IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 10.09.2025
PRONOUNCED ON : 08.10.2025

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.373 of 2022

Dr.John Samuel ... Petitioner

Vs.

State of Tamil Nadu,
Rep. by the Inspector of Police,
CBCID Police, Police Research Centre,
Chennai.
Cr.No.2/2001. ... Respondent

PRAYER: Criminal Revision Case is filed under Section 401 r/w 397 of Code of Criminal Procedure, to allow the above Criminal Revision and set aside the order of learned Principal District & Sessions Judge of Kanchipuram at Chengalpattu dt.18.2.2022 in Crl.A.No.16/2016, partly allowing the same and partly confirming the findings and order of conviction of the learned Judicial Magistrate No.I, Chengalpattu in CC.No.495/2010 by order dt 21.04.2016 made against the petitioner herein and modifying the sentence therein and acquit the appellant/Accused No.1 in toto.

For Petitioner : Mr.V.Srinivas, Senior Counsel for

Ms.V.Mythili

For Respondent : Mr.L.Baskaran,
Government Advocate (Crl. Side)

ORDER

This Criminal Revision Case has been filed to set aside the judgment dated 18.02.2022 in Crl.A.No.16 of 2016 passed by the learned Principal Sessions Judge, Chengalpet (lower appellate Court) confirming the judgment dated 21.04.2016 in C.C.No.495 of 2010 passed by the learned Judicial Magistrate No.I, Chengalpet (trial Court).

2.The conviction and sentence of the trial Court are as follows:

Accused	*Offences*	*Conviction and Sentence*
A1 to A4	408, 465, 468, 471 & 477(A) r/w 109 IPC	A1 to A4 sentenced to undergo two years Rigorous Imprisonment each and to pay a fine of Rs.1,000/- each in default to undergo one month Rigorous Imprisonment each.
A1 to A6	467 IPC	Found Not Guilty
A5 & A6	408, 465, 468, 471 & 477A r/w 109 IPC	Found Not Guilty

3.The conviction and sentence of the lower appellate Court are as follows:

Accused	*Conviction and Sentence of trial Court*	*Findings of Lower Appellate Court*
A1	408, 465, 468, 471 & 477A r/w 109 IPC	• Conviction and Sentence of the trial Court for offence under Sections 465, 468 & 471 IPC are set aside. • Conviction and Sentence of the trial Court for offence under Sections 408 & 477A r/w 109 IPC are modified to one year for each offence. Fine amount of Rs.1,000/- for each offence is confirmed.
A2, A3 & A4	408, 465, 468, 471 & 477A r/w 109 IPC	Conviction and Sentence of the trial Court are set aside.

4.Case of the prosecution is that the Institute of Asian Studies (In short "Institute") is started for the purpose of understanding culture of Asia and to propagate the glorious past literature and culture of Tamil Nadu to the rest of India and Asia by giving them in English and other Asian languages. For its functioning, it largely depends upon the funds from the State Government of Tamil Nadu, Andhra Pradesh, Karnataka and the Central Government. The petitioner/A1 served as Secretary-cum-Director of the Institute, A2 Office Superintendent, A3 Accountant, A4 Junior Assistant, A5 Assistant and A6

Administrative Officer of the said Institute. On 16.03.1998, a sum of Rs.10,00,000/- was sanctioned by the Government of India, Ministry of Human Resources Development for the purpose of constructions of cultural care centre within the campus of the Institute and first installment of Rs.2.5 lakhs also sent to the Institute by the Government of India. The petitioner/A1 sent a false report and utilization certificate to the Government of India as if the construction was in good progress and forged photographs to confirm the construction. Infact, there was no such construction. Further, the accounts were cooked up and expenditure of Rs.9.13 lakhs was shown for the construction of the said building. Thus, the petitioner/A1 misappropriated the fund of Rs.2.5 lakhs of the said Institute. In the course of the same transaction, the other accused namely A2 to A6 created documents to show expenditure bills for the construction of the said building, forged bills, forged auditor report for the year 1999-2000. The respondent Police/CBCID on collection of evidence and materials filed charge sheet before the learned Judicial Magistrate, Alandur against the petitioner/A1 for offence under Sections 408, 465, 467, 468, 471 r/w 467, 471 r/w 468 and 477A of IPC and against A2 to A6 for offence under Sections 408 r/w 109, 465, 467, 468, 471 r/w 467, 471 r/w 468 and 477A IPC and the charge sheet had taken on file in C.C.No.455 of 2002. Thereafter, on the point of jurisdiction and as per the orders of the learned Chief Judicial Magistrate, Chengalpet, the case in C.C.No.455 of 2002 transferred to the file of the Judicial Magistrate Court No.I, Chengalpet (trial Court). During trial, on the side of the prosecution, PW1 to PW20 examined and Exs.P1 to P66 marked. On the side of the defence, the 1st petitioner examined himself as DW1 and marked Exs.D1 to D12. On conclusion of trial, the trial Court convicted the accused and the lower appellate Court modified the conviction and sentence as stated above.

