IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 17.09.2025

PRONOUNCED ON : 07.10.2025

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.Nos.586 and 505 of 2022

Rajeswari ... Petitioner/A1 in Crl.R.C.No.586 of 2022

P.Damodarasamy ... Petitioner/A2 in Crl.R.C.No.505 of 2022

Versus

State Represented by
The Inspector of Police,
City Crime Branch,
Coimbatore.
(Crime No.38 of 2002) ... Respondent in both Crl.R.Cs.

COMMON PRAYER : Criminal Revision Cases filed under Sections 397 and 401 of Cr.P.C. praying to call for the records in Criminal Appeal Nos.562 & 563 of 2018, respectively, on the file of the learned IV Additional District and Sessions Judge, Coimbatore and set aside the order dated 31.03.2022 confirming the conviction and the sentence passed by the learned Judicial Magistrate No.III, Coimbatore in C.C.No.214 of 2004 by an order dated 07.12.2018 by allowing these revisions.

In Crl.R.C.No.586 of 2022

For Petitioner : Mr.M.Deivanandam
for Mr.K.Balasubramaniam

For Respondent : Mr.L.Baskaran
Government Advocate (Crl. Side)
Assisted by
Ms.M.Sumi Arnica

In Crl.R.C.No.505 of 2022

For Petitioner : Mr.C.Muthu Saravanan

For Respondent : Mr.L.Baskaran
Government Advocate (Crl. Side)
Assisted by
Ms.M.Sumi Arnica

COMMON ORDER

The petitioners, who are A1 and A2 in C.C.No.214 of 2004, were convicted by the trial Court by the judgment dated 07.12.2018 for the offences under Sections 120(B), 420, 406, 466, 474 and 466 r/w 471 of I.P.C. and sentenced to undergo three years rigorous imprisonment and to pay a fine of Rs.5,000/- for each of the offences, in default, to undergo nine months simple imprisonment for each of the offences. The sentences directed to be run concurrently. Aggrieved against their conviction, the petitioners/A1 and A2, preferred an appeal in Crl.A.Nos.562 and 563 of 2018, respectively, before the learned IV Additional District and Sessions Judge, Coimbatore. The learned Sessions Judge, by the judgment dated 31.03.2022, confirmed the conviction of the trial Court, against which, the present revisions are filed.

2.(i) The gist of the case is that during the period between 15.09.1998 and 19.07.1999, one Sethuraman, the absconding accused and A1/Rajeswari claiming to be the partners of Royal Print Packs, approached Central Bank of India, Siddhapudur Branch, Coimbatore and submitted a loan application on 16.02.1999 for purchasing machineries and raw materials. The Branch Manager processed the application, forwarded to regional office with recommending note and loan was sanctioned on 19.07.1999. The sanctioned loan amount was Rs.25,95,000/- (Rs,16,45,000/- for machinery and Rs.9,50,000/- for raw materials). The partners, Sethuraman and Rajeswari executed pro-note as well as loan cum hypothecation deed. A2/Damodarasamy and A3/Venkatraman, the husband of A1/Rajeswari, stood as guarantors and executed separate guarantee agreements. Both Sethuraman and Rajeswari gave an undertaking to pay the principal and interest as per the loan condition. Damodarasamy executed a equitable mortgage and deposited the original title deed in respect of his 1 acre property and sale deed standing in the name of Damodarasamy produced along with Encumbrance Certificate.

(ii) The accused in this case produced receipts indicating that the purchase of machinery has been made and the business functional. Since no repayment to the loan made, the bank manager during January, 2001 inspected the office and factory of the accused and found no production carried out. The bank manager informed the workers present there to inform the accused, namely, Rajeswari and Sethuraman to contact the bank but they have not visited the bank. Again on 30.03.2001 the branch manager had gone to the office of the accused found that the machines dismantled and ready to be moved out. Hence, the bank manager collected all the machineries kept in a room and sealed it. The owner of the building was informed that the room was locked and notice given to the landlord to inform Sethuraman and Rajeswari and bank agreed to pay the rent for the room. Thereafter, notice was issued to Sethuraman and Rajeswari and to the guarantors/A2 and A3. In the meanwhile, an anonymous phone call received informing that the original title deed submitted by Damodarasamy was fake, not genuine. The bank manager took steps to ascertain through the Sub Registrar, whether the documents were genuine or not and obtained copy of the Doc.No.1358/1972 and Doc.No.4126/1991 and the Encumbrance Certificate for the mortgaged property. During the mortgage, a certificate of Village Administrative Officer submitted by the Damodarasamy claiming that the property is worth about Rs.50 lakhs along with the legal opinion and valuation report of the engineer. Since the accused not repaid the loan and obtained the loan using forged and fake document, a complaint was lodged to the respondent.

