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Crl.R.C.No.359 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.04.2025

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.359 of 2021

Sriman @ V.Narayanan

... Petitioner

Vs.

State Rep by its
The Inspector of Police,
EOW Police-II,
Villupuram District.
Crime No.: 2/2014.

... Respondent

PRAYER: Criminal Revision Case is filed under Sections 397 and 401 of Criminal Procedure Code, to call for the entire records and set aside the conviction and sentence in C.A.No.3/2021 dated 21.04.2021 made by the learned Principal Sessions Judge, Villupuram and in C.C.No.23 of 2015 dated 04.02.2021 on the file of the learned Chief Judicial Magistrate Court at Villupuram.

For Petitioner	:	Mr.K.V.Sridharan
For Respondent	:	Mr.L.Baskaran, Government Advocate (Crl. Side)



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ORDER

The petitioner/A1 was convicted by judgment, dated 04.02.2021 in C.C.No.23 of 2015 and sentenced to undergo Rigorous Imprisonment for seven years and to pay a fine of Rs.10,000/-, in default to undergo one month Simple Imprisonment for offence under Section 420 IPC r/w Section 4 r/w 76 of Chit Funds Act, 1982. A2 was acquitted from all charges. Challenging the same, the petitioner preferred an appeal before the learned Principal Sessions Judge, Villupuram (Lower Appellate Court) in Crl.A.No.3 of 2021. The Lower Appellate Court by judgment, dated 21.04.2021 confirmed the conviction but modified the sentence to the effect that the petitioner shall undergo Rigorous Imprisonment for 7 years and to pay a fine of Rs.10,000/-, in default to undergo Simple Imprisonment for one month for offence under Section 420 IPC and the petitioner shall undergo Rigorous Imprisonment for two years for offence under Section 4 r/w 76 of Chit Funds Act, 1982. Both the sentences ordered to run concurrently. Aggrieved over the same, the present criminal revision case is filed by the petitioner.



WEB COPY 2.Gist of the case is that the petitioner/A1 along with one Kumar @

Govindhan/A2 were running an unregistered monthly chit fund in the name of M/s.Sriman V.Narayana Yadav Chits Private Limited, Gingee without obtaining previous sanction of the State Government. The said unregistered chit fund operates various schemes starting from Rs.10,000/- to Rs.50,00,000/-. Based on assurance and promise given by the petitioner/A1 and A2, PW1 to PW11 joined the said chit fund as subscribers and paid substantial amount towards the chit. Later, the chit amount not repaid to the subscribers and they were cheated by the petitioner and A2 to the tune of Rs.11,15,950/-. Based on the complaint (Ex.P2) of PW1, PW16/Investigating Officer, Economic Offence Wing-II registered FIR (Ex.P25) in Crime No.2 of 2014 for offence under Section 420 IPC and Section 4 r/w 76 of Chit Funds Act, 1982, visited the place of unregistered chit fund, prepared Observation Mahazar (Ex.P24) in presence of PW12 and PW13, prepared Rough Sketch (Ex.P26), recorded the statements of individual subscribers to the chit and on conclusion of investigation, filed charge sheet before the Trial Court on 23.12.2014.



WEB COPY 3. During trial, 16 witnesses examined as PW1 to PW16 and 27 documents marked as Exs.P1 to P27. On the side of the defence, no witness examined and no document marked. On conclusion of trial, the Trial Court convicted the petitioner as stated above.

4. The learned counsel for the petitioner submitted that the petitioner has been falsely implicated in this case. Admittedly, none of the subscribers to the chit namely PW1 to PW11 paid any amount to the petitioner directly. The petitioner also not issued any receipt acknowledging receipt of any amount from the subscribers. PW3 admits he handed over the chit amount to one Elumalai, likewise PW4 admits he paid the chit amount to one Murugan. Thus, there are discrepancies in the statement of witnesses regarding to whom they paid the chit amount. He further submitted that in this case, PW1 to PW11 are the subscribers to the chit through whom Exs.P1, P4, P6, P7, P8, P10, P12, P14, P16, P18, P21 & P22 marked. PW1 to PW11 admit that they paid the amount to one Murugan, Kumar @ Govindhan/A2 and Parthiban/PW15 and no amount collected by the



petitioner at any point of time. They also admit that writings and signature found in the installment card not written and signed by the petitioner. This fact not considered by the Courts below.

