



Crl.A.No.509 of 2021

THE HIGH COURT OF JUDICATURE AT MADRAS

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Reserved on:11.04.2023

Pronounced on:18.05.2023

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.A.No.509 of 2021

P.K.Kuppusamy

.. Appellant/3rd Accused

/versus/

The State Rep.by
The Deputy Superintendent of Police,
Crime Branch CID,
Vellore Range.

.. Respondent/Complainant

Prayer: Criminal Appeal has been filed under Section 374 of Cr.P.C., to call for the records and set aside the judgment of conviction and sentence passed by the Chief Judicial Magistrate, Tiruvannamalai, made in Special Case No.1/2004 dated 15.09.2021.

For Appellant :Mr.B.Jawahar

For Respondent :Mr.R.Kishore Kumar
Government Advocate(crl.side)



Crl.A.No.509 of 2021

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JUDGMENT

The genesis of these appeals stems from the complaint of Mr.Lawrence Alexander, Joint Director of Agriculture Department, Thiruvannamalai, to the Superintendent of Police, alleging that during the course of audit of the accounts in the office of the Assistant Director of Agriculture (Oil Seeds), Cheyyar, misappropriation of the Government money to a tune of Rs.64,96,291.00/- by forging the contingent bills present to the Sub Treasury, Cheyyar, between 1985 to 1990 noticed.

2. During that period, at different points of time, V.J.Sridharan (A1) and J.Mani serving as the Assistants in the Assistant Director Office, were in charge of preparation and submission of the contingent bills. M.Muthuraj, C.Venkatesan, R.Ponnan and M.Narshiman were the Assistant Directors responsible for signing the bills as Drawing Officers. Annexing a list consisting of details about bills between 03/10/1985 to 03/07/1990, the complaint disclosed the *modus operandi* of misappropriation by the Assistants and Assistant Director of Agriculture (Oil Seeds) at Cheyyar, manipulating the bills by forging and presented it as genuine before the office of the Treasury and



Crl.A.No.509 of 2021

encashed money in connivance with the Token Clerk, Assistant and Assistant Treasury Officer.

3. The disclosure of the crime spanning to a period of about 6 years, resulted in registering 6 FIR's in Crime Nos:652 to 657 of 1991 by the Sub Inspector of Police, Cheyyar Police Station. On completion of investigation, 6 separate Final Reports were filed getting sanction to prosecute the accused persons, who were public servants and in service.

4. The *modus operandi* in all the cases is similar. Pursuant to the criminal conspiracy between the accused persons to misappropriate the Government money, the Assistant V.J.Sridharan entrusted with the responsibility of preparing and submission of the contingent bills in the Treasury for encashment, used to enter the actual amount in the office copy, but inflate the amount in the fair copy of the bill presented to the Treasury for encashment. With the connivance of the Token Clerk, Assistants and the Assistant Treasury Officer those forged bills will be passed and encashed through State Bank of India, Cheyyar. Corresponding corrections will be made in the relevant column of MTC-70 register showing the inflated amount. Later,



Crl.A.No.509 of 2021

the corrections will be erased. Thus, the office copies of the bills will show the correct amount, whereas the fair copies of the bills will be for the inflated amount and from the bank, the inflated amount will be withdrawn by V.J.Sridharan, Assistant in the office of the Assistant Director of Agricultural (Oil Seeds), Cheyyar in whose name the pass order is issued by the Assistant Treasury Officer.

