



Crl.R.C.No.1528 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.11.2023

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.1528 of 2023

M/s.CCI Logistics Limited,
202B, Corporate Center,
Andheri Kurla Road,
Andheri (E) Mumbai – 400 059.
Represented by authorised
Signatory Umakantha Das

... Petitioner/De-facto complainant

Vs.

1.State Represented by
The Station House Officer
Inspector of Police,
CBCID Police Station,
Puducherry.
(Crime No.6/2012)

2.Theagarajan
3.Sakthivel
4.John Victor
5.Parthibhan
6.Perumal



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7.Rajeswaran

8.Thanigaivelan

... Respondents

PRAYER: Criminal Revision Case has been filed under Sections 397 and 401 of Cr.P.C, praying to set aside the order dated 22.03.2023 passed in Crl.M.P.No.1320 of 2023 in C.C.No.499 of 2019 on the file of the Chief Judicial Magistrate, Puducherry and allow the petition.

For Petitioner : Mr.Prakashgoklaney

For Respondent-1 : Mr.K.S.Mohandoss
Public Prosecutor (Puducherry)
Assisted by
Ms.Dhanalatchumy

For Respondents 2 to 8 : Mr.B.Sanjay Balachandar

ORDER

This petition has been filed to set aside the order passed by the learned Chief Judicial Magistrate, Puducherry in Crl.M.P.No.1320 of 2023 in C.C.No.499 of 2019 dated 22.03.2023.

2.The petitioner/de-facto complainant lodged a complaint against his former employees and others, who misappropriated, cheated and also by



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creating forged documents and using the same as genuine, committed the offence of conspiracy and falsification of accounts. The first respondent police received complaint, registered a case in Crime No.6 of 2012 on 20.04.2012. Thereafter, on completion of investigation filed charge sheet against 7 persons who are respondents 2 to 8 herein and they are now charged and facing trial for offence under Sections 408, 419, 420, 424, 467, 468, 471 and 477A, 120B of IPC r/w Section 34 IPC.

3.The gist of the case is that prior to 20.04.2012 the second respondent/A1 employed as Territory Manager at the de-fact complainant's company which is a logistic company. He was in-charge of the business of the company looking after Pondicherry, Salem, Cuddalore, Trichy, Karur, Kanjikod, Coimbatore, Mettur, Namakkal and Ranipet. He was taking care of the day to day affairs of the company and he was also authorised signatory of cheques, bills and vouchers. A1 with dishonest intention conspired with the other accused namely R3 to R8, who are A2 to A7, the employees of



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petitioner's company. R3 was in-charge of accounts, Puducherry Branch, R4 was in-charge of billing, Puducherry Branch, R5 was Branch Manager of Ranipet, R6 was Operation Assistant, Puducherry Branch, R7 and R8 were Accounts Executives of Madurai and Cuddalore Branch. All have conspired and in pursuance to the conspiracy, misappropriated a some of Rs.4,41,57,066/- by making false payments to fictitious persons, non existing bogus companies by impersonation, as if they have hired vehicles for them to transport their goods to various destinations from Puduchery and by deception facilitated such commission of offences.

3.1. Further false bills and vouchers were produced to the head office and cheated the company as if they are genuine documents. Further using forged documents routing through various bank accounts, money were withdrawn and these amounts were transferred to the friends and relatives accounts for the personal benefits of the accused. Added to it, fake attendance register of three persons, namely Syed Azimoudine, Ashok and Vinoth



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Kannan, who left the company in the year 2010 were shown as they are yet working in the company and salary credited to these persons, thereby misappropriated the company's money.

3.2. Further, they created misappropriation of money of petitioner's company which was shown to have paid to HCL Info System Private Limited, Puducherry amounts to Rs.2,29,900/-, Unitech Control Limited, Puducherry amounts to Rs.21,44,360/-, Ganges International Private Limited, Puducherry amounts to Rs.1,49,56,144/-, Hutson Agro Products Limited amounts to Rs.26,72,600/-, Wipro Limited amounts to Rs.2,32,745/-, Marico Limited amounts to Rs.1,87,43,081/-, Pondy Oxides and Chemicals Limited amounts to Rs.33,56,826/-, Nexus Electro Steel Limited amounts to Rs.13,51,130/-, Sheshasayee Paper and Boards Limited amounts to Rs.4,05,280/- and Gowri Agro Industries amounts to Rs.65,000/-. Thus in this manner the amount have been misappropriated by falsifying account using forged and false documents.



