IN THE HIGH COURT OF JUDICATURE AT MADRAS

JUDGMENT RESERVED ON: 02.06.2025

JUDGMENT PRONOUNCED ON: 30.07.2025

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Criminal Appeal No.327 of 2016

V.Balakrishnan ... **AppellantAccused No.1**

Vs.

State rep by
The Deputy Superintendent of Police
Special Police Establishment
Central Bureau of Investigation
Chennai.
R.C.No.10(A)/1994
R.C.No.11(A)/1994 .. **Respondent/Complainant**

Prayer: Criminal Appeal filed under Section 374 (2) of Code of Criminal Procedure, to call for the records from the Trial Court in C.C.No.26 of 2005 on the file of the Hon'ble XI Additional Special Judge for CBI Cases – (Banks and Financial Institution), Chennai, hear the counsel for the appellant, set aside the order of conviction and sentence passed in C.C.No.26 of 2005, dated 20.04.2016 and pass such further or other orders.

For the Appellant	:	Mr.A.V.Somasundaram Senior Counsel for Mrs.G.Ramadhevi
For the Respondent	:	Mr. N.Baaskaran Special Public Prosecutor for CBI

JUDGMENT

A.Case of the Prosecution:

On 28.02.1994, P.W.12 – *M.M. Rao,* Deputy Superintendent of Police, received information alleging that the 1st accused – *V. Balakrishnan*, while serving as Assistant Manager at Indian Bank, Anna Nagar Branch, during 1990–1991, had fraudulently recommended and sanctioned a loan of Rs.13.5 lakhs in the name of *B. Raju* (since deceased – Accused No.4), purportedly for the purpose of carrying on a real estate business. It was alleged that the address provided was fictitious and the securities furnished were properties belonging to *C. Santhammal* (Accused No.5) and *Rakshaga*, sister of the deceased Accused No.2 – *P. A. Kumaradevan (since deceased)*, a former officer of Indian Overseas Bank. Furthermore, it was found that no such real estate business was actually conducted, and the loan amount was in fact intended for the benefit of *P. A. Kumaradevan* (deceased Accused No.2) and a case was registered by him in

R.C.No.10(A)/1994.

1.1. On the same day, another Inspector of Police, *Jijo K. John,* registered a case in R.C.No.11(A)/1994 on allegations that the accused No.1, *Balakrishnan*, while working as a Branch Manager at Indian Bank, Anna Nagar Branch, during 1990–1991, recommended and sanctioned a loan of Rs.10 lakhs in the name of *Santhammal* (A5) for real estate business, although the said *Santhammal* did not conduct such a business, thereby causing loss to Indian Bank.

1.2. Since the two cases were interconnected, P.W.12 – *M.M.Rao* conducted the investigation regarding both cases.

B.Charges levelled against the accused:

2. After his transfer, P.W.13 – *S.B. Sankar*, completed the investigation, obtained sanction orders and laid a single final report on 24.10.2005 against five accused persons, proposing them to be guilty of offences under Section 120B r/w 420 IPC and Section 13 (2) r/w 13 (1) (d) of the Prevention of Corruption Act, 1988. The same was taken on file by the Trial Court as C.C. No. 26 of 2005 and,

on 10.01.2012, the following three charges were framed.