5.The learned Senior Counsel appearing for the petitioner/A1 submitted that the petitioner/A1 who was the Secretary-cum-Director of the Institute, misused the funds of Rs.2.5 lakhs submitted that the allegation of criminal breach of trust is not correct. The amount of Rs.2.5 lakhs received by the Institute on 25.05.1998 and it was deposited in the Canara Bank account of the Institute on 26.05.1998 proved by the petitioner who examined himself as DW1 and marked Exs.D3 & D5. Further, the petitioner had no dominant over the funds of the Insitute, there is a Treasurer Mr.Mahalingam and Accountant to the Institute. All the accounts were maintained by the Accountant, thereafter, it is submitted to the Treasurer on their approval, it is submitted to the Auditor/PW4, who prepares statement of account and thereafter, it comes to the petitioner as Secretary-cum-Director to sign along with the Treasurer to file statement of accounts with the Income Tax Department. In this case, the Treasurer having dominant over the funds of Institute neither called as witness nor arrayed as accused. Infact, the Treasurer not even enquired, no clarification sought and examined in this case, PW20/Investigating Officer admits the same.

6.He further submitted that PW1 claiming himself to be Director and Administrator of Institute lodged a complaint on 31.05.2001 to the Director General of Police as though the petitioner submitted false utilization certificate with cooked up accounts showing expenditure of Rs.9.13 lakhs incurred for construction of cultural care centre including the amount of Rs.2.5 lakhs received from the Government of India. The supporting documents along with utilization certificate and photographs all forged. Further, PW1 stated that Board Meeting Resolutions was created by the petitioner facilitating his activities, hence, committed forgery. It is to be seen that there was a civil suit filed by the petitioner against PW1 in O.S.No.271 of 2001 questioning the interference of PW1 and his men in the affairs of the Institute. The learned District Munsif held both PW1 and PW16, V.C.Kulanthaisamy both removed from the Membership and from the Executive Committee, by a General Body Meeting was held on 07.05.2001 and Dr.C.N.A.Parimalam appointed as

Chairman, Dr.M.Israel as Vice-Chairman, Mr.S.Nallaperumal another Vice-Chairman and the petitioner as Secretary and Dr.N.Mahalingam as Treasurer along with members and Ex-Officio Members. Hence, both PW1 and PW16 have no competence to lodge any complaint or level any allegation against the petitioner and others. This order challenged before the Subordinate Court and District Court both negatived the plea of PW1 & PW16 confirming their removal. Hence, PW1 is not competent to lodge a complaint.

7.The learned Senior Counsel referred to Ex.D13, a letter of Mr.V.R.Lakshminarayanan, Former Director General of Police dated 31.05.2001 to Dr.R.Rajagopalan, Director General of Police requesting to register a case and entrust the case to CBCID for investigation claiming that he is one of the members of Governing body. Infact, Mr.V.R.Lakshminarayanan not a Member of governing body as on 31.05.2001 and he was removed on 07.05.2001. The trial Court failed to consider these aspects. Further, it is alleged that during January 1996, the petitioner purchased four grounds of land in his wife name and the Institute amount of Rs.2.5 lakhs withdrawn from the bank utilized for his personal gain. It is to be seen that in this case, Government of India released initial grant of Rs.2.5 lakhs on 25.05.1998 and the same deposited in Canara Bank account of the Institute on 26.05.1998.

The purchase of land by the wife of the petitioner was two years prior in the year 1996.

8.The learned Senior Counsel further submitted that other allegation that the audit report for the year 1998-2000 marked as Ex.P10 contained Clauses 1 to 7 and when the same was presented by the petitioner during the meeting on 20.12.2000, Clauses 5 to 7 removed and Ex.P35 is relied upon. If that is the case, PW1 and PW16 could have handed over the copies to the Chairman and Treasurer and other members present in the meeting to show that Ex.P10 tinkered with. PW4's evidence is that the petitioner asked him to delete Clauses 5 to 7 not supported with any other materials. Further, the Clause 5 to 7 pertains to the functioning of the Institute as observed by the Auditor and there is no allegation of diversion of funds or any misappropriation, raising audit objection and rectifying the same is common.

