



CrI.A.No.127 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 23.07.2025

CORAM:

THE HONOURABLE MR. JUSTICE **D.BHARATHA CHAKRAVARTHY**

CrI.A.No.127 of 2013

1. K.Udayan
2. C.Singaram

...Appellants

Vs.

Union of India,
Deputy Superintendent of Police,
Represented by CBI, Chennai.
(RC.No. 46(A)/2000/CBI/ACB/Chennai.

...Respondent

PRAYER: Criminal Appeal filed under Section 374 of Cr.P.C r/w Section 27 of Prevention of Corruption Act, to allow the appeal and set aside the conviction imposed against the appellants/accused No. 1 & 2 in C.C.No. 2 of 2013 (Split it from the main case C.C.No.41 of 2003-Accused No. 5 and 7) on the file of the XI Additional Special Judge (CBI Cases relating to Banks and Financial Institutions), Chennai dated 11.02.2013.

For Appellants : Mr.G.Prabhakaran

For Respondent : Mr.K.Baaskaran
Special Public Prosecutor for CBI cases



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JUDGEMENT

This appeal is directed against the conviction and sentence imposed by the XI Additional Special Judge (CBI cases relating to Banks and Financial Institutions), Chennai, dated 11.02.2013, made in C.C.No. 2 of 2013.

2. By the said judgment, both these appellants are found guilty and convicted as follows:

“38. In result, this court finds:

A1 and A2 are convicted for the offence punishable u/s 120-B r/w 420, 467, 467 r/w. 471, 468, 468 r/w. 471, 419, 109 IPC and 13(2) r/w 13(1) (d) of PC Act 1988 are sentenced to undergo RIGOROUS IMPRISONMENT FOR THREE (3) YEARS EACH AND TO PAY A FINE OF Rs.1,00,000/- (Rupees one lakh only) each and in default to undergo SIMPLE IMPRISONMENT FOR ONE YEAR.

A2 is convicted for the offence punishable u/s 420 IPC is sentenced to undergo RIGOROUS IMPRISONMENT FOR SEVEN (7) YEARS AND TO PAY A FINE OF Rs.1,00,000/- (Rupees one lakh only) and in default to undergo SIMPLE IMPRISONMENT FOR ONE YEAR.

A1 is convicted for the offence punishable u/s 420 IPC is sentenced to undergo RIGOROUS IMPRISONMENT FOR SEVEN (7) YEARS AND TO PAY A FINE OF Rs.1,00,000/- (Rupees one lakh only) and in default to undergo SIMPLE IMPRISONMENT FOR ONE YEAR.

A2 is convicted for the offence punishable u/s 468 IPC (3 counts) is sentenced to undergo RIGOROUS



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IMPRISONMENT FOR THREE (3) YEARS FOR EACH COUNT AND TO PAY A FINE OF Rs.1,00,000/- (Rupees one lakh only) for each count (Totally Rs.3,00,000/- Rupees three lakhs only) and in default to undergo SIMPLE IMPRISONMENT FOR ONE YEAR.

A2 is convicted for the offence punishable u/s 468 r/w 471 IPC is sentenced to undergo RIGOROUS IMPRISONMENT FOR THREE (3) YEARS AND TO PAY A FINE OF Rs.1,00,000/- (Rupees one lakh only) and in default to undergo SIMPLE IMPRISONMENT FOR ONE YEAR.