5. The below six Final Reports were taken cognizance by the Chief Judicial Magistrate, Thiruvannamalai and assigned:

- 1.Special Case No.1/2004 (in crime No: 652/1991)
- 2.Special Case No.2/2004 (in crime No: 653/1991)
3. Special Case No:3/ 2004 (in crime No 657/1991)
- 4 Special Case No.2/2006 (in crime No: 655/1991)
- 5.Special Case No.3/2006 (in crime No:656/1991)
- 6.Special Case No.1/2006 (in crime No:654/1991)

6. Special case No.1/2004 (Crime No.652 of 1991), which is the subject matter of this appeal relates to the period from 03.10.1985 to 29.07.1986. The following 8 persons were charged for conspiracy, forgery of valuable securities,



Crl.A.No.509 of 2021

falsification of accounts, using forged documents as genuine, misappropriation of Rs.1,92,400/- and misconduct by public servants to obtain pecuniary gain.

(1)V.J.Sridharan (A-1), Assistant in the Office of the Assistant Director of Agriculture (Oil Seeds), Cheyyar, from 27/02/1985 to 23/04/1990 and 10/05/1990 to 27/10/1991.

(2)K.M.Ragavachari (A-2), Cashier in the Sub-Treasury, Cheyyar, from 01.04.1985 to 18.02.1988 and from 07.03.1989 to 15.10.1992.

(3)P.K.Kuppusamy (A-3), Assistant in the Sub-Treasury, Cheyyar, from 01/04/1985 to 18/02/1988 and from 07/03/1989 to 15/10/1992.

(4)N.Paramasivam (A-4), Accountant in the Sub-Treasury, Cheyyar, from 07.04.1986 to 09.06.1986.

(5)T.Arokyaraj (A-5), Assistant and placed in-charge of the post of Cashier in the Sub-Treasury, Cheyyar from 11.06.1986 to 18.06.1986.

(6)G.Selvaraj, (A-6), Cashier in the Sub-Treasury, Cheyyar, from 19.06.1986 to 10.01.1991.

(7)R.Jayaraman (A-7), Sub-Treasury Officer in the Sub Treasury, Cheyyar, from 01.10.1985 to 12.07.1987.

(8)R.Mani (A-8), Assistant in the Office of the Director of Agriculture



Crl.A.No.509 of 2021

(Oil Seeds), Cheyyar, from 01.07.1982 to 11.06.1986 and holding additional charge from 12.06.1986 to 23.07.1986.

7. The charges against the accused are as below:-

A1 and A8: For the offences punishable under Sections 120-B, 409, 467, 468, 471, 477-A of IPC and Section 5(1)(c) and (d) of the old Prevention of Corruption Act, 1988.

A2 to A7: For the offence punishable under Sections 120-B, 409, 467, 468, 471, 477-A r/w 109, 119 of IPC and Section 13(1)(c) and (d) of the Prevention of Corruption Act, 1988.

8. Pending trial, A-1[V.J.Sridharan], A-2[K.M.Ragavachari], A-4 [N.Paramasivam], A-7[R.Jayaraman] and A-8 [R.Mani] died. The charges against them got abated.

9. The prosecution, to prove the charges against the accused examined 50 witnesses and marked 669 exhibits. After considering the evidence, the trial Court acquitted A5 and A6 from all the charges. The judgment of conviction and sentence imposed on A-3/P.K.Kuppusamy is as below:-



CrI.A.No.509 of 2021

Name and rank of the accused	Conviction imposed on the accused under Section by the trial Court	Sentence imposed by the trial Court on the accused
P.K.Kuppusamy (A3)	Section 120(B)IPC	Undergo Simple Imprisonment for 1 year.
	Section 409 IPC	Undergo Simple Imprisonment for 1 year and fine of Rs.5000/- in default to undergo 3 months SI.
	Section 467 IPC	Undergo Simple Imprisonment for 1 year and fine of Rs.5000/- in default to undergo 3 months SI.
	Section 468 IPC	Undergo Simple Imprisonment for 1 year and fine of Rs.5000/- in default to undergo 3 months SI.
	Section 471 IPC	Undergo Simple Imprisonment for 1 year and fine of Rs.5000/- in default to undergo 3 months SI.
	Section 477-A IPC	Undergo Simple Imprisonment for 1 year and fine of Rs.5000/- in default to undergo 3 months SI.
	Section 13(1)(c) and (d) of Prevention of Corruption Act,1988	Undergo Simple Imprisonment for 1 year and fine of Rs.5000/- in default to undergo 3 months SI.

