Companies.

63. P.W.17 had deposed that, on 09.04.1992, the Zonal office *vide* letter (Ex.P.47) enquired the Branch Office to inform about M/s.Anderson Associate Pvt Ltd, Singapore. The accused in the Branch Office had given an evasive reply that M/s.Anderson Associate Pvt Ltd, Singapore, have dealing with some of their bank customers. Conveniently, they have not informed the Zonal Office that, M/s.Anderson Associate Pvt Ltd is one of the MVR group of Companies, most of their bills purchased were raised by Anderson. Similarly, during the Board Meeting based on the fake supply letters and fake export orders, it had been falsely represented in the Board meeting that, A-13 Company is having sufficient export order quoting their request letter from M/s.Anderson Associate Pvt Ltd, Singapore, Richardson and Roger Ltd. These purchase orders were heavily relied for fixing the loan limit for Rs.500 lakhs to Rs.1000 lakhs without verifying the intend purchaser at Singapore or the



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marketing centre of M/s.Mountamount Singapore Pvt Ltd, as per Ex.P.46

broacher and the Mountamount Pvt Ltd, Singapore controlled by M.V.Raja (A16).

64. A feeble argument placed before this Court that, M.V.Raja no way connected with A-13 Company. This argument has no leg to stand because, it has been proved that, two Directors of M/s.Sathyam Foods (P) Ltd are only name lenders and in fact, they are employed under A-16 and drawing salary. That apart, P.W.37 C.Rajaram, former employee in MVR Group of Companies had stated that, MVR Group of Companies had taken 10 to 15 factories on lease. A-11 S.P.Vairavan is the Managing Director and A-12 K.Sai Jagannathan is the Advisor for MVR Group of Companies. A12 Sai Jagannathan is the introducer to M/s.Sathyam Foods (P) Ltd for opening the account in Indian Bank, Muthialpet Branch. The PRO of MVR Group of Companies examined as P.W.19 had deposed that M/s.Mountamount Singapore Pvt Ltd belongs to MVR Group of Companies. P.W.13 Sunderesan, Deputy General Manager at Indian Bank, Singapore branch, had correlated the transactions between M/s.Mountamount Singapore Pvt Ltd, Nagova Exim Pvt Ltd, M/s.Sadeco Sarl Pvt Ltd and M/s.Sathyam Foods (P) Ltd, Chennai. He



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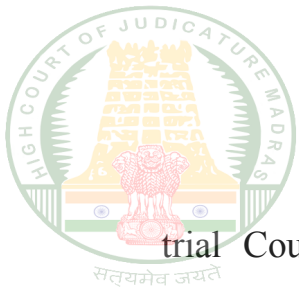
had categorically deposed that, the entire export, imports transaction of A-13

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Company was done in the three account of M/s.Mountamount Singapore Pvt Ltd, M/s.Nagova Exim Pvt Ltd and M/s.Sadeco Sarl Pvt Ltd maintained at Singapore. These three Companies are shown as marketing centres of M/s.Mountamount Group of Companies headed by M.V.Raja, the Chairman.

65. In the result, these *Criminal Appeal Nos.631 of 2013 and 657 of 2013 are allowed.* A8 (K.Subramanian) and A9 (N.Ramakrishnan) are acquitted from all charges. The conviction and sentence imposed on A8 & A9 by the Principal Special Judge for CBI case, Chennai in C.C.No.17 of 2001 are hereby set aside. Fine amount paid if any by the appellants/A8 & A9, shall be refunded to them. Bail bond if any executed by the appellant/A8 & A9 shall stands cancelled.

66. In the result, these *Criminal Appeal Nos. 638, 644, 645, 660, 661 of 2013 are dismissed.* The sentence imposed on A2, A3, A6, A7, A11 to A15 are confirmed. The period of substantive sentence shall run concurrently both offencewise as well as countwise. The appellants/accused A2, A3, A6, A7, A11 to A15 shall undergo one year R.I and pay respective fine imposed by the



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trial Court, in default of payment of fine, the default sentence shall run

consecutively. The trial Court is directed to secure the appellants/accused and commit them to prison to undergo the remaining period of sentence. The period already undergone by the accused shall be set off under Section 428 of Cr.P.C.

67. The Criminal Appeal No.713 of 2013 filed by M.V.Raja (A16)

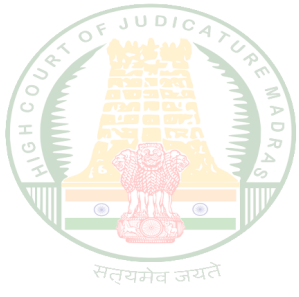
is dismissed as withdrawn.

07.08.2023

Index :Yes/No.
Internet :Yes/No.
Speaking order/non speaking order
bsm

To:-

1. The Principal Special Judge for CBI Cases, Chennai.
2. The Deputy Superintendent of Police,
CBI/EOW/CBI, Rajaji Bhavan,
Besant Nagar, Chennai.
3. The Inspector of Police, CBI, EOW, Chennai.
4. The Public Prosecutor, High Court, Madras.



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DR.G.JAYACHANDRAN,J.

bsm

Delivery common judgment made in
Criminal Appeal Nos.631, 632, 638,
644, 645, 657, 660, 661 & 713 of 2013

07.08.2023