IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.03.2025

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THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.M.P.No.4681 of 2025
in Crl.A.No.273 of 2025

M.Ignatius Deepam ... Petitioner

Vs.

The State rep. by,
The Deputy Superintendent of Police,
SPE/CBI/ACB,
Chennai.
Crime No.RC MA 1 2013 A 007
dated 13.02.2023 ... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Section 430(1) of BNSS, to suspend the sentence of imprisonment imposed against the petitioner passed by the learned XI Additional Special Judge, CBI Cases relating to Banks and Financial Institutions, Chennai in C.C.No.04 of 2014 dated 26.02.2025 and enlarge the petitioner on bail pending disposal of the above criminal appeal.

For Petitioner	:	Mr.R.Srinivasan Senior Counsel for Ms.G.Daisy John
For Respondent	:	Mr.K.Srinivasan Special Public Prosecutor for CBI Cases

ORDER

The petitioner/A4 in C.C.No.4 of 2014 convicted by the Trial Court by judgment dated 26.02.2025 filed these appeals and suspension of sentence petitions.

2.The petitioner was convicted and sentenced to undergo seven years rigorous imprisonment and to pay a fine of Rs.10,000/-, in default to undergo one year simple imprisonment for the offence under Sections 120(b) r/w. 420, 467, 468 and 471 r/w. 467 IPC and Section 13(2) r/w. 13(1)(d) of Prevention of Corruption Act, 1988 and to undergo seven years rigorous imprisonment on each count of each Section 420(4 counts), 467 (4 counts), 468 (4 counts) and 471 r/w. 467 (4 counts) IPC and Section 13(2) r/w. 13(1)(d) of Prevention of Corruption Act, 1988 (4 counts) and to pay fine of Rs.10,000/- on each count of each Section, in default, to undergo one year simple imprisonment on each count of each section.

3.The case of the prosecution is that the petitioner/A1, the then Branch Manager of Indian Bank, Edaikazhinadu Branch, Kanchipuram District during the year 2012-2014 issued four Letter of Credits [hereinafter referred to as 'LCs'] by entering into a criminal conspiracy with private individuals, A2 to A4 to cheat the Bank. A2 and A3 were involved in the offences as Applicants/Buyers of Goods to issue the four forged LCs by creating the fictitious firms in papers alone, namely, M/s.Muthu Enterprises, M/s.ITS A Genes Thing and M/s.Geomatric Trading. A4 and A5 Company M/s.Unique Step Marine India Private Limited, Mumbai which also existed only in paper involved in the alleged offence as Beneficiary/Seller of Goods by getting the entire four LCS amount of Rs.19,78,76,840/-. P.W.15/Assistant General Manager of Zonal Office, Kancheepuram on 13.02.2013 lodged a complaint with ACB, Chennai pertaining to the four forged Letters of Credit aggregating to Rs.19.79 Crores. These four LCs were discounted at SBI, Fort, Bombay which suffered a loss of Rs.20.58

Crores. On an alert issued by SBI, out of the total amount illegally discounted, SBI, Bombay received back part payment of Rs.4.49 Crores from Indian Bank, Neelangarai Branch. As a matter of fact, Edaikazhinadu Branch was not authorized to issue any LC. But A1 forged his own signature and prepared these fake LCs in favour of the beneficiary M/s.Unique Step Marine India Private Limited on the basis of the application given by M/s.Muthu Enterprises, M/s.ITS A Genes Thing and M/s.Geomatric Trading. P.W.15 visited the Branch and an internal investigation undertaken. On verification with the Branch records, it was found that there was no corresponding entries showing issuance of LCs/Ex.P21 to Ex.P24. The signature of M/s.Ignatius Deepam/A1 found therein tallied with A1 with the specimen signature available with Indian Bank. P.W.23, the then Deputy Superintendent of Police, CBI:ACB:Chennai took up the investigation, recorded the statements from the witnesses, cited 41 witnesses in the charge sheet and documents 1 to 140 against A1 to A5 for the offence under Sections 120(b) r/w. 420, 467, 468 and 471 r/w. 467 IPC and Section 13(2) r/w. 13(1)(d) of Prevention of Corruption Act, 1988.