A1 is convicted for the offence punishable u/s 468 IPC (3 counts) is sentenced to undergo RIGOROUS IMPRISONMENT FOR THREE (3) YEARS FOR EACH COUNT AND TO PAY A FINE OF Rs.1,00,000/- (Rupees one lakh only) for each count (Totally Rs.3,00,000/- Rupees three lakhs only) and in default to undergo SIMPLE IMPRISONMENT FOR ONE YEAR. COR EAC

A1 is convicted for the offence punishable u/s 468 r/w 471 IPC is sentenced to undergo RIGOROUS IMPRISONMENT FOR THREE (3) YEARS AND TO PAY A FINE OF Rs.1,00,000/- (Rupees one lakh only) and in default to undergo SIMPLE IMPRISONMENT FOR ONE YEAR

A1 is convicted for the offence punishable u/s 468 IPC (4 counts) is sentenced to undergo RIGOROUS IMPRISONMENT FOR THREE (3) YEARS FOR EACH COUNT AND TO PAY A FINE OF Rs.1,00,000/- (Rupees one lakh only) for each count (Totally Rs.4,00,000/- Rupees four lakhs only) and in default to undergo SIMPLE IMPRISONMENT FOR ONE YEAR.

A1 is convicted for the offence punishable u/s 468 r/w 471 IPC is sentenced to undergo RIGOROUS IMPRISONMENT FOR THREE (3) YEARS AND TO PAY A FINE OF Rs.1,00,000/- (Rupees one lakh only) and in default to undergo SIMPLE IMPRISONMENT FOR ONE YEAR.



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A2 is convicted for the offence punishable u/s 467 IPC is sentenced to undergo RIGOROUS IMPRISONMENT FOR THREE (3) YEARS AND TO PAY A FINE OF Rs.1,00,000/- (Rupees one lakh only) and in default to undergo SIMPLE IMPRISONMENT FOR ONE YEAR.

A2 is convicted for the offence punishable u/s 467 r/w 471 IPC is sentenced to undergo RIGOROUS IMPRISONMENT FOR THREE (3) YEARS AND TO PAY A FINE OF Rs.1,00,000/- (Rupees one lakh only) and in default to undergo SIMPLE IMPRISONMENT FOR ONE YEAR

A1 is convicted for the offence punishable u/s 467 IPC is sentenced to undergo RIGOROUS IMPRISONMENT FOR THREE (3) YEARS AND TO PAY A FINE OF Rs.1,00,000/- (Rupees one lakh only) and in default to undergo SIMPLE IMPRISONMENT FOR ONE YEAR.

A1 is convicted for the offence punishable u/s 467 r/w 471 IPC is sentenced to undergo RIGOROUS IMPRISONMENT FOR THREE (3) YEARS AND TO PAY A FINE OF Rs.1,00,000/- (Rupees one lakh only) and in default to undergo SIMPLE IMPRISONMENT FOR ONE YEAR.

A1 is convicted for the offence punishable u/s 419 IPC is sentenced to undergo RIGOROUS IMPRISONMENT FOR THREE (3) YEARS AND TO PAY A FINE OF Rs.1,00,000/- (Rupees one lakh only) and in default to undergo SIMPLE IMPRISONMENT FOR ONE YEAR.

Total fine amount: Rs.22,00,000/- (Rupees Twenty Two Lakhs only).

Out of the fine amount collected, a sum of Rs.20,00,000/- (Rupees Twenty Lakhs only) shall be paid to Punjab National Bank, Adyar Branch, Chennai as compensation and the same shall be debited towards the loan account of accused.



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The above sentence shall run concurrently, but the default sentence shall run consecutively. The period of imprisonment already undergone, if any, is ordered to be set off.

3. Upon receipt of reliable information that one *K.Y.Subramaniam*, who was working as a Senior Manager in Punjab National Bank, colluded with the other accused, *D. Selvam, N.Nadhan, K.Shanmugam, J.Vijayan, C.Singaram, Vijayakumar* Guarantor and the approved valuer *R.Udayakumar*, during the year 1999 and dishonestly abusing his official position by released loans in the guise of purchase of four wheelers-Trucks for the business of A2 to A6 against the security offered by the accused *Vijayakumar*. The value of the properties were inflated. By submitting forged RC books alleging the purchase of trucks in the name of the accused 2 to 6, they cheated the Punjab National Bank to the tune of Rs. 30 lakhs. On the strength of the said information, a regular case in RC MA1 2000 A 0046 was registered on 30.10.2000 by P.W.6, *K. Hari Om Prakash*, for alleged offences under Section 120-B r/w 420, 467, 467 r/w 471, 468 r/w 471 of IPC and Section 13(2) r/w 13(1)(d) of the Prevention of Corruption Act, 1988 against the nine accused mentioned therein. Thereafter, the case was further investigated by P.W.27 *V.Ashok Kumar* and subsequently, P.W.28 *E.P.Suresh Kumar* completed the