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4.The contention of the petitioner is that during investigation, the petitioner made available all the documents which were available in the office and in the computer system, it was viewed, ascertained and the persons who were pointed with these transactions were examined, statements recorded and correspondingly the bank officials as well as petitioner's clients were all examined and the petitioner also handed over the photostat and in some cases print out of the vouchers, cash bills and all the documents, which were required for investigation. The respondent police received the same, verified with the originals available in the office as well as in the computer system, thereafter filed charge sheet in this case. The Lower Court considering the same, took cognizance of the case, accused appeared, copies were served under Section 207 Cr.P.C., charge sheet framed, there was no objection and thereafter the trial proceeded.

4.1. The petitioner was examined as PW1 at that point of time the petitioner came to know not only photostat copies available, in some cases



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secondary documents were available. The petitioner is in possession of primary documents and for the purpose of technicality and abundant caution, he filed a petition to produce the primary documents otherwise the accused may have the benefit of the same in future. The respondent police also had no objection for the same but the Trial Court viewed it otherwise and dismissed the petition. He further submitted that in his petition before the lower Court he categorically given the details of the documents which are as follows:



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2. Further, the case was investigated completed and the Charge sheet was submitted before the Hon'ble C.M. Court, Pondicherry on 09.03.2019 and the same was taken on file vide C.C. No. 492/2019.

3. Further submitted that the following Xerox copies of the document of OCL Logistics Company Pvt. Ltd., related in this case were already submitted before this Hon'ble Court. Therefore, the attested True copies by the Director of the OCL Logistics Company was submitted for further Court proceedings as follows:-

A. HCL Info systems Private Limited:-

Sl. No.	Document Description	Document Reference No	Amount	No. of Sheets/Pages	List of Document No
1	Certified copy of Mail Confirmation from HCL Customers that they have never shipped any material through the referred CR.	Dated March 04, 2013		2	57
2	Certified Copy of Bill Register with Collection Details			1	58
3	Certified Copy of Details of Truck Hiring Charges			1	54
4	Certified Copy of Bill dated 30.03.2011	BLRDY 11002926	30,000	1	55
5	Certified Copy of Bill dated 30.03.2011	BLRDY 11002927	30,000	1	56
6	Certified Copy of Bill dated 30.03.2011	BLRDY 11002928	30,000	1	57
7	Certified Copy of Bill dated 30.03.2011	BLRDY 11002929	30,000	1	58
8	Certified Copy of Bill dated 30.03.2011	BLRDY 11002930	30,000	1	59
9	Certified Copy of Signed Cash & Bank Statement dated 28/03/2011	Dated 28/03/2011		5	60
10	Certified Copy of Signed Cash & Bank Statement dated 29/03/2011	Dated 29/03/2011		7	61
11	Certified Copy of Signed Cash & Bank Statement	Dated 29/04/2011			

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	Dated 27/04/2011	Dated 28/04/2011		6	68
12	Certified Copy of Agree- ment & Bank Statement dated 28/05/2011			2	90
8. Hiltach Control Limited.					
1	Certified Copy of Bill Register with Collection Details			2	91
2	Certified Copy of Details of Truck Hiring Charges	BLPBY 11002936	1,05,000	1	92
3	Certified Copy of Bill dated 30.03.2011	BLPBY 11002937	1,05,000	1	93
4	Certified Copy of Bill dated 30.03.2011	BLPBY 11002938	1,05,000	1	94
5	Certified Copy of Bill dated 30.03.2011	BLPBY 11002939	1,05,000	1	95
6	Certified Copy of Bill dated 30.03.2011	BLPBY 11002940	1,05,000	1	96
7	Certified Copy of Bill dated 30.03.2011	BLPBY 11002941	1,05,000	1	97
8	Certified Copy of Bill dated 30.03.2011	BLPBY 11002942	1,05,000	1	98
9	Certified Copy of Bill dated 30.03.2011	BLPBY 11002943	1,05,000	1	99
10	Certified Copy of Bill dated 30.03.2011	BLPBY 11002944	1,05,000	1	100
11	Certified Copy of Bill dated 30.03.2011	BLPBY 11002945	1,05,000	1	101
12	Certified Copy of Bill dated 30.03.2011	BLPBY 11002946	1,05,000	1	102
13	Certified Copy of Bill dated 30.03.2011	BLPBY 11002947	1,05,000	1	103
14	Certified Copy of Bill dated 30.03.2011	BLPBY 11002948	1,05,000	1	104
15	Certified Copy of Bill dated 30.03.2011	BLPBY 11002949	1,05,000	1	105
16	Certified Copy of Bill dated 30.03.2011	BLPBY 11002950	1,05,000	1	106
17	Certified Copy of Bill dated 30.03.2011	BLPBY 11002951	1,05,000	1	107
18	Certified Copy of Bill dated 30.03.2011	BLPBY 11002952	1,05,000	1	108
19	Certified Copy of Bill dated 30.03.2011	BLPBY 11002953	1,05,000	1	109
20	Certified Copy of Bill dated 30.03.2011	BLPBY 11002954	1,05,000	1	110