(iii) The respondent registered the complaint, visited the scene of occurrence, prepared observation mahazar, rough sketch, examined the bank managers/PW1, PW2 & PW3, PW4/Advocate, who gave legal opinion, Sub Registrar/PW5, from whom collected documents, Village Administrative Officer/PW6 confirmed that the valuation certificate not given by him and Security Officer/PW7, Central Bank of India and thereafter on collection of documents sent the documents for forensic examination. On conclusion of investigation, filed charge sheet in C.C.No.214 of 2004 for offences under Sections 120-B r/w 420, 406, 466, 474 and 466 r/w 471 of I.P.C. against Sethuraman, Rajeswari, Damodarasamy and Venkatraman. Since the Sethuraman absconded on 28.04.2004, the case against Sethuraman was split up as C.C.No.342 of 2008 on 25.07.2008 and thereafter the present case proceeded against other three accused.

3.During trial, on the side of the prosecution PW1 to PW8 examined, Exs.P1 to P44 marked. On conclusion of trial, the trial Court convicted the petitioners as stated above.

4.The contention of the learned counsel for petitioner/A1 is that the petitioner/A1 a lady and she is falsely implicated in this case. In this case, no iota of material produced to show that the petitioner/A1 is a partner of Royal Print Packs. It is the absconding accused Sethuraman, who connived with bank officials and managed to avail loan and he had not repaid the loan for which, the petitioner/A1 had been made as a scape goat. The petitioner/A1 neither signed in any undertaking documents, when the loan amount received nor gave any undertaking to repay the loan. It is projected that PW1/Bank Manager received an anonymous phone call of execution of mortgage with forged documents. There is no materials to show what was the phone call, nature of information, when, where and from whom the phone call was received. In this case, there is no direct or circumstantial evidence even to remotely infer that the petitioner/A1 conspired with the other accused. He further submitted that there is nothing on record to show that the loan amount was entrusted to the petitioner/A1. Hence, the offence under Sections 120-B, 406, 420 would not arise. The petitioner not produced any forged documents and claiming it to be genuine and cheated the bank. Hence, offences under Sections 466, 474, 466 r/w 471 will not get attracted. The case projected is that the loan was sanctioned by the regional office. The Investigating Officer admit he had not examined the regional manager or anyone from the regional office to confirm on whose instruction the loan was sanctioned and released to the loanees. The branch manager admits that he received telephonic information to release the loan amount. In such circumstances, the non-examination of officers from the regional office is fatal to the prosecution. In this case, the investigating officer not conducted the investigation as per established procedure. Further in this case the Courts below failed to consider that no witnesses identified or confirmed the petitioner/A1 as a partner of Royal Print Packs. The prosecution failed to prove, who made the forged seal and affixed in the valuation certificate and other documents. Further charge of forgery cannot be imposed against a person, who is not a maker of the false document. The prosecution failed to investigate and find out who is the maker of the false documents in this case and what is the relationship between the petitioner/A1 and the real imposter. The investigating officer failed to take any steps to compare the signature in the alleged forged documents with the certified copies obtained from the Sub Registrar Office. No stamp vendor examined to find and prove the difference in the denomination of the stamp papers and documents. The trial Court as well as the Lower Appellate Court miserably failed to consider these aspects. It is further submitted that there were contradictions in the evidence of PW2 and PW3. PW3 claimed that she did not get any copy of the deed. While PW2 submit that partnership deed received before granting loan, but partnership deed not produced in this case.