> "FIRSTLY that you A1 while working as Manager, Indian Bank, Anna Nagar Branch, Chennai, during 1990-1991, you A3 Venkatachalapathy. Approved Valuer of Indian Bank during the said period and you A5 C Santhammal along with deceased A2, A Kumaradevan and deceased A4, V Raju, had entered into a criminal con::piracy to cheat Indian Bank, Anna Nagar Branch, Chennai in the matter of applying, sanctioning and release of O.D facilities and in pursuance of the criminal conspiracy, deceased A2,P A Kumaradevan had purchased 21.39 acres of land in the names of you A3 and Smt. Rakshaka, sister of deceased A2, P A Kumaradevan, in Vellathur and Siruvedal villages and dishonestly obtained an inflated valuation report from you A3, valuing the said lands at Rs. 27.36, which was very much on the higher side, without even inspecting the lands further in pursuance of the criminal conspiracy, deceased A2,P A Kumaradevan, introduced you A5 to A1 and a current account No. 540 was opened on 25.07.1990 with initial deposit of Rs. 1,000/-, without proper introduction and you A5 dishonestly and fraudulently applied for an Over Draft facility against title deeds of the lands cited supra for a sum of Rs. 10 lakhs in the pretext of doing real estate business and got sanctioned an amount of Rs. 10 lakhs on the recommendation and false representation by you A1 and the entire loan amount was misutilised by deceased A2,PA Kumaradevan, on the basis of cheques issued by you A5 further you A1 has not conducted pre-sanction verification and post sanction verification and he has not properly evaluated the credit worthiness and previous experience of the party in the real estate business with the knowledge that A3 was a maid servant of deceased A2.P A Kumaradevan and she does not have any credit worthiness. Further in pursuance of the criminal conspiracy, deceased A2, P A Kumaradevan had introduced deceased A4, D Raju to you A1 and a current account No. 656 was opened on 19.01.1991, and the deceased D Raju dishonestly and fradulently had applied for a loan to the extent of Rs. 13.50 lakhs for doing real estate business and the Power of Attorney given by you A5 and Smt.Rakshaka, as security. You A1 had accepted the application along with legal opinion and valuation report and recommended for sanctioning of the loan to the Indian Bank Regional Office. And before getting any sanction from the Regional Office, you had released Rs.3.30

lakhs to the party for the purpose of facilitating deceased A2 P. A.Kumaradevan, by signing on the reverse side of the cheques for having received the amount from the cash counter at Indian Bank, Anna Nagar Branch, Chennai on the cheques issued by deceased A4, D. Raju. The above two loans were disbursed by You A1 by abusing your official position as public servant, by way of accepting false and exaggerated valuation report given by you A3 and on the basis of false applications submitted by you A5 and deceased A4, D Raju and with the knowledge that the loan amount were disbursed for the purpose of misappropriating the bank funds by deceased A2, PA Kumaradevan and thereby the acts of you A1, A3, A5 along with deceased A2 and A4 caused wrongful loss of Rs. 13.30 lakhs to Indian Bank. Anna Nagar Branch, Chennai, to the tune of Rs. 13.30 lakhs and made corresponding wrongful gain to yourselves and thereby You A1, A3and A5 have committed the offence punishable under section 120-B r/w 420 IPC and Section 13(2) r/w 13(1)(d) of PC Act 1988 and is within my cognizance.

SECONDLY that in pursuance of the aforesaid criminal conspiracy and in furtherance thereof you A1, A3 and A5 as per the facts referred in the first charge mentioned above have dishonestly and fraudulently applied recommended, got sanctioned, released, OD facilities from Indian Bank, Anna Nagar Branch, Chennai to the tune of Rs. 23 lakhs without doing any genuine business and thereby caused a wrongful loss to the tune of Rs.13.30 lakhs and made corresponding wrongful gain to yourselves and thereby You A1, A3 and A5 have committed the offence punishable under section 420 IPC and is within my cognizance.

THIRDLY that in pursuance of the aforesaid criminal conspiracy and in furtherance thereof you A1 as per the facts referred in the first charge mentioned above, have dishonestly and fraudulently, by abusing your official position as public servant, accepted recommended, got sanctioned, released, OD facilities from Indian Bank, Anna Nagar Branch, Chennai to the tune of Rs. 23 lakhs in the name of A5 and deceased A4, D. Raju, with the knowledge that they were not doing any genuine business as claimed and released the said credit facilities, facilitating deceased A2, P A Kumaradevan to misappropriate the funds of the Bank, and thereby caused a wrongful loss to the tune of Rs. 13.30 lakhs

> and made corresponding wrongful gain to other persons and thereby you A1 have committed the offence punishable under section 13(2) r/w 13(1)(d) of PC Act 1988 and is within my cognizance."