The period of sentence ordered to run concurrently, since the accused was also found guilty in Spl.C.Nos.2/2004, 3/2004, 1/2006, 2/2006, and 3/2006. The sentence was ordered to run concurrently along with sentence imposed in those cases also. The period of imprisonment already undergone was ordered to set off under Section 428 of Cr.P.C.



Crl.A.No.509 of 2021

10. Being aggrieved by the conviction and sentence, the appellant P.K.Kuppusamy (A3) filed this appeal.

11. The case of the prosecution is that V.J.Sridharan (A1) deceased, serving as Assistant, in the office of Assistant Director of Agriculture (Oil Seeds), Cheyyar, along with Mani (A-8) deceased, serving as Assistant, Director of Agriculture (Oil Seeds), Cheyyar, both responsible for preparation and presenting the bills to the Sub Treasury for encashment through the State Bank of India, Cheyyar, in collusion with K.M.Ragavachari (A-2 since died) and P.K.Kuppusamy (A-3) the appellant in this appeal Crl.A.No.509 of 2021, N.Paramasivam (A-4), T.Arokyaraj (A-5), G.Selvaraj (A-6), R.Jayaraman (A-7) and Mani (A-8) they all entered into a criminal conspiracy between 03.10.1985 to 29.07.1986 to do the illegal act of committing forgery of valuable securities, falsification of accounts, using forged documents as genuine, forgery for the purpose of misappropriating the fund of the Government of Tamil Nadu, by preparing untrue bills by putting actual amounts in the office copy of the bills, but manipulated the fair copy by prefixing a number to boost up the value of the bills and get the bills passed for payment. The accused at the Sub Treasury knowing well that the bills are forged and not genuine, in pursuant to



Crl.A.No.509 of 2021

the conspiracy had passed the said bills, without verifying the entries of amounts, allotted and spent in the relevant head of account and tokens were issued in the Sub Treasury, without scrutinizing relevant column in MTC-70 and other records and in some cases, even without getting signature of the Drawing Officer in MTC-70, the bills in excess to the tune of Rs.1,92,400/- passed and misappropriated.

12. The appellant/A3 who was working as Accountant in Sub Treasury Cheyyar, had cleared the following forged bills between 03.10.1985 to 29.07.1986:-

Sl. No.	Sl.No. of Misc. Expenses	Bill Date	Accountant Mr.	Actual Bill Amount Rs.	Bill Passed Rs.	Misappropriation Rs.	Page of of MTC 70
1	29/85-86	03.10.85	P.K.Kuppusamy	954.00	1954.00	1000.00	46/95
2	30/85-86	07.10.85		346.50	2346.50	2000.00	46/99
3	34/85-86	07.10.85	-do-	350.00	2350.00	2000.00	47/104
4	40/85-86	28.10.85	-do-	95.00	995.00	900.00	48/111
5	46/85-86	26.10.85	-do-	380.00	2380.00	2000.00	48/114
6	47/85-86	05.11.85	-do-	682.00	2682.00	2000.00	50/121
7	48/85-86	07.11.85	-do-	315.00	2315.00	2000.00	1/122
8	54/85-86	10.12.85	-do-	418.00	2418.95	2000.00	3/136
9	55/85-86	18.12.85	-do-	434.00	1434.00	1000.00	3/136
10	56/85-86	18.12.85	-do-	470.00	1470.00	1000.00	3/137
11	60/85-86	27.12.85	-do-	900.00	2900.00	2000.00	6/148