5.PW12, Saloon Shop Owner next to M/s.Sriman V.Narayana Yadav Chits Private Limited and PW13, a photo frame shop owner adjacent to M/s.Sriman V.Narayana Yadav Chits Private Limited, are witnesses to the Observation Mahazar (Ex.P24). PW14 is the District Registrar, Tindivanam who confirms that on 09.04.2013, there was an application from M/s.Sriman V.Narayana Yadav Chits Private Limited and no sanction granted within the prescribed period and only after sanction order, the chit agreement, foreman undertaking and other procedures prescribed under Sections 6 & 7 of Chit Funds Act, 1982 can be complied. Hence, for the fault of PW14 in not according sanction, now projecting the petitioner as though he was running an unregistered chit business and committed the offence under Section 420 IPC and Section 4 r/w 76 of Chit Funds Act, 1982, is not proper. PW15 was examined to show that the chit amounts collected by him was handed over to the petitioner, but PW15 not supported the case of the prosecution.



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PW16/Investigating Officer stated that he registered the case on 10.10.2014 and filed the charge sheet within a period of two months, which would go to show that PW16/Investigating Officer not conducted any investigation to find out the persons who really collected the chit amount and cheated the subscribers and mechanically filed the charge sheet against the petitioner since the petitioner's name finds place in the installment card. The Trial Court without considering the contradictions in the evidence of witnesses, convicted the petitioner. The Lower Appellate Court failed to independently analyze the evidence and materials, mechanically confirmed the Trial Court judgment.

6.Be that as it may. After the petitioner's conviction confirmed by the Lower Appellate Court, the petitioner filed the present criminal revision case and petition for suspension of sentence in Crl.M.P.No.6092 of 2021 in Crl.R.C.No.359 of 2021. This Court, by order, dated 08.06.2021 suspended the sentence of the petitioner on condition that the petitioner to deposit a sum of Rs.5,00,000/- to the credit of C.C.No.23 of 2015 at the time of executing the bail bond and also to deposit the balance amount of



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Rs.6,18,950/- by 08.12.2021. Since the petitioner was in prison, he was unable to mobilize the amount as expected and the time limit given by this Court elapsed. Thereafter, the petitioner with great difficulty, mobilized the amount of Rs.5,00,000/-, again approached this Court in Crl.M.P.No.12968 of 2021 in Crl.R.C.No.359 of 2021. Considering the difficulty faced by the petitioner and the petitioner despite getting order of bail on 08.06.2012 was unable to comply with the condition and he is in prison for almost 6 months thereafter, this Court, by order, dated 17.12.2021 granted time directing the petitioner to deposit Rs.5,00,000/- at the time of executing sureties. Thereafter, the petitioner deposited the amount of Rs.5,00,000/- by receipt No.0585344, dated 10.01.2022. When the present criminal revision was taken up for final hearing, the petitioner undertook to pay the balance amount of Rs.6,18,950/- to the credit of C.C.No.23 of 2015. As per undertaking, now the petitioner paid the said balance amount on 07.04.2025 in Receipt No.0585347. Hence, the petitioner deposited the entire amount collected from the subscribers to the chit (PW1 to PW11). The learned counsel further submitted that the petitioner already undergone 341 days in prison which may be considered in disposing the present criminal revision.



WEB COPY 7.The learned Government Advocate (Crl. Side) appearing for the

respondent Police submitted that in this case, the petitioner cheated 11 persons, namely PW1 to PW11 in the name of running an unregistered chit to the tune of Rs.11,15,950/-. The subscribers to the unauthorized chit clearly spoken by PW14/District Registrar. PW12 and PW13 are witnesses to Observation Mahazar (Ex.P24). PW15, a relative to the petitioner not supported the case of the prosecution. PW16/Investigating Officer stated that he registered FIR (Ex.P25) in Crime No.2 of 2014 for offence under Section 420 IPC and Section 4 r/w 76 of Chit Funds Act, 1982, visited the place of unregistered chit fund, prepared Observation Mahazar (Ex.P24) in presence of PW12 and PW13, prepared Rough Sketch (Ex.P26), recorded the statements of individual subscribers to the chit and on conclusion of investigation, filed charge sheet before the Trial Court on 23.12.2014. The chit card/installment card under Exs.P1, P4, P6, P7, P8, P10, P12, P14, P16, P18, P21 and P22 confirms the collection of chit amount by the petitioner through his employees. The Trial Court considering the evidence and materials finding that the petitioner had cheated 11 persons to the tune of



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Rs.11,15,950/-, had convicted the petitioner. The Lower Appellate Court on independent assessment of evidence and materials, confirmed the judgment of the Trial Court and imposed separate sentence for offence under Section 420 IPC and Section 4 r/w 76 of Chit Funds Act, 1982.