2.1. It can be seen that among the five accused, accused No. 2 – *P. A. Kumaradevan* and accused No. 4 – *Raju* had already died, and their charges were treated as abated. Accused No. 3 – *R. Venkatachalapathy* never appeared and could not be apprehended, so the case against him was split into C.C. No. 3 of 2016, while accused No. 1 – *V. Balakrishnan* and accused No. 5 – *Santhammal* faced the charges. It is stated that after the case was split, the said *Venkatachalapathy* also died.

C.Proceedings before the Trial Court and Judgment:

3. The prosecution, in order to prove the charges, examined witnesses P.Ws. 1 to 13 and marked Exhibits P.1 to P.86. No witnesses were examined on behalf of the defence, but during cross-examination, exhibits D1 to D12 were marked. When questioned about the incriminating materials under Section 313 of Cr.P.C., the accused denied the charges and pleaded not guilty. Thus, after analyzing the evidence on record and the submissions made by the learned counsel on both sides, the Trial Court found the 1st accused,

(i) guilty of an offence under Section 120B r/w 420 of IPC and Section 13 (2) r/w 13 (1) (d) of the Prevention of Corruption Act, 1988, and sentenced to undergo 1 year of rigorous imprisonment and to pay a fine of Rs.5,000/-; in default, to undergo simple imprisonment for one month.

(ii) guilty of an offence under Section 420 of IPC and sentenced to undergo 1 year of rigorous imprisonment and pay a fine of Rs. 5,000/-; in default, to undergo one month of simple imprisonment.

(iii) guilty of an offence under Section 13(2) r/w 13(1)(d) of the Prevention of Corruption Act, 1988, and sentenced to undergo 1 year of rigorous imprisonment and pay a fine of Rs.5,000/-; in default, to undergo one month simple imprisonment.

3.1. By the judgment dated 20.04.2016, the Trial Court acquitted the accused No.5 of all charges. Aggrieved by the judgment of the Trial Court, the Accused No.1 has filed the present Criminal Appeal.

D.The Submissions:

4. Heard *Mr.A.V.Somasundaram*, the learned Senior Counsel for the

appellant. The learned Senior Counsel, first taking through the evidence, submitted that it is evident that for a loan of Rs 10 Lakhs, sanctioned to accused No.5 - *Santhammal,* and Rs.13.5 Lakhs to accused No.4 – *Raju*, the entire process was conducted in the usual manner and submitted to the Regional Office for approval. The Regional Manager also granted the sanction and issued the sanction order in writing. P.W.1 – *N.P. Mohan Ram* admitted that the loan was sanctioned by the Assistant General Manager at the Regional Office. It is clear that the loan for *Santhammal* was sanctioned on 07.09.1990 and *for Raju* on 26.04.1991. While opening the accounts for these individuals, it was wrongly alleged by the prosecution and believed by the Trial Court that the accounts were opened without reference. It is the definite case of the defence that P.W.4 - *Kochukumar,* who introduced the account holders, was involved. P.W.12 – *M.M. Rao* explicitly admitted that *Kochukumar* is known to the General Manager of Indian Bank, *Mr. Gopalakrishnan.* The fact that *Kochukumar* was an Assistant Commissioner in the Income Tax Department was established by his own testimony, making the prosecution's allegation incorrect. When the borrowers obtained loans and issued a cheque to accused No. 2, *Kumaradevan*, the bank treated it as any other cheque and had to honour it, especially since there was no dispute between accused No. 2, *Kumaradevan,* and the borrowers. Regarding the loan sanctioned to accused No.4 - *Raju*, while the sanction application for Rs.13.50 Lakhs was pending consideration, the borrower later requested the bank to release an additional sum of Rs.3.3 Lakhs. This amount was released after proper sanction from the Regional Manager and in anticipation of formal approval. P.W.12 also admitted these facts.

4.1. Commenting on the investigation, the learned Senior Counsel would submit that the First Information Report itself was not registered based on any complaint by the bank. No preliminary enquiry was conducted. The occurrence was said to have taken place during 1990 - 1991 and the case was registered after 3 years. The statements under Section 164 of Cr.P.C., of *Raju* (A4), *Santhammal* (A5) and *Venkatachalapathy* (A3) were recorded by the XXIV Metropolitan Magistrate. However, those statements were suppressed by the Investigating Officer, and those materials were not placed before the sanctioning authority. As per the judgment of the Hon'ble Supreme Court of India in ***CBI Vs. Ashok Kumar Agarwal***[1], it is held that the prosecution is under the obligation to place

1 AIR 2014 SC 827

the entire record before the sanctioning authority, and the Court has to be satisfied that the authority has applied its mind.