Crl.A.No.509 of 2021

Sl. No.	Sl.No. of Misc. Expenses	Bill Date	Accountant Mr.	Actual Bill Amount Rs.	Bill Passed Rs.	Misappropriation Rs.	Page of of MTC 70
12	53/85-86	03.12.85	-do-	525.00	2525.00	2000.00	3/134
13	61/85-86	27.12.85	-do-	900.00	2900.00	2000.00	6/149
14	62/85-86	3.1.86	-do-	461.50	2461.50	2000.00	7/159
15	64/85-86	8.1.86	-do-	341.00	2341.00	2000.00	8/164
16	66/85-86	17.1.86	-do-	120.00	2120.00	2000.00	9/167
17	67/85-86	21.01.86	-do-	600.00	2600.00	2000.00	9/168
18	69/85-86	04.02.86	-do-	341.00	2341.00	2000.00	10/174
19	70/85-86	04.02.86	-do-	461.50	2461.50	2000.00	11/177
20	75/85-86	06.02.86	-do-	315.00	2315.00	2000.00	12/184
21	76/85-86	11.2.86	-do-	100.00	2150.00	2000.00	13/187
22	78/85-86	18.2.86	-do-	200.00	2200.00	2000.00	13/189
23	80/85-86	18.2.86	-do-	200.00	2200.00	2000.00	14/193
24	85/85-86	25.02.86	-do-	208.20	2208.20	2000.00	15/198
25	88/85-86	06.03.86	-do-	749.00	2749.00	2000.00	16/205
26	97/85-86	11.03.86	-do-	150.00	2150.00	2000.00	17/211
27	107/85-86	21.03.86	-do-	400.00	2400.00	2000.00	20/229
28	108/85-86	21.03.86	-do-	350.00	2350.00	2000.00	20/130
29	109/85-86	21.03.86	-do-	75.00	1175.00	1100.00	21/231
30	144/85-86	31.03.86	-do-	48.25	948.25	900.00	30/290
31	54/85-86	19.11.85	-do-	100.00	2100.00	2000.00	1/123
32	55/85-86	19.11.85	-do-	244.00	2244.00	2000.00	1/224
33	72/85-86	28.01.86	-do-	402.70	2402.70	2000.00	10/170
34	76/85-86	18.2.86	-do-	450.00	2450.00	2000.00	14/191
35	87/85-86	27.3.86	-do-	141.00	2141.00	2000.00	27/272
36	88/85-86	31.3.86	-do-	149.50	2149.50	2000.00	29/287
37	89/85-86	31.3.86	-do-	600.00	2600.00	2000.00	30/288
38	11/85-86	16.10.85	-do-	50.00	850.00	800.00	40/108
39	15/85-86	31.11.85	-do-	270.00	2270.00	2000.00	1/126



Crl.A.No.509 of 2021

Sl. No.	Sl.No. of Misc. Expenses	Bill Date	Accountant Mr.	Actual Bill Amount Rs.	Bill Passed Rs.	Misappropriation Rs.	Page of of MTC 70
40	19/85-86	26.12.85	-do-	90.00	2090.00	2000.00	5/146
41	29/85-86	17.3.86	-do-	591.70	1591.70	1000.00	18/219
42	30/85-86	17.3.86	-do-	245.00	1245.00	1000.00	19/220
43	31/85-86	17.3.86	-do-	235.00	2235.00	2000.00	19/221
44	35/85-86	26.3.86	-do-	176.00	2176.00	2000.00	26/263
45	96/85-86		-do-	60.00	2060.00	2000.00	17/212
46	78/85-86	3.3.86	-do-	195.00	2195.00	2000.00	15/201
47	86/85-86	4.3.86	-do-	200.00	1200.00	1000.00	16/203
48	63/85-86	7.1.86	-do-	630.00	2630.00	2000.00	8/162
49	22/85-86	29.1.86	-do-	195.00	1195.00	1000.00	10/172