5.The learned counsel for petitioner/A2 submitted that in this case there is no material to show that the petitioner/A2 conspired with the other accused and executed any mortgage deed. In this case, the investigating officer not examined the regional manager or anyone from the regional office on whose instructions loan was granted. Further the legal opinion obtained from PW4 and thereafter only loan sanctioned. In this case, it is the absconding accused Sethuraman, who connived with the bank officials and managed to avail loan and the petitioner/A2 no way connected with the act of Sethuraman. The petitioner/A2 is not beneficiary of the loan amount. There is no materials produced by the prosecution to show that the petitioner/A2 along with Sethuraman or any of the accused in this case had benefited in any manner. In this case none of the witnesses identified the petitioner/A2. The prosecution failed to prove that the petitioner/A2 is the maker of any false document, namely, the sale deed alleged to have been given as collateral security by him in the capacity as guarantor to the loan. The petitioner/A2 signature not compared with the signatures in the certified copies of document collected by the prosecution. The stamp vendors not examined in this case. The prosecution not examined recipients of bankers cheque issued to machinery suppliers, landlord and to the raw material suppliers. There is nothing to link the petitioner/A2 in this case. The trial Court on extraneous consideration that some cases are pending against A2, convicted the petitioner/A2. The trial Court failed to frame any charges or question the petitioner/A2 under Section 313 of Cr.P.C. with regard to the pendency of other cases. In the absence of the same, convicting the petitioner/A2 on extraneous consideration is impermissible.

6.He further submitted that the evidence of PW2 and PW3, the bank witnesses are in contradictory to each other and hence the case projected by the bank is highly doubtful. The prosecution not taken any steps to find out as to who created the forged seal and used the same in the document. In this case, neither the accused were called during investigation nor they were arrested and any specimen signature obtained or any implicating materials seized from the petitioner/A2. Hence, without collecting, comparing and studying the signature of the petitioner/A2, he cannot be convicted for offence of forgery, the other charges are corollary.

7.In support of his contention, the learned counsel for petitioner/A2 relied upon the following decisions of the Hon'ble Apex Court:

(i) ***S.Arul Raja vs. State of Tamil Nadu*** reported in ***(2010) 8 SCC 233***;

(ii) ***Thimmareddy and Others vs. State of Karnataka*** reported in ***(2014) 13 SCC 408***;

(iii) ***Bilar Hajar @ Abdul Hameed vs. State*** reported in ***(2020) 3 SCC (Cri) 369***;

for the point that to punish a person for criminal conspiracy under Section 120-B of I.P.C., it is necessary to establish that there was an agreement between the parties for doing an unlawful act. Further held that reading of Sections 120-A and 120-B makes it clear that an offence of "criminal conspiracy" is a separate and distinct offence. Therefore, in order to constitute a criminal conspiracy and to attract its rigor, two factors must be present in the case on fact; first, involvement of more than one person and second, an agreement between/among such persons to do or causing to be done an illegal act or an act which is not illegal but is done or causing to be done by illegal means.

8.He further relied upon the decision of Hon'ble Apex Court in the case of ***V.P.Shrivastava vs. IEL & Others*** reported in ***(2010) 3 SCC (Cri) 1290,*** wherein it is held that in relation to the offence under Section 405 of I.P.C., the first ingredient that needs to be established is "entrustment". In order to bring home the charge of conspiracy within the ambit of Section 120-B I.P.C., it is necessary to establish that there was an agreement between the accused for doing an unlawful act;

9.He further relied upon the following decisions of Hon'ble Apex Court;

(i) ***Chatt Ram vs. State of Haryana*** reported in ***1980 SCC (Cri) 243***;

(ii) ***L.Kathiresan vs. State*** reported in ***2005 MLJ (Crl.) 100***;

(iii) ***Ashok Chaturvedi & Others vs. Shitul H Chanchani & another*** reported in ***AIR 1998 SC 2796***;

(iv) ***Sheila Sebastian vs. R.Jawaharaj & another*** reported in ***(2018) 3 SCC (Cri) 275;***

For the point that regarding the offence under Section 471 of I.P.C., it was necessary to consider whether the prosecution had established by adducing cogent and convincing evidence that appellant knew or had reason to believe documents to be forged.

10.He further relied upon the following decisions of Hon'ble Apex Court;

(i) ***Baljinder Karur vs. State of Punjab*** reported in ***(2015) 2 SCC (Cri) 177***;

(ii) ***Pulukuri Kotayya & others vs. King-Emperor*** reported in ***1946 SCC Online PC 47***;

(iii) ***Moti Lal Songara vs. Prem Prakash @ Pappu & another*** reported in ***(2013) 3 MLJ (Crl) 50 (SC)***;

For the point that the criminal investigation plays an important and special role in the administration of criminal justice. The investigating officer plays a pivotal role in the dispensation of criminal justice and the maintenance of law and order. The police investigation is therefore the foundation stone on which the entire edifice of the criminal law rests. Proper investigation is necessary for obtaining a complete picture of all the relevant issues. Any omission and commission by the investigating officer may result in miscarriage of justice.