9.He further submitted that in this case, the trial Court acquitted A5 & A6 and the lower appellate Court acquitted A2 to A4, the primary allegation against them is that they created vouchers, prepared account statements as though payments made to the building material suppliers, hardware stores and transporters and payments to the watchmen, sweeper but not paid and vouchers raised. The petitioner as Secretary-cum-Director is having overall in-charge and not involved in the day to day control and management of Institute accounts and it is the concerned Accountant namely A3 and other staffs of the Institute to maintain the accounts on day to day basis, only the annual financial statements, the overall accounts comes to the petitioner. The petitioner as authorized signatory signed the cheques to whose name it was drawn. If it is not paid to the drawer of the cheque, the petitioner cannot be faulted with. Further, the bank witness namely Canara Bank Manager/PW7 produced the statement of accounts of the Institute, the petitioner and his wife. Nowhere it is found that the amounts referred in the disputed cheques were credited or withdrawn by the petitioner or someone on behalf of the petitioner. That being so, then there is no question of diversion of funds and creation of false accounts.

10.He further submitted that the Board Resolution dated 20.12.2000 not produced. In this case, PW2/Accountant of the Institute in his evidence stated that Rs.1,96,000/- was given to the petitioner and he admits that the accounts were verified by one Narayanan, PRO and the petitioner. Further, the amount of Rs.2.5 lakhs received from the Government of India credited in the general account and from the general account, the salary, electricity charge, telephone expense, office expense, vehicle maintenance and other expenses paid. There is no one to one correlation to show that the amount of Rs.2.5 lakhs diverted and misused. PW2 admits that he had voluntarily resigned due to health issues, later filed a case before the Labour Court. PW3/Administrative Officer in his evidence admits that during the year 1998-1999, no anticipated grants received by the Institute, hence, the Institute was under the financial constraints and from the general account to tide over the regular maintenance and salary to the employees paid. PW4/Auditor allegation against the petitioner is that the signature in the report Ex.P35 is not by him. The admitted signature of the petitioner and the disputed signature in the Auditor Report submitted for comparison and the Handwriting Expert/PW18 gave report that he is unable to compare the disputed signature, hence, the allegation that the petitioner fraudulently affixed the signature of PW4/Auditor is not proved. In fact Ex.P35 is a photostat copy and original not collected submitted for comparison.

11.He further submitted that PW20/Investigating Officer admitted that the petitioner was a Secretary-cum-Director of the Institute and he is not the Treasurer and it was one Dr.Pollachi Mahalingam, the Treasurer and the Chairman was Justice Krishna Iyer. He admits that he has not examined these two persons. Likewise, Mr.V.R.Lakshminarayanan, Former Director General of Police not examined. The entire case originates on the letter of Mr.V.R.Lakshminarayanan to the Director General of Police to take action. Non examination of Mr.V.R.Lakshminarayanan is fatal to the case of the prosecution. He further submitted that on cumulative analysis of the facts and circumstances of the case, it is seen that there is no evidence to show that the petitioner was handling the financial administration of the Institute independently, to disprove the same, the petitioner examined himself as DW1 and marked Exs.D1 to D12. The prosecution not seriously challenged his evidence and defence exhibits. Both the Courts below not considered the evidence of petitioner and the defence documents produced by him. On the other hand, the lower appellate Court admits that the amount of Rs.2.5 lakhs received from the Government of India is accounted by receipt Ex.D8. If the funds are diverted it ought to have been approved by the Board of Governance. In present case, no such document produced but it came to conclusion that the funds might have been diverted for other purpose but the alleged misuse is not proved and it came to conclusion that it is true that the accounts not maintained properly and the Investigating Officer/PW20 ought to have seized the cash book and produced before the Court. On the same breadth, it held that the petitioner having examined himself could have summoned the cash book to prove the funds were utilized properly. It is for the prosecution to prove the case beyond all reasonable doubt and it is not by the petitioner to fill up the latches of the prosecution. Likewise, the delay in registering the FIR not explained. The lower appellate Court had come to the conclusion that the forgery is not proved in this case against the petitioner and the petitioner acquitted from the charges for offence under Sections 465, 468 & 471 IPC. The only conclusion is that the petitioner was entrusted with the funds of the Institute, hence, he had not discharged the same for the purpose it was to be done. The evidence of the Accountant and Administrative Officer confirms that there is no separte account for the grants received from the Government of India of Rs.2.5 lakhs and all amounts credited to the general account and from the general account, the Institute expenditure made. In such circumstances, entrustment and misappropriation not proved. Likewise, the Accountant maintained the accounts book and the Treasurer to monitor and approve the same. The petitioner not made any entries in the books of account and further reports submitted to the Government of India Exs.P1 & P2 not signed by the petitioner. When the other accused acquitted of all charges, convicting the petitioner is not proper and sustainable. Hence, he prayed for acquittal.