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21	Certified Copy of Bill dated 30.03.2011	BLPOY 11002954	1,05,000	1	110
22	Certified Copy of Bill dated 30.03.2011	BLPOY 11002955	1,05,000	1	111
23	Certified Copy of Bill dated 30.03.2011	BLPOY 11002956	1,35,000	1	112
24	Certified Copy of Bill dated 30.03.2011	BLPOY 11002957	1,05,000	1	113
25	Certified Copy of Bank Statement A/C No 00072920000 dated 25/03/2011			1	114
26	Certified Copy of Signed Cash & Bank Statement dated 27/03/2011	Dated 27/03/2011		3	115
27	Certified Copy of Signed Cash & Bank Statement dated 28/03/2011	Dated 28/03/2011		4	116
28	Certified Copy of Signed Cash & Bank Statement dated 29/03/2011	Dated 29/03/2011		5	117
29	Certified Copy of Signed Cash & Bank Statement dated 29/03/2011	Dated 29/03/2011		6	118
30	Certified Copy of Signed Cash & Bank Statement dated 30/03/2011	Dated 30/03/2011		4	119
31	Certified Copy of Signed Cash & Bank Statement dated 31/03/2011	Dated 31/03/2011		7	120
32	Certified Copy of Signed Cash & Bank Statement dated 27/04/2011	Dated 27/04/2011		5	121
33	Certified Copy of Signed Cash & Bank Statement dated 21/05/2011	Dated 21/05/2011		5	122
34	Certified Copy of Signed Cash & Bank Statement dated 23/05/2011	Dated 23/05/2011		8	123
C. Ganges International Private Limited:-					
1	Certified copy of Bill Register with Collection Details			5	219
2	Certified copy of Details of Truck Hiring Charges			5	213





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3	Certified copy of Bank Statement AC No 64072320000128	Dated 27/04/2011	5	214
4	Certified copy of Signed Cash & Bank Statement dated 27/04/2011	Dated 27/04/2011	17	215
5	Certified copy of Signed Cash & Bank Statement dated 17/12/2011	Dated 17/12/2011	4	216
6	Certified copy of Signed Cash & Bank Statement dated 22/11/2011	Dated 22/11/2011	4	217
7	Certified copy of Signed Cash & Bank Statement dated 01/11/2011	Dated 01/11/2011	3	218
8	Certified copy of Signed Cash & Bank Statement dated 02/09/2011	Dated 02/09/2011	2	219
9	Certified copy of Signed Cash & Bank Statement dated 27/04/2011	Dated 27/04/2011	3	220
10	Certified copy of Signed Cash & Bank Statement dated 09/03/2011	Dated 09/03/2011	6	221
11	Certified copy of Signed Cash & Bank Statement dated 10/03/2011	Dated 10/03/2011	5	222
12	Certified copy of Signed Cash & Bank Statement dated 19/03/2011	Dated 19/03/2011	4	223
13	Certified copy of Signed Cash & Bank Statement dated 24/03/2011	Dated 24/03/2011	3	224
14	Certified copy of Signed Cash & Bank Statement dated 21/03/2011	Dated 21/03/2011	3	225
15	Certified copy of Signed Cash & Bank Statement dated 09/08/2011	Dated 09/08/2011	6	226
16	Certified copy of Signed Cash & Bank Statement dated 30/03/2011	Dated 30/03/2011	3	227
17	Certified copy of Signed Cash & Bank Statement dated 29/03/2011	Dated 29/03/2011	7	228