4.2. The learned Senior Counsel would submit that the appellant (A1) complied with all the requirements at the time of sanctioning the loan, and the loan was secured by immovable properties. The entire dues of the bank were settled after the properties were auctioned by the Debt Recovery Tribunal. Merely because the appellant did not conduct a pre-sanction inspection, this alone would not amount to criminal misconduct and can at best be considered a mere irregularity. As per the judgment of the Hon'ble Supreme Court of India in ***Union of India (UOI) and another Vs. Major J.S. Khanna***[2], mere irregularities will not constitute criminal misconduct. The judgment in ***S. K. Kale Vs. State of Maharashtra***[3] is also relied upon.

4.3. The statement of accused No.5 – *Santhammal*, during her examination under Section 313 of Cr.P.C., clearly exonerates the appellant from any charge or

2 (1972) Crl. L. J. 849
3 (1977) SCR (2) 533

suspicion. The entire prosecution case is marred by delays. There was a delay of three years in registering the First Information Report. Another three years passed before the investigation was completed; however, after obtaining the sanction order, the charge sheet was only filed in 2005, marking a total delay of eight years. No explanation was provided for this delay. Due to the deaths of *Kumaradevan* and *Raju*, *Santhammal* was acquitted of all charges, and therefore, the same logic should have been applied to the appellant (A1) as well.

4.4. The learned Senior Counsel would then highlight the bona fide acts of the appellant. The appellant correctly stated that *Santhammal* was introduced by *K.M. Kochukumar,* Assistant Commissioner, Income Tax Department, through the Managing Director of Indian Bank. The loan application was properly submitted by accused No.5 via Ex.P3. The appellant obtained a promissory note as shown in Ex.P9. *Santhammal* offered a property measuring 21.39 acres as collateral security, and the proposal was properly scrutinized and submitted to the Regional Office through Ex.P4. The Regional Office processed the proposal in Ex.P.7. No queries were raised, and the valuation report was accepted, leading to the sanction of a limit of Rs.8 Lakhs as shown in Ex.P8. When *Santhammal* was unable to provide any personal guarantee, accused No.1 issued Ex.P13, a letter to substitute the personal guarantor. The enhancement of the overdraft limit to Rs.10 Lakhs was also approved by the Regional Office, as evidenced by Ex.P.15. When the loan account became inactive, the appellant promptly took measures by writing a letter (Ex.P.51) to initiate a suit. Through these precautionary actions, the Indian Bank was able to recover Rs.117.5 Lakhs from sale proceeds, and Rs.16,42,397/- was subsequently appropriated in *Santhammal's* loan account.

4.5. Next, turning to *Raju's* loan account (A4), the learned Senior Counsel submitted that he was properly introduced by *Balraj* via Ex.P.20. Raju's requisition letter was submitted as Ex.P.21. The appellant indeed obtained a legal opinion on the collateral properties offered, valued at Rs.21,24,000/- as per Ex.D7, and then recommended the loan proposal to the Regional Office, as shown by Ex.P.23. The appellant also secured a demand promissory note (Ex.D6) and collected the Power of Attorney from *Santhammal* and *Rakshaga,* granting permission to *Raju* to mortgage their property for overdraft, as evidenced by Ex.D8. No queries were raised during this process, and the approved valuers report (Ex.P.37) was accepted by the Credit Department, Regional Office. Due to the urgency claimed, a sum of Rs.3.30 Lakhs was released by the branch, which was ratified and confirmed by the Regional Office in the sanction order (Ex.P.32). The appellant promptly notified about *Raju's* default via letter (Ex.P.51). Raju's property was auctioned for Rs.242 Lakhs, and the remaining Rs.5,35,550/- was applied toward *Raju's* loan bal*ance*. The Indian Bank recovered a total of Rs.373.21 Lakhs, yet the excess amount has not been refunded to the borrowers to date.