13. The appellant challenged the conviction and sentence passed by the trial Court on the following grounds:-

The trial Court erred in convicting the appellant for the offences under Sections 120-B, 409, 467, 468, 471, 477-A of IPC, without any iota of evidence against this appellant to attract these offences, while the case of the prosecution is that the forgery and falsification was done by A1 and A2; and pursuant to the conspiracy, the forged bills were passed by the Treasury, no allegation or evidence against this appellant regarding forgery or falsification placed before the Court. Even for the alleged conspiracy, no evidence let in by the prosecution. While so, the passing of bills is the responsibility of the Sub Treasury Officer



Crl.A.No.509 of 2021

and not the appellant, who is working as an Assistant. If at all there is any lapse in scrutinising the bills properly and omission to note the erasures and corrections, it could at the most attract departmental action for dereliction of duty and not criminal action for the offences like, forgery and falsification of account and using the forged document as genuine. All these offences alleged to have been committed by A1 and A8, who died pending trial and who are the authors of the alleged forged documents. At the Treasury, the role of this appellant (A3) is very limited. Further, inspite of inordinate delay in completing the investigation, the prosecution has not placed all the registers related to passing of bills and the fair copies of the bills. Had the prosecution produced those documents, it could have disclosed the fact that all the alleged manipulation of documents had been done only by A1 and A8 without any knowledge of the officials of the Treasury. The MTC-100 register maintained by the Treasury shows the boosted amount. Whereas, the entry found in the MTC-70 at the time of presentation with boosted amount, later been erased and tick mark is affixed to camouflage the error. This shows that while presenting the bills with boosted value to the Treasury, the records were manipulated uniformly. After encashment, at the agriculture office, the fabrication has been reversed. There is no role placed by the appellant herein in dealing with those



Crl.A.No.509 of 2021

disputed documents. While so, the judgement of conviction against this appellant is liable to be set aside.

14. The learned Government Advocate (Crl.Side) appearing for the State submitted that continuous and sustained misappropriation of the government fund by manipulating the contingent bills of the Assistant Director, Agriculture, (Oil Seeds), Cheyyar, since 1985 been going on in connivance with the Sub Treasury Officials. This came to light during the Audit inspection conducted in the month of August and September 1991. Thereafter, the complaint by the Joint Director, Agriculture, (Oil Seeds), Cheyyar, was given and six cases were registered in Crime No.652 to 657 of 1991. Final Reports were filed on 24.12.2002, which was taken cognizance by the trial Court on 05.03.2004. The forged bills though emanated from the office of the Assistant Director of Agriculture (Oil Seeds), Cheyyar, those bills were supposed to be scrutinised and passed, after verifying the genuineness. They mechanically passing the bills without noting the manipulation, corrections and fabrication in the documents for extraneous reasons and for continuous long period of years. The appellant cannot escape from the prosecution by pleading that he is innocent and at the most it is only a dereliction of duty. In fact, it is a serious misconduct causing



Crl.A.No.509 of 2021

pecuniary loss to the state. Particularly, the Treasury Officials, who received the bills to obtain cash, has to verify the entries made in the relevant columns of MTC-70 and other records. In the relevant column, the Drawing Officer has to affix his signature and in case of any omission, the bills ought not to have been passed. Further, MTC-70 register has to be accompanied with the bills presented. While scrutinising MTC-70 register, a consistent erasures and correction in the previous entry ought to have been drawn the attention for any prudent person. In this case, the column meant for amount been continuously corrected and this has not been questioned before passing the bills. Further more, the reconciliation of the account is the joint responsibility of the Department as well as the Treasury. The lapse of reconciling the weekly account by the department is because of the contribution of the Treasury officials and therefore, that cannot be a reason to exonerate the appellant, who was serving as Assistant. Only with active assistants of this appellant, A1 and A8 were able to misappropriate the Government money to make unlawful pecuniary advantage. Therefore, liable to be punished under the Prevention of Corruption Act as well as Indian Penal Code. Stating that to prove the charges, the prosecution has examined 50 witnesses and marked 669 exhibits. PW-5 [Sulochana] had deposed about the procedure and how by passing the forged