11.The learned Government Advocate (Crl. Side) strongly opposed the petitioners' contention and submitted that the A1 along with Sethuraman as partner of Royal Print Packs, approached the Central Bank of India, Siddhapudur Branch, Coimbatore for loan during the period between 15.09.1998 and 19.07.1999. PW1 is the Branch Manager, who lodged a complaint/Ex.P27. The accused Sethuraman and Rajeswari (A1), partners of Royal Print Packs applied for loan for purchasing machinery and raw materials, submitted loan application dated 16.02.1999 (Ex.P1). The Branch Manager Balamani/PW3 processed the application and sent the same to regional office. The Process Note is marked as Ex.P2 and loan was sanctioned by sanction order dated 19.07.1999 (Ex.P3). The total loan amount sanctioned was Rs.25,95,000/- (Rs.16,45,000/- for machinery and

Rs.9,50,000/- for raw materials). Thereafter the accused Sethuraman and Rajeswari/A1 executed a pro-note/Ex.P4 as partners. They also executed a loan cum hypothecation deed dated 19.07.1999 (Ex.P5). While getting loan for materials they executed a letter of hypothecation deed dated 19.07.1999 (Ex.P6). The accused Damodarasamy/A2 and Venkatraman/A3 stood as guarantor and executed separate guarantee agreements/Exs.P7 and P8 respectively. Venkatraman/A3 is the husband of Rajeswari/A1. Ex.P9 is the letter given by Sethuraman and Rajeswari agreeing to pay bank interest. Damodarasamy/A2 executed an equitable mortgage and deposited the original title deed. The certified copy of the title deed is marked as Ex.P10 and the parent deed for Ex.P10 is Ex.P11. The Encumbrance Certificate of the said property is Exs.P12 and P13. The receipts/Exs.P14 and P15 marked to prove purchase of machinery. After the grant of loan, the accused failed to make any repayments to the bank.

12.During January, 2001, PW1 inspected the office of the accused and factory, it was found there was no production carried out. Earlier, PW3/Balamani, the then Bank Manager during the loan period confirms that in the year 1998, the partners of Royal Print Packs approached the bank seeking loan for purchase of raw materials and further confirmed that Sethuraman and Rajeswari are partners of the firm and they were to start their business in a rented building on Kuniamuthur to Palakkad main road. PW3 inspected the property and her loan application report is marked as Ex.P21. On 21.05.1999, Sethuraman, Rajeswari and her husband Venkatraman had come to the bank for loan. PW3 confirms that on the representation of Sethuraman, Rajeswari and Venkatraman and on the mortgage of A2's property, the loan was processed and approved by the regional office and bankers cheque also issued. A2/Damodarasamy executed a mortgage of 1 acre land in S.F.No.834/4B, 3B. The guarantors Damodarasamy/A2 and Venkatraman/A3 executed deeds/Exs.P7 and P8. A2 submitted the original title Document No.4126/1991, which is marked as Ex.P34 and the parent Document No.1358/1972 marked as Ex.P35 along with the original Encumbrance Certificate marked as Ex.P36. PW2/Senior Manager of Central

Bank of India submitted certified copies of Exs.P1 to P26 to the investigating officer and produced the voucher of one Dhanam Polymers and Sri Laksh Polymers and cheques issued to them were marked as Exs.P28 to P33.

13.PW4 is the Advocate, who gave legal opinion/Ex.P24. PW5 is the Sub Registrar, Singanallur, who verified the original documents, produced the documents available in the Sub Registrar Office and confirms that original Document No.4126/1991 has been executed in five Non Judicial Stamp papers (one Rs.500/- NJS and five Rs.50/- NJS = Total Rs.750/-), whereas the original available in the Sub Registrar Office has been written in five Non Judicial Stamp papers (two Rs.750/- NJS and three Rs.100/- NJS = Total Rs.1800/-). He confirmed signature of the executant Ramasamy available in the Sub Registrar Office submitted to the Bank. The endorsements found in the Sub Registrar Office and the document produced before the Bank were in variance. In the reverse side of the 1st page of the document produced to the bank, the seal of Sub Registrar not available and the stamp vendors name in both the documents are different, one in the name of Sorna Gandhi and another in the name of Devaraj. With these discrepancies, he gave a report/Ex.P41. PW6/Village Administrative Officer not issued any valuation certificate/Ex.P23, which has been submitted to the bank. PW7 is the Security Officer in the regional office, who accompanied PW1, when he collected machineries and kept in a room and sealed the room. In this case, PW8 is the Investigating Officer, who registered an F.I.R., collected document, recorded statement of witnesses and thereafter filed a charge sheet in this case.