4.6. The accused has also produced the documents in Exs.D1 to D12. Thus, it is evident that there was no collusion or conspiracy between the appellant and the borrowers. Even the Investigating Officer – P.W.12 admitted that the properties offered by accused Nos.4 and 5 were genuine. There is absolutely no evidence from the prosecution to demonstrate that the accused *Santhammal* and *Raju* assisted at the residence of *Kumaradevan*. There were no other procedural violations, and therefore, the actions of the appellant do not amount to criminal misconduct. Consequently, the learned Senior Counsel prays for the appeal to be allowed.

4.7. *Per contra, Mr. K. Srinivasan,* the learned Special Public Prosecutor, argues that in this case, the appellant is mainly responsible for the loan sanction. He took on this responsibility and falsely claimed that he had verified the real estate business activities of A4 and A5, and even prepared a credit report. He also misrepresented that both accused had mobilized FCNR deposits in his branch. These statements were intentionally made to cover up the fact that there were no bank accounts, income tax assessments, or any other supporting records with the accused – *Raju* and *Santhammal* – who were, in reality, only front men and domestic servants of *Kumaradevan*.

4.8. From the various notings in the file, all the false representations that are made by the accused No.1 is brought on record. He is solely responsible for the entire recommendation and disbursement of the loan. As a matter of fact, even before the sanction, he took upon himself to release the part of the loan amount, citing urgency. Merely because the loan was now recovered, after prosecution, due to the real estate boom, the same will not in any manner absolve the offences committed by all the accused. In this case, the prosecution has proved the offences to the hilt.

E.Consideration and Findings of this Court:

5. I have considered the rival submissions made on both sides and perused the material records in the case.

5.1. The 1st allegation against the appellant is that by his own handwriting, he had filled up the Ex.P.2 which is the current account opening form. With reference to the column, 'who introduced the accused', occupation and address, it was mentioned as if the accused *Santhammal* was introduced by *Kochukumar,* through the Managing Director, Office of the Indian Bank. The said *Kochukumar* was examined as P.W.4, who has categorically denied having made any such introduction. However, PW-4 *Kochukumar,* in his cross-examination, evades the question about the loan granted to his wife by stating that he is unaware of it. He is not trustworthy. Therefore the allegation against the appellant relating to the opening of the account stands rejected.

5.2 A perusal of Ex.P.3 - the loan request letter, reveals that the accused, *Santhammal*, has signed as '*Santha*', and the very manner of her signature indicates that she may not have comprehended the contents of the loan application, which is in English. Straight away, through Ex.P.4 dated 11.08.1990, that is, on the same day, the accused writes a letter to the Regional Office stating that he has already allowed the Overdraft of Rs.55,250/- and requested to release further advance as Overdraft even before forwarding the application. Thus the conduct of the appellant/accused No. 1 demonstrates undue haste and interest in disbursing the loan to Accused No. 5.

5.3. In the application, the 1st accused has categorically stated that he has made independent inquiries about the position of the parties, which mentions that the accused, *Santhammal,* was in the real estate business, including the address of *Santhammal* as No. 6, Raghavan Street, Iyavu Colony, Aminjikarai. The prosecution has examined PW-5 to prove that in the said house only the brother of the second accused *Kumaradevan*, namely one *Krishnamurthy* was a Tenant and Accused No. 5 was never residing there. Thus, it is proven that Appellant/Accused No.1, has dishonestly made a false statement that he had made inquiry about the party.

5.4. It further describes that the accused is an agriculturist and then she is doing the real estate business. The entire Ex.P.5 was filled up by the 1st accused and also signed by him. In Ex.P.7 - note sheet, the 1st accused had also made noting that the said accused No.5 - *Santhammal* had mobilised deposits worth about Rs.17 lakhs. That formed the basis for the sanction being approved by the Regional Office. The statement is proven to be false and here again a false representation is made by the Appellant/Accused No.1.