Crl.A.No.509 of 2021

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bills. These appellant has aided A1 and A8 to obtain pecuniary advantage and misappropriate the government fund. The learned Government Advocate (Crl.Side) referring the provision of Tamil Nadu Treasury Code dealing with passing of bills, which is also extraneously extracted by the trial Court in its judgment, submitted that the grave omission to follow the Treasury Code scrupulously and knowingly passing the forged bills, the conviction of the appellant has to be upheld.

15. Heard the learned counsel appearing for the appellant and the learned Government Advocate (Crl.Side) appearing for the State and perused the records.

16. The *modus operandi* of the accused persons to misappropriate the government money by forging the contingent bills is plain and simple. Had the officials both at the Agriculture Department as well as the Treasury Department had scrupulously followed the Rules and Code. This massive misappropriation about to the tune of Rs.64,00,000/- spending for the period of five years could have been averted. The gross failure on the part of the officials both in the Assistant Director of Agriculture (oil seeds) Cheyyar as well as the officials in



Crl.A.No.509 of 2021

Sub Treasury, Cheyyar has resulted in this fraud. The main perpetrator of the crime namely, Sridharan, had met his maker before the trial completed.

17. The learned Government Advocate (Crl.Side) had justified the enormous delay in completing the investigation and the said justification for the delay in filing the final report has also been accepted by the trial Court. The evidence of PW-5 [Sulochana] discloses the fact that the Assistant/Accountant in the Sub Treasury Office has to scrutinise the bills presented and after being satisfied that the entries in the bills are corrected, token to be given and the vouchers after being passed should be cancelled. Those documents should be placed before the Sub Treasury Officer, who will pass the bill. In this case, for example, in one of the disputed bill presented by A1 [Sridharan-since deceased), '2' has been prefixed in the fair copy of the bill for Rs.900/-. Thus inflated to Rs.2900/-, likewise in bills listed above, manipulations done and money misappropriated,. Had the bills are meticulously scrutinised by A3 [Assistant], the fraud could have been averted. Even if he was not able to scan the manipulation in the bills, if he had examined the MTC-70 register, which is accompanied with the bills, it could have exposed the corrections. More so, when in some of the bills the Drawing Officer has not signed in the MTC-70



Crl.A.No.509 of 2021

bills before presenting to the Treasury, the bills ought not have been passed.

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18. it is a case prosecution had proved that certain bills were passed even without the Drawing Officer signature in the MTC-70 register. The corrections and the erasures which are seen in the naked eyes should have been noticed, when the MTC-70 register presented subsequently. The appellant has failed to exercise even a minimum amount of diligence. If such corrections are in one or two occasions, the omission and negligence could have been condoned, but continuous negligence leads to presumption that it is the wanton omission to facilitate A1 and A8 to get pecuniary advantage. at this juncture, it is necessary to reiterate and extract the relevant portion in the Tamil Nadu Treasury Code, Volume-I, page number 331,

“It is mentioned as “2(b):- Whenever a drawing officer signs a fully-vouched contingent bill for presentation at the treasury for payment or a detailed contingent bill for submission to controlling authority he should at the same time cancell all the sub-vouchers which relate to the bill but are not attached to it and are retained for record in his office. He should endorse the word “cancelled” across each such sub-voucher in red ink or by a rubber stamp and initial it with the date. He should certify on the bill that all the sub-vouchers relating to it other than those attached to it have been so cancelled that they cannot be used again. When the



WEB COPY



CrI.A.No.509 of 2021

amount of a sub-voucher exceeds the permanent advance it should be cancelled in the manner described above as soon as the payment has been made and entering in the contingent register”.