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

9.In this case, PW1 to PW11 are the subscribers to the unauthorized chit fund run by the petitioner in the name of M/s.Sriman V.Narayana Yadav Chits Private Limited. The said unregistered chit fund operates various schemes starting from Rs.10,000/- to Rs.50,00,000/-. Based on assurance and promise given by the petitioner/A1, PW1 to PW11 joined the above said chit fund as subscribers and paid substantial amount towards the chit. Later, the chit amount not repaid to them and they were cheated by the petitioner to the tune of Rs.11,15,950/-Thereafter, on the complaint (Ex.P2) of PW1, investigation conducted by the Economic Offence Wing/respondent Police and charge sheet filed before the Trial Court.



WEB COPY 10.It is seen that during trial, the petitioner was charged for offence under Section 420 IPC and Section 4 r/w 76 of Chit Funds Act, 1982. The Trial Court convicted the petitioner for offence under Section 420 IPC and Section 4 r/w 76 of Chit Funds Act, 1982 but imposed common sentence that the petitioner to undergo Rigorous Imprisonment for seven years and to pay a fine of Rs.10,000/- in default to undergo one month Simple Imprisonment. The Lower Appellate Court confirmed the judgment of the Trial Court, finding that the Trial Court ought to have imposed separate sentence for offence under Section 420 IPC and for offence under Section 4 r/w 76 of Chit Funds Act, 1982, had imposed separate sentence that the petitioner to undergo seven years Rigorous Imprisonment for offence under Section 420 IPC retaining the fine sentence and to undergo two years Rigorous Imprisonment for offence under Section 4 r/w 76 of Chit Funds Act, 1982.

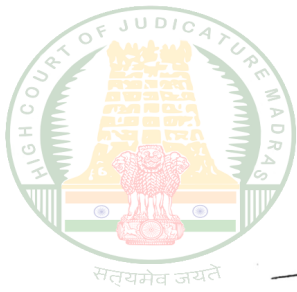
11.At the time of granting suspension of sentence in Crl.M.P.No.6092 of 2021 in Crl.R.C.No.359 of 2021, the petitioner directed to deposit



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Rs.5,00,000/- to the credit of C.C.No.23 of 2015 by order, dated 08.06.2021

with further condition to deposit the balance amount of Rs.6,18,950/- by 08.12.2021. Since the petitioner was in prison, he was unable to mobilize the amount. Due to which, the time limit elapsed. With great difficulty, the petitioner mobilized the amount of Rs.5,00,000/-, again approached this Court and filed Crl.M.P.No.12968 of 2021 in Crl.R.C.No.359 of 2021. Considering the difficulty faced by the petitioner, this Court, by order, dated 17.12.2021 granted time directing the petitioner to deposit Rs.5,00,000/- at the time of executing sureties. Thereafter, the petitioner deposited the amount of Rs.5,00,000/- by receipt No.0585344, dated 10.01.2022 to the credit of C.C.No.23 of 2015. When the present criminal revision was taken up for final hearing, the petitioner undertook to pay the balance amount of Rs.6,18,950/- to the credit of C.C.No.23 of 2015. As per undertaking, now the petitioner paid the said balance amount on 07.04.2025 in Receipt No.0585347. Hence, the petitioner deposited the entire amount collected from the subscribers (PW1 to PW11). For clarity, scanned reproduction of the payment of receipts, dated 10.01.2022 & 07.04.2025 are as follows:



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No. 0585344

Crl-Misc-61(a) GBP-MDU-7-2013.

FOIL

No.

(Form of receipt to be granted by the Court)

IN THE COURT OF THE

Received this 10-01 - Day of 2022.

from Soimam @ V. Narayanan

son of Vijayarajan the

sum of Rs. 500000/- (Rupees Five lakhs only) being
CC 23/2015.

the whole/part of the Cash Security Deposit.