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investigation and laid a final report proposing all nine accused guilty of the offences mentioned therein.

4. The case was originally taken on file as C.C. No. 41 of 2003. While the other accused stood trial, these two appellants, who were originally shown as accused No. 5 and 7 in the said C.C. No. 41 of 2003, were absconding and as such, the trial Court split up the case as C.C. No. 2 of 2013. The trial proceeded in the original C.C. No. 41 of 2003 and the trial Court convicted all the seven accused in the said case.

5. The matter was carried to this Court by way of appeals by all seven accused. The gravamen of allegations is that A8 is the common guarantor for these loans obtained in the name of A2 to A7. A1 is the bank manager. A loan application was made in the names of A2 to A7, by mentioning fictitious numbers of vehicles. The vehicle loan was granted without even verification or inspection by the Accused No.1, the manager of the bank, who abused his position.

6. The trial Court, after considering the evidence let in by the prosecution, convicted the accused. The matter was considered in detail by



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WEB COPY this Court in Criminal Appeal Nos. 55, 71 and 90 of 2013 and by judgment dated 17.07.2013, the Accused No. 1 namely, the public servant/bank manager was given the benefit of doubt, holding that the prosecution did not prove the offences against him beyond reasonable doubt and he was acquitted.

7. As far as the approved valuer, Accused No. 9, is concerned, it was also held that the prosecution did not prove the offences against him and he was acquitted. Accused No. 8, who stood as the common guarantor and accused No. 2, *D.Kalai Selvam*, *A3 N.Devaraj* and *A4 K.Shanmugam* were all convicted. This Court, after detailed appreciation of evidence, found by examining the concerned official from the Motor Vehicles Department it was proven that those vehicles were two-wheelers and not even four-wheelers. Further, the applications that were made, coupled with the photographs, were identified and it was held that only Accused No. 2, 3 and 4 had made the applications and represented to the bank with fraudulent intent from the inception to avail the loan. Therefore, the conviction and sentence imposed against A2, A3, A4, and A8 were confirmed.

8. However, with reference to one of the accused, A6, namely *V.J. Vijayakumar*, this Court considered the evidence on record. Even though the



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photograph of *V.J. Vijayakumar* was affixed in the loan application, the loan was taken in the name of one *J.Vijayan*. Except for the photograph of *V.J.Vijayakumar* being affixed in the loan application, the prosecution had not let in further evidence to prove that the said accused *V.J.Vijayakumar* had impersonated *J.Vijayan* and therefore, on that score, acquitted the said *V.J.Vijayakumar*. The detailed appreciation of evidence and findings of this Court in CrI.A.Nos. 55, 71, and 90 of 2013 shall be treated as part and parcel of this judgment. In view thereof, this Court is not refraining from once gain enumerating and mentioning the evidence let in by the prosecution in detail.

9. The case of the prosecution is that A5 and A7 also submitted two loan applications and had given fictitious registration numbers of vehicles, which were ultimately found to be two-wheelers and obtained the loan and defaulted, thereby committing the offences. The subsequent repayment of the loan will not entirely absolve the criminal liability and hence the charge.