5.5 When further collateral security was insisted upon, vide Ex.P.10, a letter was submitted as if her husband passed away and therefore, she was not able to find any guarantor. Immediately the 1st accused writes a letter to the Regional Office, vide Ex.P.11 recommending that the condition be waived. When the Regional Office issued Ex.P.12 stating that any other alternative guarantee be arranged, the other accused with reference to other loan account, *Raju* was wilfully shown as the guarantor for which the 1st accused recommends and forwards the same vide Ex.P.12. In the said assets and liabilities, the address of *Raju* was mentioned as Y- 82, Anna Nagar, Madras. The said *Raju*, who was planted as the guarantor, is the accused with reference to the other loan transaction, which is also part of the charge as against the 1st accused. The address of *Raju* furnished as Y-82, Anna Nagar, Madras was also proven to be false by examining the owner of the house – *M.Ramu as PW-6*.

5.6. The prosecution, by examining P.W.2 brought on record all these deliberate misconduct that are committed by the 1st accused. The prosecution has proved that it was Accused No. 2, Kumaradevan, who was the beneficiary of the loan. The fact that the loan amount was taken away by him through cheques stands proved. The prosecution has established the friendship between the Appellant/Accused No. 1 and Accused No.2 by examining PW.7 - *Sargunam*. Thus, it is very clear that dishonestly to enable the Accused No. 2 to get the money, false representations were made by the appellant/accused No. 1 repeatedly, and he was solely responsible for sanction and disbursement of the loan.

5.7. Thus, it is categorically proven by the prosecution that the entire episode is set up by the Accused No. 2 - *Kumaradevan* to obtain the loan money only for himself and that it happened with the due conspiracy, knowledge and abuse of office by the appellant herein.

5.8. Similarly, with reference to the 2nd loan transaction of *Raju*, again the application was forwarded only by the accused No.1. He has certified as if he has verified the details independently, however, the address itself turned out to be false. When the Regional Office directed to furnish the experience of the parties in real estate business, details done so far, IT assessment copy, specific project report, etc. vide Ex.P.27 without any approval whatsoever the accused No.1 released 25% of the loan amount, pending sanction, after acquiring permission of the regional manager. When it was further queried as to specify the amount released and also reply to the queries vide Ex.P.28, the accused No.1 wrote back vide Ex.P.29 that the party is not an assessee and he has been doing real estate business unofficially till now and he is going to do officially from then on and therefore, he is not in a position to submit any audit balance statement which in the normal banking practice, no reasonable Bank Manager would write or recommend to the Regional Office.

5.9. Suffice to state that the reading of the entire loan transactions with reference to both the accused S*anthammal* and *Raju,* it can be seen that the accused No.1 had willfully deviated from the normal banking prudence and principles by making false representations and recommendations. The entire transaction with reference to post grant and the entire amount being directly taken away by accused No.2 - *Kumaradevan* right under the nose of accused No.1, which is demonstrated by marking the cheques and all transactions by which it is proven that only the *Kumaradevan* who was the sole beneficiary of the entire loan amount sanctioned on various dates and he had taken the amounts after each and every transaction would leave to the only conclusion that the accused No.1 had conspired with the other accused and by willfully ignoring the fact that *Santhammal* was only a maid, *Raju* was only an laundry person and *Kumaradevan* was only setting them up to get undue pecuniary advantage to himself, that too by submitting sureties with the inflated value with the help of the accused No.3, who is the valuer, no other conclusion except the fact that the accused No.1, abused his official position and joined hands with other accused and cheated the bank has been proved to the hilt by the prosecution.

5.10. As regards the contention raised by the learned Senior Counsel for the appellant that the statements recorded under Section 164 of the Cr.P.C., being in the nature of confessional statements, were not part of the final report and were not placed before the sanctioning authority, though it is correct that the same should have also been placed before the sanctioning authority, the contents of the said Section 164 statements, wherein the individuals described themselves merely as an ‘laundry person' and a 'maid', were duly considered and discussed in detail in Ex.P.1 — the sanction order. Therefore, no prejudice whatsoever has been caused to the accused on this ground. Therefore, the application of mind with reference to the said facts contained in the 164 statement was also duly demonstrated in the sanction order. On the whole, it cannot be said that any miscarriage of justice was caused to the appellant. Thus, I am not able to accept the said contention made by the learned Senior Counsel for the appellant.