12.The learned Government Advocate (Crl. Side) appearing for the respondent Police filed counter and submitted that after completion of investigation, on 18.07.2002 the respondent Police filed charge sheet for offence under Sections 408, 465, 467, 468, 471 r/w 467, 471 r/w 468 and 477A IPC against the petitioner and for offence under Sections 408 r/w 109, 465, 467, 468, 471 r/w 467, 471 r/w 468 and 477A IPC against A2 to A6 before the learned Judicial Magistrate Alandur and the same was taken on file C.C.No.455 of 2002. Further, the case transferred to the file of the Judicial Magistrate Court No.I, Chengalpet and the same was taken on file in C.C.No.495 of 2010. To prove the case, the prosecution examined 20 witnesses and marked 66 exhibits and no material object marked. On the side of the defence, the petitioner examined himself as DW1 and marked Exs.D1 to D12. The evidence of the prosecution witnesses are as follows:

Rank of Witnesses	*Witnesses*	*Gist of the Deposition*
PW1	Tr.Kodumudi Shanmugam	He deposed that from 20.12.2000 he was a Member and Vice-Chairman in Director of Institute of Asian Studies on 31.03.2000 Board of Government meeting was conducted and the Auditor Report was scrutinized by every member on whom the report was given. During such period the 1st accused was in the position of Administrative Director. Queries were raised and the Director

Rank of Witnesses	*Witnesses*	*Gist of the Deposition*
		replied the facts contained in the Audit report was certified by the Auditor only. He suspects the Director and the Board of Governor removed Mr.John Samuvel and he was appointed as the Director. Hence, he lodged a complaint before the respondent Police and also handed over the records (Ex.P1 to P4) Ex.P5 (Complaint).
PW2	Tr.Madhavan	He deposed that he worked from 11.04.90 to 08.04.1999 as an accountant and withdrew the cash through Mr.Kolappan and handed over to 1st accused for his personal expenses. No building was constructed, but salaries and other expenses were paid from Rs.2.5 lakhs, which was received from the General Government and some facts. [Exs.P6 to 9]
PW3	Tr.Hariharan	He disclosed that he worked as an administrative officer from 1997 to 1999 and received funds of Rs.2.5lakhs. No building was constructed and confirmed 1st accused has not followed the roads, as it is formulated and some facts.
PW4	Tr.Srinivasan	He disclosed that he has been auditing the accounts of the Institute of Asian Studies for the past 10 years. He further says that he has confirmed points 1 to 7 in the Audit report dated 05.12.2000

Rank of Witnesses	*Witnesses*	*Gist of the Deposition*
		and points 5,6 & 7relates to the receipt and expenses of the Institute. Further the 1st accused personally approached him to remove the points 5, 6 & 7 from the report. He said no and he denied the new report, which was not authorized by him, as points 5, 6 & 7 were missing. Further, the report shown by P.W.1 was only one page and the other was missing. He confirms that his signature was forged in the new reports and some facts. Ex.P 10 to 13.
PW5	Tr.Sivakumar	He deposed that he was working with Mr.Seenivasan, Auditor to submit the records to the investigation officer to confirm the signatures of his Senior to be compared with the report submitted by the 1st accused which is alleged to be a forged one.
PW6	Tr.Kumar	He deposed that he and one Balaji were working as condense in the MLA Hostel situated opposite to CBCID office and confirmed to be the witnesses for the enquiry conducted with 1st accused and obtaining the specimen signature and some facts.
PW7	Tr.Christober John	He deposed that he submitted the records for the purpose of investigations to the CBCID police which consists of original and