TamilNadu Treasury Code Volume-I T.R.-16-S.R.2(c):- Every bill or voucher shall be filling in ink type-writer processed in Bradma machines and signed in ink. The total amount claimed shall so far as the whole rupees are concerned be written words as in figures. The amount of the paise may be written in figures after the words stating the numbers of rupees e.g., “Rupees Twenty Five 30” If there are no paise the word “only” shall be written after the number of whole rupees e.g., “Rupees Twenty Six only”. In either case grate care shall be taken to leave no space that could be used for making an interpolation.

9.14 The spaces left blank either in the money column or in the column for particulars of the bill should invariably be covered by oblique lines. A note to the effect that the amount of the bill is below a specified amount expressed in whole rupees should invariably be recorded in the body of the bill in red ink. The amount so specified should be sum slightly in excess of the total amount of the bill.

2(d):- No bill or voucher containing any erasure shall be presented at the treasury. Every correction or alteration in the total of a bill shall be separately attested by the full signature of the person who sign the receipt. Every correction or alteration in the payment order shall be similarly attested by the signing officer, it is drawn on the bank and in other cases, by the Treasury or Sub-Treasury



Crl.A.No.509 of 2021

government fund by A1 and A8 and thereby facilitated A1 and A8 by illegal means to get pecuniary advantage to establish and this is an offence punishable under Section 13(1)(c) and (d) of the Prevention of Corruption Act, 1988 is proved by the prosecution.

21. To bring home the charge of conspiracy within the ambit of Section 120-B IPC, it is necessary to establish that there was an agreement between the parties for doing an unlawful act. It is difficult in most of the cases to establish conspiracy by direct evidence, since the conspiracy is hatched in secrecy. However, the circumstantial evidence will bring forth the elements of the criminal conspiracy, such as, a plan or scheme embodying means to accomplish that object and an agreement or understanding between two or more of the accused persons whereby they become definitely committed to co-operate for the accomplishment of the object by the means embodied in the agreement. It is well settled principle that for an offence punishable under Section 120-B, the prosecution need not necessarily prove that the perpetrators expressly agree to do or cause to be done an illegal act, the agreement may be proved by necessary implication. In ***Devender Pal Singh V. State of NCT of Delhi reported in [2002 SCC (Cri.) 978]***, the Hon'ble Supreme Court,



explained the expression 'conspiracy' as below:-

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50. In *Kehar Singh v. State (Delhi Admn.)* [(1988) 3 SCC 609 : 1988 SCC (Cri) 711 : AIR 1988 SC 1883] (AIR at p. 1954) this Court observed : (SCC pp. 732-33, para 275)

“275. Generally, a conspiracy is hatched in secrecy and it may be difficult to adduce direct evidence of the same. The prosecution will often rely on evidence of acts of various parties to infer that they were done in reference to their common intention. The prosecution will also more often rely upon circumstantial evidence. The conspiracy can be undoubtedly proved by such evidence direct or circumstantial. But the court must enquire whether the two persons are independently pursuing the same end or they have come together to the pursuit of the unlawful object. The former does not render them conspirators, but the latter does. It is, however, essential that the offence of conspiracy required some kind of physical manifestation of agreement. The express agreement, however, need not be proved. Nor actual meeting of two persons is necessary. Nor is it necessary to prove the actual words of communication. The evidence as to transmission of thoughts sharing the unlawful design may be sufficient.”

Conspiracy can be proved by circumstances and other materials. (See *State of Bihar v. Paramhans Yadav* [1986 Pat LJR 688] .)

“[T]o establish a charge of conspiracy *knowledge* about indulgence in either an illegal act or a legal act by illegal means is necessary. In some cases, *intent* of unlawful use being made of the goods or services in question may be inferred from the knowledge itself. This apart, the prosecution has not to establish that a *particular* unlawful use was intended, so long as the goods or services in question could not be put to any lawful use. Finally, when the ultimate offence consists of a chain of actions, it would not be necessary for the prosecution to establish, to bring home the charge of conspiracy, that each of the conspirators had the knowledge of what the collaborators would do, so long as it is known that the collaborator would put the goods or services to an unlawful use.” (See :*State of Maharashtra v. Som Nath Thapa* [(1996) 4 SCC 659 : 1996 SCC (Cri) 820 : 1996 Cri LJ 2448] , Cri LJ at p. 2453, SCC at p. 668, para 24.)