14.He further submitted that during trial, on the side of the prosecution, PW1 to PW8 examined and marked Exs.P1 to P44. On the side of the defence, no witnesses examined and no documents marked. The accused Sethuraman absconded and the case against him split up and still pending. The trial Court found that the accused along with the absconding accused Sethuraman approached the Central Bank of India, availed a loan by submitting false project report, forged documents, executed mortgage deed, the loan amount not utilised for the purpose it was granted, on the other hand there was no production activities and the accused not repaid the amount. During inspection it was found that A2 and A3 are the guarantors to the loan and A2 submitted forged documents, which was proved by the evidence of Sub Registrar and Village Administrative Officer. A3 is none other than the husband of A1. Considering all these aspects, the trial Court rightly convicted the accused and the Lower Appellate Court confirmed the same.

15.Considering the submissions made on either side and on perusal of the material, it is seen that in this case the petitioner/A1 and one Sethuraman approached the Central Bank of India, Siddhapudur Branch, Coimbatore for their business loan as partners of Royal Print Packs. Both of them appeared and submitted loan application/Ex.P1 for purchase of machineries and raw materials. On 21.05.1999, Sethuraman, Rajeswari/A1 and her husband Venkatraman/A3 had come to the bank for the loan. Damodarasamy/A2 mortgaged his property as collateral security on 19.07.1999. Sethuraman and Rajeswari executed pro-notes/Exs.P5, P6 and P9. The guarantors Damodarasamy/A2 and Venkatraman/A3 executed separate guarantee agreements/Exs.P7 and P8. The original title deed Document Nos.4126/1991 (Ex.P34) and Document No.1358/1972 (Ex.P35) along with Encumbrance Certificate deposited to the bank. Ex.P1/loan application dated 16.02.1999 submitted to PW3, who forwarded the same to regional office along with processing note/Ex.P2. The zonal office approved the loan by letter dated 19.07.1999 (Ex.P3). A2's property title deed/Ex.P10 and parent document/Ex.P11, Encumbrance Certificate copies/Exs.P12 & P13 and receipt documents/Exs.P14 and P15 were executed by A1, A2 and A3. Thereafter it was found that the loan amount not repaid. Hence, the bank officials visited the premises of Sethuraman and A1 and found there was no manufacturing activities carried out. Thereafter notice issued and thereafter too, the accused not appeared. Again the bank manager/PW1 went along with PW7, found the machineries were kept ready to be removed, thereafter placed all the machineries in a room, sealed the room, informed the landlord and the bank agreed to pay the rent for the room. On scrutiny of the document, later found that the title deed, mortgage deed submitted by A2 found to be forged.

16.In this case, the Sub Registrar examined as PW5, who verified the documents submitted to the bank along with original documents available in the records of Sub Registrar Office and found there is variation in denomination of stamp papers, difference in stamp vendors, variation in the signatures found in the documents and gave a report/Ex.P41. PW6/VAO confirmed he had not issued Ex.P23/valuation certificate and the valuation certificate found forged. PW4/Advocate, who gave legal opinion confirmed that it was on the request of the accused and based on the documents produced by him, opinion obtained and submitted to the bank. Hence, forgery proved by the evidence of PW3, PW4, PW5 and PW6. The trial Court after analysing the evidence in detail, found that the contention of the petitioners are unacceptable and the prosecution proved the case beyond all reasonable doubt and convicted the petitioners. The Lower Appellate Court independently considered the evidence and materials and confirmed the conviction.

17.The citations submitted by the petitioners are not applicable to the facts of the present case but considering the gender and age of the petitioners and their health condition, this Court modifies the sentence alone from three years to one year, for the offences convicted.

18.In the result, these Criminal Revision Cases are partly allowed.

07.10.2025

Index : Yes / No
Neutral citation : Yes / No
Internet : Yes/No
Speaking / Non-speaking order
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M.NIRMAL KUMAR, J.

rsi

To

1.The IV Additional District and Sessions Judge,
Coimbatore.

2.The Judicial Magistrate No.III,
Coimbatore.

3.The Inspector of Police,
City Crime Branch,
Coimbatore.

4.The Public Prosecutor,
High Court, Madras.

Pre-delivery orders in
Crl.R.C.Nos.586 and 505 of 2022

07.10.2025