10. As far as the first appellant in this appeal, *K. Udayan*, is concerned, the transaction in respect of *K. Udayan* is also identical to that of the original Accused No. 6, *V.J. Vijayakumar*, in the sense that the application for grant of loan was not made in the name of *K.Udayan* / first appellant, but in the name



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of one *J. Vijayan*. In this case of *K.Udayan*, the loan application was made in the name of one *J.Vijayan*. Though the photograph of *K.Udayan* was affixed, nothing further was done by the prosecution to prove that A5, *K.Udayan*, actually went to the bank and impersonated himself as *J.Vijayan* and obtained the loan. It can be seen that the loan amount was withdrawn as cash from the branch. Therefore, when the identical case of A6, *V.J.Vijayakumar*, was considered by this Court and the benefit of doubt was granted to him and he was acquitted, by following the self same reasoning/ parity of judgment, which arises out of the same case, I am inclined to allow the appeal insofar as the first appellant, *K.Udhayan*, is concerned by holding that (i) even though the prosecution has brought on record that fictitious documents were filed and that the registration number doesn't even relate to any four wheeler and the loan was sought in respect of a four wheeler, however, there is nothing on record to show it was this accused K. Udayan, who did the same; (ii) the only material is that the photograph of this accused is affixed in the application. Though, that can give rise to a strong suspicion, the same will not be in any manner proof as the photograph can also be misused by any one.

11. Now, considering the case of *C.Singaram*, the second appellant, who was originally arrayed as A7 and accused No.2 in the split-up case, the



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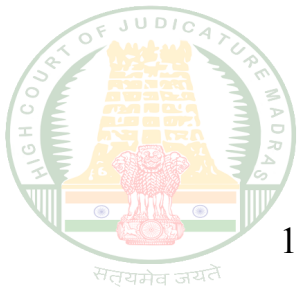
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argument of the learned counsel for the appellant is that the prosecution has not proved who forged the fictitious registration certificate copy. Secondly, the loan was repaid in full. P.W.24 was the concerned official of the bank who physically verified the facts. She has been examined on behalf of the prosecution and she deposed that she verified the vehicle before approving the application. Therefore, once the prosecution witness herself states that she verified the vehicle, mere examination of the official from the RTO cannot be held to be conclusive to prove the charges. No further steps were taken by the prosecution to produce the vehicle concerned or in any manner further prove that the vehicle was not a four-wheeler and was only a two wheeler. Except for the fact that the loan transaction was made in the name of accused No.7, *C. Singaram*, there was nothing else on record to prove his connection or conspiracy with the other accused. It should be noted that while some of the accused and Accused No.8 *S.Vijayakumar* are family members and are related to each other, accused No. 7, *C. Singaram*, is not at all related to them. Therefore, when there is no evidence of any conspiracy or concerted action, the trial Court erred in convicting him with respect to the said charges also. The learned counsel submitted that none of the arguments now raised on behalf of this accused were raised in the earlier appeal and therefore, this Court should consider these arguments and acquit accused No. 7, *C.Singaram*,



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12. Per contra, *Mr.K.Baaskaran*, the learned Special Public Prosecutor appearing for the respondent would submit that even in the case of *K.Udayan*, his photograph was identified and the concerned official of the bank deposed that the vehicle mentioned was not even a four wheeler. Therefore, the prosecution has proved the case in respect of the said *K.Udayan* also. As far as *C.Singaram*, is concerned, the loan application was made in his name and his signature and photographs have all been identified. He availed the said loan by submitting forged documents. Thereafter, the amount became due to the bank and the offences were committed. The subsequent repayment, by itself, will not absolve the criminal liability. In fact, A8, *S.Vijayakumar*, being the common guarantor in all these cases, had shown his property as collateral security for the loan borrowed by *C.Singaram*, which conclusively proves the case against the accused. Already, in respect of all similarly situated accused, this Court has considered the issue in detail in Criminal Appeal No. 55 of 2013 and has confirmed the conviction as well as the sentence imposed by the trial Court. Therefore, the judgment of the trial Court does not require any interference.