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18	Certified copy of Signed Cash & Bank Statement dated 31/03/2011	Date: 31/03/2011	7	239
19	Certified copy of Signed Cash & Bank Statement dated 10/06/2011	Date: 10/06/2011	5	230
20	Certified copy of Signed Cash & Bank Statement dated 11/06/2011	Date: 11/06/2011	3	231
21	Certified copy of Signed Cash & Bank Statement dated 04/08/2011	Date: 24/08/2011	5	232
22	Certified copy of Signed Cash & Bank Statement dated 24/08/2011	Date: 24/08/2011	2	233
23	Certified copy of Signed Cash & Bank Statement dated 07/08/2010	Date: 07/08/2010	2	234
24	Certified copy of Signed Cash & Bank Statement dated 31/07/2010	Date: 31/07/2010	6	235
25	Certified copy of Signed Cash & Bank Statement dated 18/07/2010	Date: 18/07/2010	1	236
26	Certified copy of Signed Cash & Bank Statement dated 12/07/2010	Date: 12/07/2010	3	237
27	Certified copy of Signed Cash & Bank Statement dated 26/07/2010	Date: 26/07/2010	4	238
28	Certified copy of Signed Cash & Bank Statement dated 31/05/2010	Date: 31/05/2010	1	239
29	Certified copy of Signed Cash & Bank Statement dated 25/05/2010	Date: 25/05/2010	1	340
30	Certified copy of Signed Cash & Bank Statement dated 21/05/2010	Date: 21/05/2010	2	341
31	Certified copy of Signed Cash & Bank Statement dated 22/05/2010	Date: 22/05/2010	4	342
32	Certified copy of Signed Cash & Bank Statement dated 21/05/2010	Date: 21/05/2010	4	343





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33	Certified copy of Signed Cash & Bank Statement dated 18/05/2010	Dated 18/05/2010	2	344
34	Certified copy of Signed Cash & Bank Statement dated 14/05/2010	Dated 14/05/2010	2	345
35	Certified copy of Signed Cash & Bank Statement dated 13/05/2010	Dated 13/05/2010	3	346
36	Certified copy of Signed Cash & Bank Statement dated 19/05/2010	Dated 19/05/2010	2	347
37	Certified copy of Signed Cash & Bank Statement dated 12/05/2010	Dated 12/05/2010	1	348
38	Certified copy of Signed Cash & Bank Statement dated 11/05/2010	Dated 11/05/2010	6	349
39	Certified copy of Signed Cash & Bank Statement dated 31/03/2010	Dated 31/03/2010	7	350
40	Certified copy of Signed Cash & Bank Statement dated 27/03/2010	Dated 27/03/2010	6	351
41	Certified copy of Signed Cash & Bank Statement dated 16/03/2010	Dated 16/03/2010	4	352
42	Certified copy of Signed Cash & Bank Statement dated 15/02/2010	Dated 15/02/2010	6	353
43	Certified copy of Signed Cash & Bank Statement dated 12/02/2010	Dated 12/02/2010	7	354
44	Certified copy of Signed Cash & Bank Statement dated 26/12/2009	Dated 26/12/2009	5	355
45	Certified copy of Signed Cash & Bank Statement dated 10/12/2009	Dated 10/12/2009	4	356
46	Certified copy of Signed Cash & Bank Statement dated 04/12/2009	Dated 04/12/2009	7	357
47	Certified copy of Signed Cash & Bank Statement dated 25/11/2009	Dated 25/11/2009	5	358