Crl.A.No.509 of 2021

22. In this judgement, the Hon'ble Supreme Court has explained how the ingredient of the offence of criminal conspiracy could be established. When the offence consists of a chain of actions, it would not be necessary for the prosecution to establish, to bring home the charge of conspiracy, that each of the conspirators had the knowledge of what the collaborators would do, so long as it is known that the collaborator would put the goods or services to an unlawful use.

23. In the case in hand, the chain of actions emanating from the office of Assistant Director of Agriculture (Oil Seeds) Cheyyar had culminated by encashment of the forged bills and withdrawing the money through the State Bank of India, Cheyyar. The Assistant who is the appellant herein has cleared the bills for payment.

24. As far as the Appellant Mr.P.K.Kuppusamy, Assistant, who is supposed to scrutinise the bills and entries in the MTC-70 register, with that of the entries found in MTC-103, had miserably failed to scrutinise diligently. The omission to scrutinise diligently cannot be believed as an innocent omission, since the said omission been perpetually done for more than five years. A mere



Crl.A.No.509 of 2021

verification of the earlier entries in the MTC-70 register, which has been manipulated consistently could have prevented the misappropriation. The chain of actions indicates that there had been an agreement between the accused and others, in pursuant to the said agreement, forged bills been cleared for encashment. The cashier payment scroll register and the entries in MTC-70 register and MTC form 58 does not tally and for six years it is unbelievable that without the knowledge and connivance of these appellant, forged bills were cleared innocently. Therefore, the offence placed by the accused clearly establishes the necessary ingredient to attract the offence under Section 120-B of IPC. Hence, the appellant conviction for conspiracy and for misconduct to obtain pecuniary advantage is proved. However, there is no evidence to show that the forgery and falsification of records is done by the accused and therefore, his conviction for the offences under Sections 409, 467, 468, 471, 477-A of IPC is set aside, since the offences under these Sections is done by the deceased accused Sridharan (A1) and Mani (A8) and the appellant has joined in the crime in between to pass those forged documents, pursuant to the conspiracy and thereby enabling the others to get the pecuniary advantage illegally.

25. In the result, **this Criminal Appeal is partly allowed.** The appellant



Crl.A.No.509 of 2021

is acquitted for the offence under Sections 409, 467, 468, 471, 477-A of IPC.

Whereas the appellant held guilty for the offence under Section 120-B of IPC and Section 13(1)(c) and(d) of the Prevention of Corruption Act, 1988. The conviction and sentence imposed by the trial Court for these offences is confirmed. The period of sentence already undergone by the accused ordered to set off under Section 428 of Cr.P.C. Further, the sentence ordered to run concurrently along with sentences passed in connected Spl.C.Nos. 2/2004, 3/2004, 1/2006, 2/2006 and 3/2006. Bail bond, if any, executed by the appellant shall stand cancelled. The trial Court is directed to secure the appellant and commit him to prison to undergo the remaining period of sentence imposed by the trial Court.

18.05.2023

Index:yes/no

Speaking order/non speaking order

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To:

- 1.The Special Judge, Chief Judicial Magistrate, Tiruvannamalai.
- 2.The Deputy Superintendent of Police, Crime Branch C.I.D., Vellore Range.
- 3.The Public Prosecutor, High Court, Madras.



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Crl.A.No.509 of 2021

Dr.G.JAYACHANDRAN, J.

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Pre-delivery Judgment made in
Crl.A.Nos.509 of 2021

18.05.2023