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13. The loan filed in respect of the second appellant is marked as Ex.P32. From the same, it is seen that the loan amount of Rs.5,00,000/- was credited to the account of the second appellant on 06.10.1999. The application was made as a truck loan. Reminder letters for non-payment of loan were issued to the appellant and the signature in Q165 was also identified as that of the appellant by examining the appropriate handwriting expert. The application form is in the name of the second appellant and the signature in the application form marked as Q136 is also proved to be that of the second appellant. His photograph is duly affixed and he has signed across the photograph.

14. It is seen that even in respect of this loan, the property offered by Accused No. 8, *S.Vijayakumar* was the common security. The letter dated 07.07.2000 from the Motor Vehicle Inspector categorically identifies the registration number of the truck, which was claimed to be a Tata make of the year 1998 bearing registration No. TN-22/W 8958, as a 1997 model Bajaj two-wheeler owned by A. Pandiyan. Thus, the claim that the truck was supplied by *M. Sivalingam* was proved to be false.

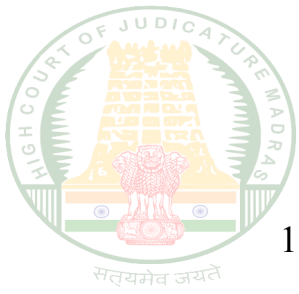


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15. The registration certificate produced and marked as Ex.P34, contains an endorsement as if the vehicle was transferred in the name of the appellant and the same contains a photograph, the stamp of the registering authority of the Motor Vehicles Department and a signature. Therefore, as found by this Court in respect of similarly situated accused in Criminal Appeal No. 55 of 2013 etc., there is overwhelming evidence on record which points to only one fact: this accused also knowingly conspired with the other accused, submitted applications by making fictitious claims with a dishonest intention to cheat the bank and submitted false documents such as forged registration certificate copies, obtained a loan and failed to repay the same in time. Thus, the offences complained of are proved to the hilt by the prosecution.

16. The contention that there is no further proof as to who committed the forgery may not hold good in this case because the accused himself is a party to the said document and his photograph and signature are affixed in the forged documents. Therefore, the mere lack of proof as to who performed the act of forgery will not prevent establishing that it was the accused who used the forged documents as genuine and obtained the loan.

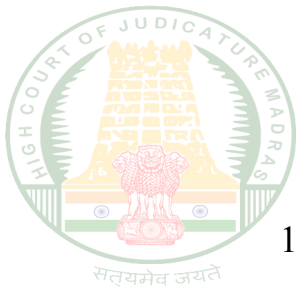


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17. The next argument made is based on the evidence of P.W.26. It is true that P.W.26 is an official of the bank. She entered the witness box even after the other evidence let in by the prosecution and stated that she verified the vehicle and found it to be correct. As a matter of fact, her evidence is to be discarded as absurd and self serving statement in light of the overwhelming documentary and oral evidence placed on record by the officers of the Motor Vehicles Department. Her evidence, an aberration in the case of the prosecution, by itself will not be fatal to the case of the prosecution. Therefore, the charges against this accused stand proved. I confirm the conviction made by the trial Court in respect of the various charges framed against the accused.

18. Now coming to the question of sentence, it is true that the maximum punishment of seven years was imposed against the similarly situated accused in the earlier Criminal Appeal No. 55 of 2013. It is to be noted that in the said earlier appeal, nothing seems to have been argued with reference to the sentence. Upon the finding of conviction, the Court had confirmed both the conviction and the sentence.



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19. As far as the present case is concerned, detailed arguments are made on behalf of the second appellant, *C. Singaram*, with reference to the quantum of sentence. An affidavit has also been filed on behalf of *C.Singaram*. From the same, it can be seen that Accused No.8, *S.Vijayakumar* was the primary person behind the transaction, who offered his property as security and ultimately repaid all six loans to the bank. It can be seen that A2 to A7 were primarily name-lenders but who participated in the crime. The other distinguishing fact is that the other accused were all relatives of *S.Vijayakumar*. However, it is stated by the present second appellant, *C.Singaram*, that he was only a labourer working in the company owned by *S.Vijayakumar* at that point of time. It is now further pleaded that he is currently a vegetable vendor, earning his livelihood by selling vegetables. It is further pleaded that he had borrowed a sum of Rs.5,00,000/- to meet the marriage expenses of two of his daughters. He is presently conducting his business through a vehicle financed by Tata Capital Limited and is duly paying the EMIs through his earnings as a vegetable vendor.