Rank of Witnesses	*Witnesses*	*Gist of the Deposition*
		Xerox copies and some facts. Ex.P.15 to 13.
PW8	Tr.Nagaraj	Deposed that he is the panchayat President of Chemmencheri confirmed that he was called on by the CBCID police in their spot visit to the Institute and identified 500 numbers damaged bricks and 6 feet pit digged that too was not in perfect condition for any purposes. He signed as a witness in the Mahazar and some facts.
PW9	Tr.Vishwanathan	He deposed that he was witnessing the investigation and enquiry conducted byMr.Baskar, Chelladurai, of 1st accused, and specimen signature obtained from the concerned and some facts.
PW10	Tr.Karunakaran	He deposed that he was supplying Jallys, bricks, and sand to the Institute and since 1995-96 he has not made any sales, and no bill was raised and some facts.
PW11	Tr.Dhanasekaran	He deposed that he was supplying building materials in the name of Virco Transport and proper receipt was given against the acknowledgment of payment from 06.04.1999 to 24.02.2000, 134 receipts showed by the CBCID was not given by him and no supply was made during the period, and some facts.
PW12	Tr.Varkees	He deposed that he worked as

Rank of Witnesses	*Witnesses*	*Gist of the Deposition*
		Mestri from 1995 to 1996 when the building was constructed from 03.04.1999 to 31.07.1999 more than 51 vouchers showed by CBCID were not acknowledged by one, as now work done and no payment received by him. Since 1996 and some facts.
PW13	Tr.Ravindran	Deposed that he is running a hardware shop in the name of one Sarma Enterprises and confirmed that he was not made and supplies to the Institute so for, and some facts.
PW14	Tr.Bharathi	Deposed that he confirmed that he is working as a sweeper since 1996 and the receipt, dated 05.05.1999, 05.06.1999 and 05.07.1999 is a false one, and no payment was received by him and his signature was forged and some facts.
PW15	Tr.Ganayyan	Deposed that he was working as a watchman at the Institute and he left the job before 1999 and the vouchers dated 05.05.1999 and 05.06.1999 and 05.07.1999 as a forged one, no payment was received by him and some facts.
PW16	Dr.Kuzhandhai Samy	Deposed that he did not receive any proper reply from the 1st accused when raised queried on the Audit report submitted and confirmed the removal of 1st accused and the complaint registered by P.W.1 in the CBCID

Rank of Witnesses	*Witnesses*	*Gist of the Deposition*
		for investigation.
PW17	Tr.Nagarajan	He deposed that he took up a photo at Institute of Asian Studies Campus at Chemmancerry and handed over two photos with negative to CBCID and some facts.
PW18	Tr.Kasi	Deposed that he has confirmed the signature submitted for handwriting verification and document scrutinization under document No. Doc. 126/2002, dated 07.06.2002. Ex.P.36 to 40.
PW19	Tr.Sivaveliyappan, Inspector	Deposed that he received the complaint and registered the FIR in Cr.No.02 of 2001.
PW20	Tr.Moorthy, DSP	Deposed that he took up the case for investigation and examined the witnesses, verified the records obtaining the opinion from the Document expert After completion of an elaborate and detailed investigation, he filed a final report before the concerned court in accordance with the law.

On conclusion of trial, the trial Court by judgment dated 21.04.2016 convicted the petitioner/A1 and A2 to A4 as stated above and acquitted A5 & A6. Challenging the judgment of conviction, the petitioner/A1 and A2 to A4 preferred appeals before the lower appellate Court in Crl.A.Nos.16 to 19 of 2016 and the lower appellate Court by judgment, dated 18.02.2022 allowed the appeals filed by A2 to A4 in Crl.A.Nos.17, 18 & 19 of 2016 and partly allowed the appeal filed by the petitioner in Crl.A.No.16 of 2016, as stated above.

13.He further submitted that the lower appellate Court confirmed that the funds of the Central Government to the extent of Rs.2.5 lakhs was given to the Institute of Asian Studies and deposited in Canara Bank Account as shown in Ex.D4 entry dated 26.05.1998. During trial, Mr.Madhavan/PW2, Accountant of the Institute testified that he maintained the Institute Account, and audits conducted annually from April to September. He stated that a sum of Rs.1.96 lakhs in the form of cheque was handed over to the petitioner/A1, which was noted in page 70 of the account book marked as Exs.P7 & P8. This cheque issued to Kollapan, who then purchased a demand draft for the same amount in the name of Neelankanda lyer, who claimed to be the owner of the house which was purchased on the same day by the petitioner/A1. The lower appellate Court finding is that PW20/Investigating Officer who filed charge sheet, clearly stated in his evidence that the petitioner submitted a false utilization certificate for grants to the Ministry of Human Resources and fabricated false vouchers for the amount spent for construction of the building. He also stated that during investigation, he found that the Ministry of Human