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48	Certified copy of Signed Cash & Bank Statement dated 17/11/2009	Dated 17/11/2009	4	359
49	Certified copy of Signed Cash & Bank Statement dated 19/10/2009	Dated 19/10/2009	7	360
50	Certified copy of Signed Cash & Bank Statement dated 04/09/2009	Dated 20/09/2009	9	361
51	Certified copy of Signed Cash & Bank Statement dated 24/08/2009	Dated 27/08/2009	2	362
52	Certified copy of Signed Cash & Bank Statement dated 27/07/2009	Dated 27/07/2009	3	363
53	Certified copy of Signed Cash & Bank Statement dated 29/07/2009	Dated 29/07/2009	3	364
54	Certified copy of Signed Cash & Bank Statement dated 21/07/2009	Dated 21/07/2009	2	365
55	Certified copy of Signed Cash & Bank Statement dated 28/07/2009	Dated 28/07/2009	2	366
56	Certified copy of Signed Cash & Bank Statement dated 30/04/2009	Dated 30/05/2009	1	367
57	Certified copy of Signed Cash & Bank Statement dated 29/05/2009	Dated 29/05/2009	1	368
58	Certified copy of Signed Cash & Bank Statement dated 28/05/2009	Dated 28/05/2009	3	369
59	Certified copy of Signed Cash & Bank Statement dated 25/05/2009	Dated 25/05/2009	3	370
60	Certified copy of Signed Cash & Bank Statement dated 19/05/2009	Dated 19/05/2009	3	371
61	Certified copy of Signed Cash & Bank Statement dated 30/04/2009	Dated 30/04/2009	6	372
62	Certified copy of Signed Cash & Bank Statement dated 16/04/2009	Dated 16/04/2009	8	373

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63	Certified copy of Signed Cash & Bank Statement dated 15/04/2009	Dated 15/04/2009	6	374
64	Certified copy of Signed Cash & Bank Statement dated 03/04/2009	Dated 03/04/2009	2	375
65	Certified copy of Signed Cash & Bank Statement dated 30/03/2009	Dated 30/03/2009	13	376
66	Certified copy of Signed Cash & Bank Statement dated 10/03/2009	Dated 10/03/2009	4	377
67	Certified copy of Signed Cash & Bank Statement dated 03/03/2009	Dated 03/03/2009	5	378
68	Certified copy of Signed Cash & Bank Statement dated 06/03/2009	Dated 06/03/2009	4	379
69	Certified copy of Signed Cash & Bank Statement dated 02/03/2009	Dated 02/03/2009	9	380
70	Certified copy of Signed Cash & Bank Statement dated 25/02/2009	Dated 25/02/2009	1	381
71	Certified copy of Signed Cash & Bank Statement dated 26/02/2009	Dated 26/02/2009	8	382
72	Certified copy of Signed Cash & Bank Statement dated 14/02/2009	Dated 14/02/2009	4	383
73	Certified copy of Signed Cash & Bank Statement dated 06/02/2009	Dated 06/02/2009	5	384
74	Certified copy of Signed Cash & Bank Statement dated 31/01/2009	Dated 31/01/2009	14	385
75	Certified copy of Signed Cash & Bank Statement dated 29/01/2009	Dated 29/01/2009	11	386
76	Certified copy of Signed Cash & Bank Statement dated 21/01/2009	Dated 21/01/2009	4	387
77	Certified copy of Signed Cash & Bank Statement dated 19/01/2009	Dated 19/01/2009	10	388

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78	Certified copy of Signed Cash & Bank Statement dated 17/01/2009	Dated 17/01/2009	5	389
79	Certified copy of Signed Cash & Bank Statement dated 16/01/2009	Dated 16/01/2009	4	390
80	Certified copy of Signed Cash & Bank Statement dated 05/12/2008	Dated 03/12/2008	3	391
81	Certified copy of Signed Cash & Bank Statement dated 13/12/2008	Dated 13/12/2008	11	392
82	Certified copy of Signed Cash & Bank Statement dated 07/10/2008	Dated 07/10/2008	4	393
83	Certified copy of Signed Cash & Bank Statement dated 19/07/2008	Dated 19/07/2008	5	394
84	Certified copy of Signed Cash & Bank Statement dated 09/07/2008	Dated 09/07/2008	5	395
85	Certified copy of Signed Cash & Bank Statement dated 27/06/2008	Dated 27/06/2008	9	396
86	Certified copy of Signed Cash & Bank Statement dated 25/06/2008	Dated 25/06/2008	3	397
87	Certified copy of Signed Cash & Bank Statement dated 17/06/2008	Dated 17/06/2008	6	398
88	Certified copy of Signed Cash & Bank Statement dated 31/05/2008	Dated 31/05/2008	5	399
89	Certified copy of Signed Cash & Bank Statement dated 06/05/2008	Dated 06/05/2008	8	400
90	Certified copy of Signed Cash & Bank Statement dated 03/05/2008	Dated 03/05/2008	4	401
91	Certified copy of Signed Cash & Bank Statement dated 23/04/2008	Dated 23/04/2008	4	402
92	Certified copy of Signed Cash & Bank Statement dated 19/04/2008	Dated 19/04/2008	3	403