4.The first Letter of Credit bearing No.0522ILCIB080038 dated 19.10.2012 signed by A1 as Branch Manager for a sum of Rs.4,98,44,340/-. The applicant of this LC is M/s.Muthu Enterprises, Vadapalani, Chennai and the beneficiary is M/s.Unique Step Marine India Private Limited, Navi Mumbai. The second Letter of Credit bearing No.0542ILICIB010036 dated 10.11.2012 was for a sum of Rs.4,95,00,000/-. The applicant of this LC is M/s.ITS A Genes Thing , Thiruvanmiyur, Chennai and the beneficiary is M/s.Unique Step Marine India Private Limited, Navi Mumbai. The third Letter of Credit bearing No.00312ILICIB090132 dated 20.12.2012 was for a sum of Rs.4,98,00,000/-, the applicant of this LC is M/s.Geomatrix Trading, Teynampet, Chennai and the beneficiary is M/s.Unique Step Marine India Private Limited, Navi Mumbai. The fourth Letter of Credit bearing No.00313ILICIB010133 dated 20.12.2012 was for a sum of Rs.4,87,32,500/-, the applicant of this LC is M/s.Muthu Enterprises and the beneficiary is M/s.Unique Step Marine India Private Limited, Navi Mumbai.

5.P.W.11/Mr.K.S.Sivashanmugam, Senior Manager, Inspection Centre, Chennai, Mr.Rajagopal Reddy, Chief Manager and Mr.Alwin David, DGM/Head, Inspection Centre, Chennai conducted investigation at Edaikazhinadu Branch in respect of issuance of LCs and prepared a report/Ex.P81. During inspection, it was found that A2 and A3 have current account in Edaikazhinadu Branch in the name of their firms, M/s.Muthu Enterprises and M/s.ITS A Genes Thing. It was confirmed that the then Branch Manager, A1 issued four fake LCs for Rs.20.58 Crores and they were discounted by SBI at Mumbai through the beneficiary firms, namely, A5 and it is Managing Director/A4. P.W.3/Assistant General Manager, State Bank of India, Mumbai, LC discounting Bank confirmed that on 03.07.2012 A4 as Director of M/s.Unique Step Marine India Private Limited opened a current account in their Branch and amounts were credited to A5's account by discounting the LCs. The commercial invoice, packing list and transport receipt were submitted. On receipt of these documents, SBI sought an acceptance from Indian Bank, Edaikazhinadu Branch to confirm the genuineness of the LC, who had confirmed the genuineness of the LCs and the LCs were discounted.

6.As regards the petitioner/A1, the CBI searched the house of the petitioner and seized 9 files and incriminating documents recovered. The Chief Manager, Indian Bank, Tambaram confirms that A1 and his wife Amudha Deepam had Savings Bank account in his Branch and on scrutiny of the same, it was found that there have been high value transactions made in this account and amounts have been credited by A2/Muthiah.

7.During trial, P.W.1 to P.W.23 examined and Ex.P1 to Ex.P157 marked on the side of the prosecution. On the side of the defence, D.W.1, who is the son of A4 examined and Ex.D1 to Ex.D3 marked. On conclusion of trial, the Trial Court based on the evidence and materials convicted the petitioner as stated above.

8.The contention of the learned senior counsel for the petitioner is that the Trial Court committed an error by coming to the conclusion that the LCs Ex.P1 to Ex.P24 were signed by the petitioner/A1. P.W.21/Handwriting Expert took the specimen signature/Ex.P113 as though it was obtained from the petitioner during the relevant period. But in this case no specimen signature obtained, the same was taken from the available bank records and the signature of the petitioner therein was years before. The signature of any person tends to change over a period of time. In such circumstances, the specimen signature of the petitioner ought to have been obtained and thereafter, compared with Ex.P21 to Ex.P24. P.W.21 had given an incomplete report based on which no finding can be given by the Trial Court that the petitioner forged his signature. Further, in this case the disputed documents containing the signature of the petitioner marked through the Sanctioning Authority which is not proper. The Sanctioning Authority's role is primarily with regard to getting satisfied independently and accord sanction under Section 19 of the Prevention of Corruption Act [PC Act] and not to act as a witness for the prosecution for other facts. The Sanction witness had no occasion to have seen the documents at the relevant point of time. The sanction accorded is vitiated as well as the documents marked through the Sanctioning Authority with regard to the disputed signatures cannot be taken as documents proved as per law. Further, the Trial Court rejected the contentions of the petitioner/A1 for the reason that he had not cross examined the witnesses but in the deposition it is recorded, the petitioner adopted the cross examination of other accused. In such circumstances, denying the petitioner to question the documents and advance his arguments is not proper. Further, the petitioner had no role in the Account Opening Form of M/s.Muthu Enterprsies, which is marked as Ex.P100.