Rs. 500,000/-

[Signature]
10-01-2022
Chief Judicial Magistrate

Villupuram District

Villupuram

10/1/22



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Crl.R.C.No.359 of 2021

CC: 23/2015

0585347

Crl-Misc-61(a) GBP-MDU-7-2013.

FOIL

No.

(Form of receipt to be
granted by the Court)

IN THE COURT OF THE Chief Judicial Magistrate,

Received this 04.04 Day of 2025

from Salman @ v. Narayanan
s/o Vijayaragavan
son of the

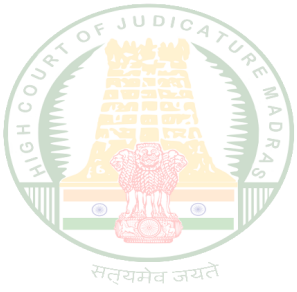
sum of Rs. 6,18,950 (Six lakhs) being
Eighteen thousand nine
Hundred and fifty only

CC: 23/2015
the whole/part of the Cash Security Amount

Rs. 6,18,950/-

Magistrate/Judge

Chief Judicial Magistrate
Villupuram.



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12.The learned Government Advocate (Crl. Side) on instructions would submit that the subscribers to the chit namely PW1 to PW11 are available and they are ready to receive the amount deposited by the petitioner and they are willing to give quietus to the issue.

13.In view of the petitioner depositing the entire amount and the depositors/subscribers (PW1 to PW11) are ready to receive the same and ready to give quietus to the issue, this Court though upholds the conviction, the period of 341 days already undergone by the petitioner will be sufficient and appropriate to meet the ends of justice.

14.Accordingly, the conviction of the petitioner for offence under Section 420 IPC and Section 4 r/w 76 of Chit Funds Act, 1982 is confirmed. But the sentence is modified to the period already undergone by the petitioner.

15.The Inspector of Police, Economic Offence Wing-II, Villupuram/respondent Police is directed to inform the subscribers (PW1 to



PW11) about the deposit of the subscription amount by the petitioner and ensure their presence before the Trial Court. On their appearance, the Trial Court to handover the subscription amount to PW1 to PW11 as per following tabulation. The Trial Court to return the subscription amount to PW1 to PW11 as expeditiously as possible and ensure this process is completed within a period of one month, from the date of receipt of a copy of this order. After payment to the subscribers, if any amount is leftover in C.C.No.23 of 2015, the same to be retained as case property. The details of the subscribers and the amount paid by them are as follows:

<i>S.No.</i>	<i>Subscribers/Witnesses</i>	<i>Exhibits</i>	<i>Amount</i>
1	LW1/PW1 Mr.G.Annamalai	Ex.P1	Rs.6,37,500/-
2	LW2/PW2 Mr.B.Ranganathan	Ex.P4	Rs.57,000/-
3	LW3/PW3 Mr.N.Balaji	Ex.P6	Rs.52,500/-
4	LW5/PW4 Mr.V.Santhanam	Exs.P7 & P8	Rs.1,11,600/-
5	LW6/PW5 Mr.R.P.Sakthi	Ex.P10	Rs.57,000/-
6	LW7/PW6 Mrs.Manjula	Ex.P12	Rs.35,400/-
7	LW8/PW7 Mr.K.Babu	Ex.P14	Rs.35,400/-
8	LW9/PW8 Mr.R.Muthukrishnan	Ex.P16	Rs.26,250/-
8	LW4/PW9 Mr.A.Kumaresan	Ex.P18	Rs.48,100/-
10	LW10/PW10 Mr.R.P.Murugan	Ex.P21	Rs.27,600/-
11	LW11/PW11 Mr.T.Kalaipriyan	Ex.P22	Rs.27,600/-
<i>Total</i>			<i>Rs.11,15,950/-</i>



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WEB COPY 16.In the result, this Criminal Revision Case is Partly-Allowed.

21.04.2025

Speaking Order/Non Speaking Order

Index : Yes/No

Neutral Citation: Yes/No

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To

1.The Principal Sessions Judge,
Villupuram.

2.The Chief Judicial Magistrate,
Villupuram.

3.The Inspector of Police,
EOW Police-II,
Villupuram District.

4.The Public Prosecutor,
High Court, Madras.

Note: Issue Order Copy on 22.04.2025.



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M.NIRMAL KUMAR, J.

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21.04.2025