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93	Certified copy of signed Cash & Bank Statement dated 16/04/2008	Dated 16/04/2008		3	1064
94	Certified copy of signed Cash & Bank Statement dated 08/04/2008	Dated 08/04/2008		2	1065
95	Certified copy of signed Cash & Bank Statement dated 07/04/2008	Dated 07/04/2008		3	1066
D. Tea Kraft/Hatsum Agro Products Limited					
1	Certified copy of Bill Register with detail of Truck Haring charges paid			1	1069
2	Certified copy of Bill dated 20/02/2010	BLPDY109037 33	950000	1	1070
3	Certified copy of Bill dated 20/02/2010	BLPDY109037 44	1050000	1	1071
4	Certified copy of Bill dated 20/02/2010	BLPDY109037 44	1050000	1	1072
5	Certified copy of Bank Statement AC No 04072920000128			3	1073
6	Certified copy of signed Cash & Bank Statement dated 05/12/2009	Dated 05/12/2009		4	1074
7	Certified copy of signed Cash & Bank Statement dated 06/12/2009	Dated 06/12/2009		1	1075
8	Certified copy of signed Cash & Bank Statement dated 08/12/2009	Dated 08/12/2009		7	1076
9	Certified copy of signed Cash & Bank Statement dated 30/03/2010	Dated 30/03/2010		12	1077
E. Wipro Limited:					
1	Certified Copy of Bill Register			1	1162
2	Bill Dated 30/03/2011	BLPDY110029 35	50000	1	1163
3	Bill Dated 30/03/2011	BLPDY110029 34	50000	1	1164
4	Bill Dated 30/03/2011	BLPDY110029 34	50000	1	1165



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5	Bill Dated 30/03/2011	32	50000	1	1186
6	Bill Dated 30/03/2011	32	50000	1	1186
7	Bill Dated 22/07/2009	31	50000	1	1187
8	Signed Cash & Bank Statement dated 01/07/2009	32	12500	1	1188
9	Signed Cash & Bank Statement dated 19/08/2009	Dated 19/08/2009		6	1169
10	Signed Cash & Bank Statement dated 26/03/2011	Dated 26/03/2011		10	1170
11	Signed Cash & Bank Statement dated 27/03/2011	Dated 27/03/2011		6	1171
12	Signed Cash & Bank Statement dated 27/04/2011	Dated 27/04/2011		6	1172
13	Signed Cash & Bank Statement dated 23/05/2011	Dated 23/05/2011		6	1173
F. Sri Gwori Agro Industries:-					
1	Certified Copy of signed Receipt by Theagrajan	Dated 20/04/2011	65000	1	1208
G. Marico Limited:					
1	Certified Copy of all Registers & Details of Truck Hiring Charges			33	1205
H. Nexus Electro Steel Limited					
1	Certified Copy of Details of Truck Hiring Charges			12	2680





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L. SHREETHASAYEE PAPERS & BOARD LIMITED			
	Certified Copy of BU Register with copies of 6 Bills Details of Truck Hiring Charges	8	2805

The above said documents were not been submitted during the file of Charge Sheet before this Honble Court.

4. Therefore, It is prayed before this Honble Court that the above said documents may kindly be allowed and marked the same as exhibits of this case in the interest of Justice.

CBCID PS, Pondicherry, Dated: 01 February 2023.

08/2/2023
INSPECTOR OF POLICE
CBCID POLICE STATION
PONDICHERRY.

(S. GANESH CHAKRABARTI)
ASST. PUBLIC PROSECUTOR
CHIEF JUDICIAL MAGISTRATE COURT
PUDUCHERRY

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DISTRICT COURT, PUDUCHERRY

1. Date of Application 2.5.23
2. Charges Sheet on 12.6.23
3. Charges Deposited on 15.6.23
4. Copy Ready on 19.6.23
5. Delivered to Party on 29.6.23

TRUE XEROX COPY DELIVERED TO
Thiru.....S. R. Sivaraj
Counsel for.....Accused
C.A.No.....642/23.....8/5/23
Costs Rs.....28/-.....