20. This Court can see the overall theme in the entire transaction: A8, by conspiring with the other accused namely, A2, A3, A4 and A7 who willingly participated in the transactions, obtained the loan, initially defaulted



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and later repaid the loan amount. The overall facts and circumstances, as well

as the age of the second appellant, who is now said to be around 54 years old

and is not involved in any other criminal case. He is currently earning a livelihood by selling vegetables and pleads for leniency by stating that he is the sole breadwinner of his family and is repaying the EMI for the vehicle. In the background of the quantum of loan and the fact that the entire loan amount repaid, the above reasons can be considered.

21. I am of the view that the case of the second appellant, *C.Singaram*, has to be considered differently, commensurate with the role played by him, especially considering the fact that he was only an employee of *Vijayakumar* (A8) and an appropriate sentence has to be imposed.

22. In view thereof, I reduce the sentence of imprisonment for the various offences to three months' rigorous imprisonment. As far as the fine amounts are concerned, since it is stated that the entire loan amount is repaid, it can also be reduced as indicated below in the in the operative portion.

23. In view thereof, Criminal Appeal No. 127 of 2013 is ***partly allowed*** on the following terms:

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(i) The appeal is ***allowed*** in respect of the first appellant,

WEB COPY *K.Udayan*, the conviction and sentence imposed against him vide judgment dated 11.02.2013 in C.C. No. 2 of 2013 by the XI Additional Special Judge (CBI cases relating to Banks and Financial Institutions), Chennai stand set aside. It is stated that no fine amount was paid by him.

(ii) The conviction of the second appellant *C. Singaram* is confirmed and the sentence stand modified as follows:

(a) Second appellant is convicted Section 120-B read with 420, 467, 467 r/w 471, 468, 468 r/w 471, 419 and 109 of Indian Penal Code (IPC) and he is sentenced to undergo rigorous imprisonment for a period of three months and to pay a fine of Rs.2,000/-, in default to undergo simple imprisonment for 10 days.

(b) Second Appellant is convicted for the offence punishable under Section 420 of Indian Penal Code and sentenced to undergo three months rigorous imprisonment and to pay a fine of Rs.2,000/-, and in default to undergo 10 days simple imprisonment;



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(c) The Second appellant is convicted under Section 468 of IPC (3 counts) and sentenced to undergo three months rigorous imprisonment and to pay a fine of Rs.2,000/- each, in default to undergo ten days simple imprisonment

(d) Second Appellant is also convicted for the offence punishable under Section 468 r/w 471 IPC, sentenced to undergo rigorous imprisonment for a period of three months and to pay a fine of Rs.2,000/-, in default to undergo simple imprisonment for ten days;

(e) Second appellant is convicted for the offence punishable under Section 467 IPC and sentenced to undergo three months rigorous imprisonment and to pay a fine of Rs.2,000/- and in default to undergo ten days simple imprisonment;

(iii) The sentence of rigorous imprisonment shall run concurrently, while the default sentences for non-payment of fine shall be undergone consecutively.

23.07.2025

Neutral Citation: Yes/No
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- To
1. The Deputy Superintendent of Police,
CBI, Chennai.
(RC.No. 46(A)/2000/CBI/ACB/Chennai.
 2. The Special Public Prosecutor for CBI Cases.
Madras High Court.
 3. The XI Additional Special Judge
(CBI Cases relating to Banks and Financial Institutions), Chennai



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D.BHARATHA CHAKRAVARTHY, J.

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