9.The learned senior counsel further submitted that in this case, it is to be seen that there is no proof that the LCs and the corresponding letters were despatched from Indian Bank to SBI, Mumbai. Likewise, no confirmation obtained from SBI, Mumbai to Indian Bank, no corresponding registers, materials collected from both Banks. In such circumstances, coming to conclusion LCs/Ex.P21 to Ex.P24, the petitioner signed and issued is not proper. Ex.P81/internal investigation report gives a finding that the officials of SBI, Mumbai colluded in the above transactions but none from SBI, Mumbai were arrayed as accused in this case. Further, P.W.2/Assistant Manager signed in Ex.P23 and Ex.P24 but the Trial Court ruled out his complicity on mere explanation of P.W.2 without verifying with the corresponding specimen signature, Ex.P114 and other circumstances. The Trial Court had given a finding that P.W.11 and P.W.12 corroborated the evidence of P.W.10. It is seen that these witnesses have not confirmed the petitioner/A1 signing Exs.P21 to P24. Further, the Trial Court observed that P.W.16, P.W.18 and P.W.19 confirmed that A1 had signed the Letters of Credit. But P.W.18 states that for the first time, he is seeing the LCs before the Court and P.W.19 does not speak about the LCs. P.W.16 is the Manager who succeeded A1 and hence, he could not have seen the petitioner signing the LCs. He would further submit that the petitioner's wife having a bank account and operating the same is her independent act, for which she ought to have been called and questioned, in the absence of the same, the joint account of the petitioner with his wife cannot be projected against him. He further submitted that in this case, the outstanding amount as per the SBI letter/Ex.P126 is Rs.8,13,24,326/-. EX.P90/letter from Indian Bank to SBI confirms that Rs.7 Crores which is available in the account of M/s.Unique Step Marine India Private Limited has been freezed. The Debts Recovery Tribunal, Mumbai passed an order in O.A.No.92 of 2014 directing to pay a sum of Rs.9,31,85,242.28/-. The petitioner is not a respondent in O.A and substantial amount already secured and the loss is not as huge as projected. Added to it, no liability is fixed on the petitioner.

10.The learned senior counsel further submitted that in this case, the petitioner is ailing from Sinonasal Polyposis and he is taking treatment from the year 2008. The petitioner is on a regular treatment and due to his confinement, his health condition is deteriorating. He further submitted that the petitioner already went one step to grave. Hence, prayed for suspension of sentence.

11.The learned Special Public Prosecutor appearing the respondent filed a counter stating that a case in RC 07(A)/2013 was registered by Central Bureau of Investigation, Anti Corruption Branch, Chennai on 13.02.2013 on the basis of complaint lodged by one R.Durairaj, Assistant General Manager, Zonal Office, Indian Bank, Kancheepuram against M.Ignatius Dheepam (A1), the then Manager, Indian Bank, Edaikazhinadu Branch, Vettuvankeni, Chennai-600115, J.Muthiah (A2), S/o. John

Nallamuthu, M/s.Muthu Enterprises, Office-cum-Residence at No.29/2, Link Main Road/2nd Main Road, Venkeeswari Nagar, Vadapalani, Chennai, M.N.Muralidhar (A3), S/o. M.B.Nagaraj, M/s. Its a Genes Thing, Office-cum-Residence at No.2A, Aishwarya Apartments, No.36, 4th Sea Ward Road, Valmiki Nagar, Thiruvanmivur, Chennai, M/s.Geomatrix Trading (A4), No.3, Cenotaph 2nd Line Astalakshmi Apartment, Teynampet, Chennai-600 018, M/s.Unique Step Marine India Pvt Ltd., (A-5), No.lll & 112, Royal Palace Building, Opp. Glomax Mall, Sector-2, Kharghar, Navi Mumbai-410210 and unknown public servants and others. It is alleged in the complaint that A1 while working as Manager, Indian Bank, Edaikazhinadu Branch, Vettuvankeni, Chennai entered criminal conspiracy with other accused persons with an intention to cheat Indian Bank and State Bank of India issued four Letter of Credits totaling Rs.20.58 Crores favouring M/s.Unique Step Marine India Pvt. Ltd., Mumbai as beneficiary. It is further alleged in the said complaint that four Letter of Credits were under the signatures of A1 and 2 out of 4 LCs were with the forged signature of Mr.T.Shanmuganathan, Deputy Manager. The complaint further mentioned that there is no post as Deputy Manager in the Indian Bank.