5.11. The primary contention that is made by the learned Senior Counsel is that even taking into account the conducts that are proved by the prosecution, it would not amount to a criminal misconduct and in that regard he relied upon the decisions in the cases of ***Major J.S.Khanna*** and ***S.K.Kale*** (cited supra). I am unable to accept the said submission, as the conduct of the appellant in the present case in conspiring with the said *Kumaradevan* and making false representations in the loan application are categorically proven. From falsely asserting that he had independently verified the profession and other particulars of the borrowers, and further recommending the loan based on a misrepresentation that the accused had mobilized fixed deposits with the bank, the appellant's actions reflect clear criminal misconduct. More significantly, when the Regional Office insisted on a guarantor for *Santhammal*, the appellant proposed *Raju*, a co-accused whose separate loan was also being sanctioned, as the guarantor for *Santhammal*. These actions unequivocally establish that the appellant abused his position as Branch Manager and facilitated the disbursement of the loan in a wrongful manner. His actions clearly demonstrate that he actively involved himself and cheated the bank.

5.12. With reference to the recovery, it was made much later and had properties were sold at the relevant point of time, the bank would have suffered loss. Only because the proceedings were delayed and by a wind of fortune, there was real estate boom in respect of the village. The lands were bought for a lesser sum, which was also duly demonstrated by the prosecution, by examining the concerned land owners both in respect of the value and also the fact that everything was purchased only by accused No.2 - *Kumaradevan*. The contention of the learned Senior Counsel that, as if excess money has been realised, cannot be accepted. The offence was complete, and the Bank was cheated by the accused. Merely because the matter was pending for a long time and belatedly when the property was brought for sale, by the time, the value of the property had increased, on account of the fact that the Chennai city is expanding and the properties luckily are in a zone where the prices were skyrocketing, the same cannot be a ground for pleading acquittal from the finding of guilt. It can at best be pleaded as a mitigating factor while it comes to the question of sentence.

5.13. Thus, I confirm the Trial Court's findings that the appellant/accused No.1 as guilty of the charges. I am of the view that all the three charges under Section 120B r/w 420 of IPC and Section 13 (2) r/w 13 (1) (d) of the Prevention of Corruption Act, 1988, Section 420 of IPC and Section 13 (2) r/w 13 (1) (d) of the Prevention of Corruption Act, 1988 have all been proved by the prosecution.

F. The Sentence:

6. Now, considering the question of sentence, it is true that the amount has been recovered, the appellant is also now aged 76 years and all the other accused have since died, minimum sentence can be imposed. At the relevant point of time, minimum sentence was only one year. The Trial Court had also imposed the sentence of one year, in respect of all the offences and the appellant was ordered to undergo the sentences concurrently. The fine amount of Rs.5,000/- each has already been paid by the appellant, the sentence does not call for any interference by this court.

G. The Result:

7. Accordingly, confirming the conviction and sentence imposed by the Trial Court, this Criminal Appeal No.327 of 2016 stands dismissed.

30.07.2025

Neutral Citation : Yes/No

Jer

To
1.The XI Additional Special Judge for CBI Cases –

(Banks and Financial Institution), Chennai.
2.The Deputy Superintendent of Police
Special Police Establishment
Central Bureau of Investigation, Chennai.
3.The Special Public Prosecutor
High Court of Madras.
4.The Section Officer
High Court of Madras.

D.BHARATHA CHAKRAVARTHY, J.

Jer

Criminal Appeal No.327 of 2016

30.07.2025

Criminal Appeal No.327 of 2016

D.BHARATHA CHAKRAVARTHY, J.

After pronouncing the judgment, the learned Senior Counsel appearing for the appellant sought three months time for surrendering the appellant before the Trial Court.

2. Considering the prayer that is made by the learned Senior Counsel appearing for the appellant, three months time from today (i.e., 30.07.2025) is granted to the appellant to surrender himself before the Trial Court, to undergo the sentence as confirmed by this Court.

30.07.2025

Jer