Resources funds diverted to the general fund, which was used for other purposes, rather than properly utilized for the intended purpose. The lower appellate Court found the petitioner took Rs.1,96,000/- of the grants received from the Central Government for the construction of cultural center building. The petitioner misused his position and used the amount entrusted to him to purchase property in his name and the name of his wife. The lower appellate Court rightly observed that the grant of Rs.2.5 lakhs is the first installment released by the Department of Culture, Ministry of Human Resource Development, is to construct a building in the Institute of Asian studies. From order, it clearly noticed that the amount not used for the construction of the building. The petitioner being the Secretary-cum-Director of the Institute should have used this amount for the construction of the building but he utilized that amount for other purposes. The direction given under grant order not followed misused by the petitioner, hence, misappropriation and criminal breach of trust proved against the petitioner.

14.He further submitted that PW2 during his cross examination stated that at the time of the grant of Rs.2.5 lakhs for the construction of the Building in the Institute, the Institute was in financial constraint and as per instruction of the petitioner the above amount utilized for meeting out the other expenses like salary, electric charges, and phone bills. Hence, it is clearly shows that being the Director of the Institute, the petitioner committed criminal breach of trust with that amount. Further, PW2 the Accountant in Institute of Asian Studies, terminated from the office since he was not convenient to the petitioner. PW2 deposed that the petitioner received the fund which was in the account of the Institute. PW3/Administrative Officer deposed that he paid for the plan sanction to the panchayat for the proposed building. PW4/Auditor confirmed through Ex.P10 a sum of Rs.14,64,120/- though was gifted to the Institute, no proper account was maintained for the said amount. Further confirmed that in Clause 6 of the report (Ex.P10), the receipts by the Institute for various expenditure are not proper. PW18 is the forensic expert who examined the signatures in the vouchers and he was unable to come to a conclusion and issued a report (Ex.P54). PW1/Successor to the petitioner and PW16/Vice Chairman of the Institute confirmed about Ex.P13 the Audit report and the statement annexed Ex.P35. Both are in variance and the report submitted by the petitioner for utilization of Rs.2.5 lakhs received from the Government of India had sent a report dated 18.07.2000 (Ex.P1) showing Rs.9.13 lakhs spent is with false particulars. The Investigating Officer collected all these documents and had produced before the trial Court. The trial Court on the evidence of the witnesses and documents produced rightly convicted the accused A1 to A4, thereafter, in appeal, the lower appellate Court acquitted A2 to A4 and convicted the petitioner/A1 by independent assessment of evidence and materials. Thus, the petitioner misappropriated the fund sanctioned by the Central Government for the construction of the building in the Institute by creating false documents and vouchers in turn falsifying the accounts of the Institute proved and the petitioner committed offence under Sections 408 and 477A of IPC and prayed for dismissal.

15.This Court considered the rival submissions and perused the materials available on record.

16.It is seen that the petitioner Founder Secretary and Director of the Institute of Asian Studies which was formed in the year 1982, thereafter, the petitioner was a Member and Director and later he was appointed as Secretary-cum-Director from the year 1996. Since PW2 was absenting himself often and not performed his duty properly, he was asked to resign and he gave resignation letter (Ex.D1) stating that he got himself attached to Siva Shankar Baba, a Swamiji and for personal reasons, he wanted to resign. This being so, PW2 made a turn around filed a case before the Labour Court questioning his termination.

17.The primary allegation is that the Government of India, Ministry of Human Resources Development on 16.03.1998 sanctioned Rs.10 lakhs for construction of cultural care centre and the first installment of Rs.2.5 lakhs released on 25.05.1998. According to the prosecution, the first installment of Rs.2.5 lakhs was misappropriated and diverted by the petitioner for his own use. The transaction of the year 1996 projected against the petitioner it is recorded that petitioner received the amount of Rs.45,100/-, Rs.93,600/- and Rs.62,000/- through A4, an Employee of the Institute. It is to be noted that the Central Government grant was in the year 1998. A4 handed over the cash to the petitioner in the year 1996, there cannot be any correlation. PW2 stated that the amount of Rs.2.5 lakhs received from the Government of India not used for any construction work in the Institute, but it was utilized for paying the salary, electricity charges, telephone charges and other expenses of the Institute. This is further confirmed by PW3, Administrative Officer that for the year 1998-1999, no grant received from the Central Government, hence, the Institute was in financial crisis. Added to it, all the receipts to the Institute deposited/credited in the general account is confirmed by PW2/Accountant, PW3/Administrative Officer, PW7/Manager of Canara Bank, statement of bank account and ledger account. From the ledger account produced, it is seen that the payments were made to tide over the financial crisis of the Institute.