SUPERINTENDENT OF COPYIST
DISTRICT COURT
PUDUCHERRY



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5.The documents have to be marked as per Section 65B of Evidence Act, then only the documents would be admissible as primary documents in the case. Requisite conditions under Section 65B of the Act is being complied with. Further referring to the impugned order, learned counsel submitted that the Lower Court proceeded as though the bank statement can be marked through the concerned bank officials as and when they are examined following Bankers Book Evidence Act, 1891, failing to consider that the Bankers Book Evidence Act has to be in compliance with the Information Technology Act. He further submitted that the vouchers which have been mentioned are generated documents from the computer system, which has been regularly used by the petitioner's company, which fact has not been considered by the Lower Court. If the petitioner is denied of marking primary documents, great prejudice would be caused and ensuing accused would get the benefit of the same.



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6.The learned Additional Public Prosecutor submitted that in this case there are 7 accused. All the accused were former employees of the petitioner's company, who have conspired and in collusion have created forged documents and using the forged documents as genuine has misappropriated and cheated the petitioner's company to a huge amount running to several crores and after concerted efforts, investigation completed, charge sheet filed against 7 persons, along with charge sheet, vouchers, bank statement were filed. The Trial Court finding *prima facie* case made out, took cognizance of the offence, issued summons to the respondents 2 to 8. On their appearance, copies served, charges framed and PW1/de-facto complainant is in the box. When the de-facto complainant examined as PW1, in the midst of the trial, above petition filed to mark the primary documents. The prosecution has got no objection for producing primary documents, since it would be beneficial for the Trial Court and there can be no technical objections.



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7.Mr.B.Sanjay Balachandar, learned counsel appearing for the respondents 2 to 8 submits that the police not received the original, it is the de-facto complainant, who is producing the same. Hence, the genuineness of some documents is questionable. Further, the case itself is that the respondents 2 to 8 have produced fake receipts and these fake receipts not seized and recovered. Further, in the charge sheet, original documents are not available, now by producing these documents would amounts to filling up of lacunae, which is prohibited. Hence, strongly opposed for the same.

8.Considering the submissions made and on perusal of the material it is seen that the petitioner already produced computer generated, photostat copies of the documents, which are available with the petitioner, which is not disputed by the respondent police. In this case, investigation conducted, photostat documents along with documents, which are available in the system and the original records of petitioner/de-facto complainant have been



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verified, investigation completed and charge sheet filed. The copies have been furnished to the respondent/accused under Section 207 of Cr.P.C.

Thereafter cognizance taken, charges framed, now the case is at the midst of the trial. The Lower Court as well as none have made any objection with regard to the production of documents earlier in the charge sheet, now when the petitioner filed a petition to produce the primary documents, objections are raised. It is always beneficial to produce a primary document otherwise there is chances of objection for proceeding with secondary documents, admissibility of these documents may arise later. The first respondent has no objection. The objections of the respondents 2 to 8 can be addressed before the Trial Court. At the time of marking documents during trial, as and when any objection, the same can be decided by the Trial Court. Denying the petitioner of marking primary documents, which is available, would not be proper.



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9.In view of the same, the order passed by the learned Chief Judicial Magistrate, Puducherry in Cr.M.P.No.1320 of 2023 in C.C.No.499 of 2019 dated 22.03.2023 is hereby set aside. The petitioner is directed to produce all the documents along with requisite certificate. Production of 65B certificate is must and necessary to admit documents generated from computer source. The respondent police is directed to mark the same as document by filing appropriate petition before the Trial Court and the Trial Court shall consider the same on its own merits and to proceed with the trial.

10.With the above directions, this Criminal Revision Case is allowed.

28.11.2023

Index : Yes/No

Internet : Yes/No

Speaking order / Non-speaking order

rsi



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To

- 1.The Station House Officer
Inspector of Police,
CBCID Police Station,
Puducherry.
- 2.The Chief Judicial Magistrate,
Puducherry.
- 3.The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR, J.

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28.11.2023