



Crl.R.C.No.204 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 23.06.2025

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.R.C.No.204 of 2023

1. P.Selvi
2. P.Arunraj

... Petitioners

Vs.

State of Tamil Nadu
rep. by the Inspector of Police,
Economic Offence Wing,
Kancheepuram.
Cr.No.2/2017

... Respondent

PRAYER: Criminal Revision has been filed under Sections 438 r/w 442 of the Bharatiya Nagarik Suraksha Sanhita, 2023, praying to call for the records and set aside the judgment passed in C.A.No.82 of 2019 dated 15.12.2022 on the file of the learned District Principal Sessions Judge, Chengelpet and confirming the C.C.No.10 of 2018 dated 27.05.2019 on the file of the learned Chief Judicial Magistrate, Chengelpet.

For Petitioners : Mr.D.Selvam
For Mr.U.Jugal Kumar

For Respondent : Mr.A.Gopinath
Government Advocate (Crl. Side)



Crl.R.C.No.204 of 2023

ORDER

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This Criminal Revision Case has been preferred against the judgment dated 15.12.2022, passed by the learned District Principal Sessions Judge, Chengelpet, in C.A.No.82 of 2019, confirming the conviction and sentence imposed on the petitioners dated 27.05.2019, passed by the learned Chief Judicial Magistrate, Chengelpet, in C.C.No.10 of 2018, thereby convicting the petitioners for the offence punishable under Sections 120-B, 406, 420 of IPC and Section 4, 14, 76 of the Chit Fund Act.

2. There are totally three accused and the petitioners are arrayed as A2 & A3. The case of the prosecution was that all the accused viz., husband, wife and son, had run unregistered chit in their locality thereby inducing the general public to subscribe to their chit. Accordingly, the victims had subscribed by monthly instalments. After maturity, the accused failed to repay the amount as assured by them and cheated the victims. On the complaint, the respondent registered the FIR in Crime No.2 of 2017 for the offences punishable under Sections 120-B, 406 & 420 of IPC and Section 4, 14 & 76 of the Chit Fund Act. After completion of investigation, the respondent filed final report and the same was taken cognizance in C.C.No.101 of 2018 by the trial Court.



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3. On the side of the prosecution, they had examined P.W.1 to P.W.10 and marked Ex.P.1 to Ex.P.14. On the side of the accused, no one was examined and no documents were marked. On perusal of oral and documentary evidences, the trial Court convicted all the accused for the offences punishable under Sections 120-B, 406 & 420 of IPC and Sections 4, 14 & 76 of the Chit Act and sentenced them as follows :-

S.No.	Conviction	Sentence
1	Section 120-B of IPC	to undergo simple imprisonment for a period of three months each.
2	Section 406 of IPC	to undergo simple imprisonment for a period of two (2) years each.
3	Section 420 of IPC	to undergo simple imprisonment for a period of two (2) years each.
4	Sections 4, 14 & 76 of Chit Fund Act	to undergo simple imprisonment for a period of two (2) years and to pay fine of Rs.2,000/- each, in default to undergo simple imprisonment for further period of two (2) months.

The above sentences are ordered to run concurrently. Aggrieved by the same, the accused preferred an appeal and the same was also dismissed by confirming the conviction and sentence imposed by the trial Court. While pending appeal, the first accused died and all the charges were abated against him. Hence the accused 2 & 3 have filed the present revision.

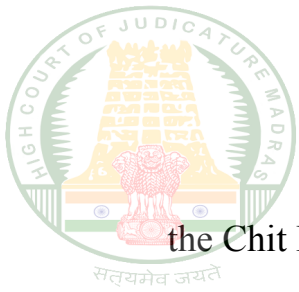
4. The learned counsel appearing for the petitioners submitted that



the prosecution failed to prove any charges as alleged by the victims.

According to the prosecution, there were four victims and they were examined as P.W.1 to P.W.4. All the four were categorically deposed that the first accused received the amount and issued pronote. It was absolutely loan transactions between A1 and P.W.1 to P.W.4. Nowhere they alleged that they paid amount to the petitioners herein. The first accused is the husband and the second and third accused viz., the petitioners herein are the wife and son. In fact, the third petitioner was studying in college during the alleged occurrence. The prosecution also failed to prove that they conducted chit. Even according to P.W.1 to P.W.4, they had paid amount for which, the first accused executed pronote. Therefore, it was only loan transaction. The prosecution failed to examine any independent witness to bring the charges to home. Unfortunately, without considering the above facts and circumstances, the appellate Court also dismissed the appeal which was filed by the petitioners.

5. Per contra, the learned Government Advocate (Crl. Side) appearing for the respondent submitted that there are three accused in which, the petitioners are arrayed as A2 & A3. The first accused died while pending the appeal. All the accused were convicted and sentenced for the offences punishable under Sections 120-B, 406, 420 of IPC and Sections 4, 14 & 76 of



Crl.R.C.No.204 of 2023

the Chit Fund Act. There were four victims and they were examined as P.W.1 to

P.W.4. All were categorically deposed that they subscribed to the chit run by the accused for the respective amount. In fact, some of the payment were made through cheque by the victims. The accused also executed pronote to that extent. In order to prove those payments, the bank account statement of P.W.1 was marked as Ex.P.7. Therefore, the prosecution proved all the charges and the trial Court as well as the appellate Court rightly convicted the petitioners and sentenced them.

6. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

7. There were four victims and they were examined as P.W.1 to P.W.4. P.W.1 deposed that she joined in the chit of Rs.3,00,000/- by 20 months for a monthly subscription of Rs.15,000/-. She subscribed for 17 months and thereafter when P.W.1 enquired with the accused, they replied that they did not conduct any chit. Therefore, P.W.1 asked for refund of the amount which was subscribed to the chit. On the said request, the first accused executed pronote in the 50 rupees stamp paper for a sum of Rs.2,00,000/-, which was marked as Ex.P.1. On perusal of the Ex.P.1, it is revealed that on receipt of Rs.2,00,000/-,

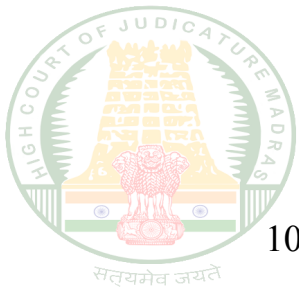


the first accused had executed pronote for a sum of Rs.2,00,000/-.

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8. Likewise another victim was examined as P.W.2 and she deposed that she joined the chit for a sum of Rs.5,00,000/- for 20 months period and the monthly subscription was Rs.25,000/-. She subscribed for 18 months and thereafter, the accused stopped the chit and executed pronote which was marked as Ex.P.3. On perusal of the Ex.P.3, it is revealed that it was executed by the first accused in which, the second accused name was also mentioned as witness, that too without mentioning any address and her husband's name.

9. The third victim was examined as P.W.3 and he deposed that he joined the chit for a sum of Rs.10,00,000/- for the period of 20 months and he subscribed monthly amount of Rs.50,000/-. He had subscribed for 13 months, thereafter, the accused stopped the chit. When P.W.3 questioned the same, the first accused was handed over a pocket diary which was marked as Ex.P.5. On perusal of the Ex.P.4, it is revealed that it was signed by the first accused without even mentioning the chit name and amount.



10. The fourth victim was examined as P.W.4 and he subscribed to

the chit for a sum of Rs.5,00,000/- for the period of 20 months and he paid a sum of Rs.25,000/- as monthly subscription. He subscribed for totally 18 months and thereafter the accused stopped the chit. He was repaid to the tune of Rs.2,80,000/- and there was a balance of Rs.2,20,000/-. He also produced the statement of account to show that he had paid all subscriptions through cheque in favour of the first accused and it was marked as Ex.P.7. On perusal of the Ex.P.7, it shows that there were payments made by P.W.4 in favour of the first accused through cheques. Therefore, P.W.1 to P.W.4 did not even produce any piece of document to show that the accused conducted chit in which they subscribed some amounts.

11. On perusal of the exhibits, it is revealed that the first accused received amount and executed pronote that too in favour of P.W.1 & P.W.2 alone. There was no pronote in favour of P.W.3 or P.W.4. Though the name of the second accused viz., the first petitioner herein mentioned in Ex.P.3, no address was mentioned and her husband's name was also not mentioned. Further Ex.P.7 viz., the bank statement shows that the amount was received by the first accused. But no amount has been received by the petitioners herein from the victims. Therefore, the prosecution miserably failed to prove that the



petitioners also involved in the alleged chit run by the first accused.

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12. That apart, no prudent person would subscribe any chit transactions without any receipts or account of ledger. It is not the case of the victims that they subscribed a sum of Rs.1,000/- or Rs.2,000/-. They subscribed more than Rs.20,000 and Rs.50,000/- as monthly subscription. Even assuming that the first accused run the chit, the petitioners who were arrayed as A2 and A3 were neither partners nor owned any chit. They did not have any role in the entire transactions between the first accused and P.W.1 to P.W.4. Now the first accused died and therefore, the entire charges were abated against the first accused. Insofar as the petitioners are concerned, they arrayed as A2 & A3 and the prosecution miserably failed to prove any of the charges against them.

13. In criminal jurisprudence, the burden is always on the prosecution to prove its case beyond reasonable doubt. When two views are possible and the one favourable to the accused is equally plausible, the benefit of doubt must necessarily go to the accused. In the present case, the prosecution has failed to discharge its burden convincingly, and the trial Court and the Appellate Court failed to properly appreciate the infirmities in the prosecution case. Therefore, the conviction and sentence awarded by the trial Court in respect of all the



Crl.R.C.No.204 of 2023

charges against the petitioners and confirmed by the Appellate Court cannot be sustained and are liable to be set aside.

14. Accordingly, the judgment dated 15.12.2022, passed by the learned District Principal Sessions Judge, Chengelpet, in C.A.No.82 of 2019, and the order dated 27.05.2019, passed by the learned Chief Judicial Magistrate, Chengelpet, in C.C.No.10 of 2018, are hereby set aside. The petitioners are acquitted of all charges in C.C.No.10 of 2018 on the file of the learned Chief Judicial Magistrate, Chengelpet. Fine amount, if any paid, shall be refunded to the petitioners forthwith. Bail bonds, if any executed, shall stand cancelled.

15. In the result, this Criminal Revision Case stands allowed.

23.06.2025

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order

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Crl.R.C.No.204 of 2023

G.K.ILANTHIRAIYAN. J.

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To

1.The Chief Judicial Magistrate,
Chengelpet.

2.The District Principal Sessions Judge,
Chengelpet.

3.The Inspector of Police,
Economic Offence Wing,
Kancheepuram.

4.The Public Prosecutor
Madras High Court,
Chennai.

Crl.R.C.No.204 of 2023

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