There is no diversion or misappropriation for the petitioner's personal gain. PW4, Auditor's evidence is that Ex.P10 is the statement of account for the year 1999-2000. The petitioner requested PW4 to delete Clauses 5, 6 & 7 and in Ex.P35, these Clauses not found. On comparison of Exs.P10, P13 & P35, it is seen that in Ex.P10, Clause 5 is with regard to donation received from various individuals and Clause 6 is the expense vouchers produced and Clause 7 is the collection from the museum. PW4, Auditor's statement is that the signature found in Ex.P35 is not that of him. PW18, Handwriting Expert confirms that Ex.P35 is a photostat copy and no opinion could be given. Further, in Ex.P13, it is seen that the Auditor prepared the statement, signed the same which is approved, authenticated and signed by the Chairman Mr.Krishna Iyer, the petitioner as Secretary and the Treasurer Dr.Pollachi Mahalingam. All approved the financial statements. If there is any discrepancy in the financial statement between Exs.P10 & P35, the Investigating Officer/PW20 ought to have confronted these documents to the Chairman and Treasurer but not done so. The entire case rest on these three documents. Added to it, Ex.P1 is the report submitted to the Government of India with the utility certificate with relevant documents and Ex.P2 photos, it is confirmed Exs.P1 & P2 not prepared or signed by the petitioner.

18.In this case, the petitioner filed a civil suit in O.S.No.271 of 2001 against PW1 & PW16 removing them from the membership of the Institute and restraining PW1, PW16 and others not to interfere with functioning of the petitioner as Secretary of the Institute. On 21.08.2001, the suit decreed in favour of the petitioner. Earlier to it, interim order passed in I.A.No.1109 of 2001 in O.S.No.271 of 2001, against which, PW1 filed C.M.A.No.12 of 2001 before the Subordinate Court, Chengalpet dismissed, against which, preferred an appeal before the District Court and the same was also dismissed. Thus, the removal of PW1 & PW16 and others confirmed, thereafter, new Board of Governors elected including the petitioner as Secretary. It is to be seen that the Treasurer Dr.Pollachi Mahalingam re-elected and continued. After removing from the Institute and without any authority, the complaint (Ex.P5) filed on 31.05.2001.

19.It is seen that in this case, on 07.05.2001, a General Body Meeting was held by the Institute, in which, the appointment of PW1 to administer the Institute deliberated and found that the members of the Board of Governance who have not even paid the annual membership fee, had appointed PW1 as Director for administration of the Institute on 20.12.2000 and followed it by another meeting on 05.02.2001. Since both the meetings held without any authority, the same recalled and Dr.C.N.A.Parimalam elected as Chairman, Dr.M.Israel as Vice-Chairman, Mr.S.Nalla Perumal as Vice-Chairman, Dr.G.John Samuel as Secretary/petitioner, Dr.N.Mahalingam as Treasurer and nine persons elected as Members and three persons elected as Ex-Officio Members and resolution passed to that effect. After 07.05.2001, PW1, PW16 and Mr.V.R.Lakshminarayanan, Former Director General of Police have nothing to do with the Institute. Neither they are Members nor Office Bearers or Board of Governors of the Institute, their removal not challenged. But without any authority, PW1 lodged a complaint (Ex.P5) dated 31.05.2001 and Mr.V.R.Lakshminarayanan, Former Director General of Police (Ex.D13) lodged a complaint dated 31.05.2001.