Further, the seal affixed in the Letter of Credits also did not match with the seal used by the Branch. It is further alleged that the wife of A1 received an amount of Rs.19 lakhs from Mr.Muthiah of M/s.Muthu Enterprises with whom A1 had long standing association played pivotal role in the crime. It is further alleged in the complaint that A1 by the aforesaid acts and by abusing his official position as public servant cheated Indian Bank and SBI to the tune of Rs.20.58 Crores. After investigation, a Final Report was submitted before the XI Additional Special Court for CBI cases, Chennai against A1 to A5 under Sections 120-B IPC r/w 420, 467, 468 and 471 IPC and u/Section 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988 and substantive offences thereof. The Trial Court framed charges under relevant sections and after trial, the Trial Court by order dated 26.02.2025 rightly convicted all the accused for the offences committed by them. Hence, prayed for dismissal.

12.Considering the submissions made and on perusal of the materials, it is seen that the petitioner was the Branch Manager of Indian Bank, Edaikazhinadu Branch. In this case, Ex.P21 to Ex.P24 is the Letters of

Credit which were found to be forged and using the same, huge sums of money has been transacted to the tune of Rs.19.79 Crores.. SBI, Mumbai discounted and credited the amount in favour of A5/Company and A4 is the Managing Director. A2 and A3 played the role of facilitators. The primary charge against the petitioner is that the petitioner's Branch is relatively a small Branch which is not authorised to issue LCs. Apart from it, the signature found in the LCs are forged by the petitioner. In this case, P.W.21 is the Hand Writing Expert who compared the signature in the LCs with the specimen signature available in the Bank, confirms the signature in Exs.P21 to P24 is that of the petitioner. In the absence of obtaining specimen signature and without arriving at the standard signature, taking the specimen signature as admitted signature might not be proper. In such circumstances, the Handwriting Expert's report alone cannot be the basis for conviction. Added to it, P.W.16, P.W.18 and P.W.19 projected seeing the petitioner signing the LCs. But P.W.18 admits in his evidence before the Court that for the first time he is seeing the Letter of Credit, P.W.19 does not speaking anything about the Letter of Credit and P.W.16/Branch Manager successor to the petitioner, hence he could not have seen the petitioner/A1 signing any document. Further, it is seen that in Ex.P23 and Ex.P24 found with signature of P.W.2, but P.W.2 excluded from criminality on his own explanation and for the reason PW2 specimen signature/Ex.P114 compared with the questioned documents does not tally which is a self explanation without any corroboration. In this case, admittedly the forged documents Ex.P21 to Ex.P24 has been spoken to by P.W.1/Sanctioning Authority who is to depose with regard to sanction order issued under Section 19 of PC Act and he cannot take the role of a witness for prosecution for other facts when he had no occasions to deal with Exs.P21 to P24. The Trial Court primarily proceeded against the petitioner based on the evidence of P.W.21/Handwriting Expert. The evidence and report of P.W.21 is clouded with mystery and convicting the accused solely on an expert opinion in the absence of corroboration with other witness needs relook. Further, there is no serious investigation done with SBI, Mumbai and to the attendant circumstances what happened in SBI, Mumbai in accepting the LCs not clear. The petitioner raised substantial grounds. The Trial Court judgment requires re-consideration. The appeal is a statutory one. It is seen that it would take some time for the appeal to be taken up for final hearing. In view of the above, this Court is inclined to grant suspension of sentence till the disposal of the present criminal appeals.

13.Accordingly, the Substantive Sentence of Imprisonment imposed on the petitioner/A1 is suspended till the disposal of the appeal with the following conditions:

1) The petitioner/A1 is ordered to be enlarged on bail, on condition that he shall execute a bond for a sum of Rs.10,000/- (Rupees Ten thousand only) each with two sureties, each for a like sum to the satisfaction of the trial Court;
2) The petitioner shall appear before the Trial Court on the first working day of once in three months at 10.30 a.m. until the disposal of the criminal appeal.
3) If the petitioner is not able to appear before the Trial Court on that day, he shall make arrangements to file an application under Section 317 Cr.P.C. and shall appear before the Trial Court on any other day in lieu of the date of his absence as directed by the Trial Court.

14.In the result, this Miscellaneous Petition is ordered.

28.03.2025

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Note: Issue order copy on 01.04.2025

To

1.The XI Additional Special Judge for CBI Cases
related to Banks and Financial Institution,
Chennai.

2.The Deputy Superintendent of Police,
SPE/CBI/ACB, Chennai.

3.The Superintendent,
Central Prison-1, Puzhal.

4.The Special Public Prosecutor,
High Court, Madras.

M.NIRMAL KUMAR, J.

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