20.It is confirmed that there was rivalry between two groups *viz.,* PW1, PW16 and Mr.V.R.Lakshminarayanan, Former Director General of Police on one side and the petitioner and others on the other side. This leads to lodging of complaint and due to the position held by Mr.V.R.Lakshminarayanan, Former Director General of Police, the complaint got magnified and the case entrusted to the respondent/CBCID. The basis of the complaint is that the first installment of Rs.2.5 lakhs received from the Central Government misappropriated by the petitioner for which the transaction of the year 1996 is attempted to be correlated. By no stretch of imagination it cannot be termed as misappropriation. Further, the evidence of PW2/Accountant, PW3/Administrative Officer and PW4/Auditor confirmed that there is only one general account, in which, all the incomes credited and expenditures debited. The evidence of PW2, PW3 and PW4 confirmed that during the period 1999-2000, there was no grant and the Institute was in financial crises and payments were made for salary, electricity charges and other expenses. Thus, the amount utilized only for the Institute and not for any other purpose. As regards the other witnesses which are projected for creating vouchers for building materials and other expenses, the petitioner, as Secretary, is overall In-charge of the Institute; financial aspects have been entrusted to Accountant and thereafter, placed to the Treasurer who approves the same. The petitioner, as Secretary, is only a signing authority and none of the witnesses including the bank witness stated anything that the petitioner as a signing authority received the money for his own use. The Institute works under a system and each officers assigned specific work with responsibility. In the normal course, the cash book, ledger and records are being maintained in the office, based on which, the annual financial statements prepared. PW4, Auditor admitted that he verified the documents and prepared the annual financial statements. The alleged removal of Clauses 5 to 7 in the draft Audit Report straight away cannot be prepared with criminality unless there is any specific instance of misuse or misappropriation of funds. Admittedly, the petitioner is not a person who maintained the books of accounts, ledgers, cash registers or vouchers. Hence, making false entry or omission or alteration in any such documents does not arise. In this case, all other accused acquitted, hence, there can be no conspiracy or abetment.

21.Likewise, entrustment of grant of Rs.2.5 lakhs credited in the bank account of Institute on 25.05.1998 is admitted by PW2/Accountant, PW3/Administrative Officer, PW4/Auditor and PW7/Bank Manager. None of the witnesses stated that the petitioner was exclusively entrusted with this amount and he misappropriated and diverted to his own use utmost it was used for the benefit of the Institute.

22.The trial Court convicted the petitioner and A2 to A4 for offence under Sections 408, 465, 468, 471 & 477(A) r/w 109 IPC but the lower appellate Court acquitted the petitioner and other accused from the charges of forgery and creation of forged records and acquitted A2 to A4 from all charges. It is seen that the Courts below not considered the evidence of the petitioner who examined himself as DW1 and produced Exs.D1 to D15 and not adverted to. Further, PW20/Investigating Officer admits that Ex.P35 is a photostat copy and the ledgers and Registers of the Institute not produced in this case. The lower appellate Court gives a finding that the petitioner having examined himself would have summoned cash book to prove the funds utilized properly, will not be a proper reason. It is the duty of prosecution to produce the ledgers and Registers to prove the case against the petitioner beyond all reasonable doubt. In this case, no Central Government officials examined to prove receipts of Exs.P1 & P2 and believed it to be true, and released further funds. Added to it, Exs.P1 & P2 not prepared or signed by the petitioner. The petitioner depositing the amount in Canara Bank account of the Institute is confirmed by Exs.D3 & D5 and also by PW7/Bank Manager.

23.In view of the above, this Court finds that the prosecution failed to prove the case against the petitioner for offence under Sections 408 & 477A r/w 109 IPC and both Courts below not considered the evidence and materials produced in right perspective as per law. Hence, the findings of the Courts below are perverse, unsustainable, needs to be interfered.

24.Accordingly, this Criminal Revision Case stands allowed setting aside the judgment dated 21.04.2016 in C.C.No.495 of 2010 passed by the learned Judicial Magistrate No.I, Chengalpet and the judgment dated 18.02.2022 in Crl.A.No.16 of 2016 passed by the learned Principal Sessions Judge, Chengalpet. The petitioner is acquitted from all charges. Fine amount if any paid shall be refunded. Bail bond if any executed shall stand cancelled.

08.10.2025

Speaking order/Non-speaking order
Index: Yes/No
Internet: Yes/No
vv2

M.NIRMAL KUMAR, J.

vv2

To

1.The Principal Sessions Judge,
Chengalpet.

2.The Judicial Magistrate No.I,
Chengalpet.

3.The Inspector of Police,
CBCID Police, Police Research Centre,
Chennai.

4.The Central Prison,

Coimbatore.

5.The Public Prosecutor,
Madras High Court.

PRE-DELIVERY ORDER IN
Crl.R.C.No.373 of 2022

08.10.2025