IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.07.2025

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Crl.R.C.Nos.512 and 552 of 2025
and Crl.M.P.Nos.6823, 6824, 8121 and 8123 of 2025

In Crl.R.C.No.512 of 2022:-

S.Jagadeesha .. Petitioner

Versus

State rep. by the Inspector of Police,
Central Bureau of Investigation,
Bank Securities and Fraud Cell,
No.36, II Floor, CBI Complex,
Bellary Road, Ganga Nagar,
Bangalore - 560 032. .. Respondent

In Crl.R.C.No.552 of 2022:-

M.Balasubramaniam .. Petitioner

Versus

1. State, represented by,
   The Inspector of Police,

Central Bureau of Investigation,
Banking Securities & Fraud Cell (BS & FC),
No.36, 2nd Floor, Bellary Road,
Ganganagar, Bangalore - 560 032.

2. The Assistant Director,
Chennai Zonal Office,
Directorate of Enforcement,
Shastri Bhavan, 'B' Wing,
No.26, Haddows Road,
Chennai - 600 026.

3. The Deputy General Manager,
Canara Bank,
Circle Office, No.524,
Anna Salai, Teynampet,
Chennai - 600 018. .. Respondents

(Respondent Nos.2 and 3 are impleaded vide
order, dated 09.07.2025 in Crl.M.P.No.10342 of 2025
in Crl.R.C.No.552 of 2025)

Prayer in Crl.R.C.No.512 of 2025 : Criminal Revision Case is filed under Section 438 r/w 442 of B.N.S.S, 2023, to set aside the order passed in Crl.M.P.No.514 of 2021 in C.C.No.3 of 2015 on the file of the learned XI Additional Special Judge for CBI Cases, Chennai and discharge him.

Prayer in Crl.R.C.No.552 of 2025 : Criminal Revision Case is filed under Section 438 r/w 442 of B.N.S.S, 2023, to call for the records and set aside the order passed by the learned XI Additional Special Judge for CBI Cases, Chennai in Crl.M.P.No.4804 of 2020, dated 21.01.2025 in C.C.No.3 of 2015.

In Crl.R.C.No.512 of 2025:-

For Petitioner : Mr.G.S.Magesh
for Mr.P.Srinivasan

For Respondent : Mr.K.Srinivasan,
Special Public Prosecutor
(CBI cases)

In Crl.R.C.No.552 of 2025:-

For Petitioner : Mr.A.Nagarajan

For Respondents : Mr.K.Srinivasan,
Special Public Prosecutor
(CBI cases) for R1

: Mr.N.Ramesh,
Standing Counsel for R2

: Mr.S.Sathiyanarayanan,
Standing Counsel for R3

COMMON ORDER

These two Criminal Revision Cases arise out of the same case and as such, they are taken up and disposed of together.

2. The first accused, *M.Balasubramaniam*, is the borrower and the second accused, *S.Jagadeesha*, is a public servant/Manager of the bank, while the third accused, *Sukash Chandrashekar*, is said to be in custody. By the orders in Crl.M.P.No.514 of 2021 and Crl.M.P.No.4804 of 2020 in C.C.No.3 of 2015, the discharge applications, filed by the petitioners/accused Nos.1 and 2, were dismissed by the Trial Court. Aggrieved by which, the present Criminal Revision Cases are filed.

3. On behalf of the borrower, *M.Balasubramaniam*, *Mr.A.Nagarajan*, the learned Counsel would argue that even from the very averments made by the prosecution in the Final Report, it can be seen that it is the third accused in the case namely, *Sukash Chandrasekar*, who misrepresented himself as if he is an I.A.S officer, working for the Karnataka Government and that the Government was intending to install vending machines, of which, the

accused is the manufacturer and after going through his linkedin profile, lured him as if a tender is going to be conducted and in the name of providing local sureties, security etc., made him to part with the amounts.

4. As a matter of fact, every amount that was paid by the petitioner had been accounted for and was made only through banking channels. The Investigating Officer as well as the Enforcement Directorate have investigated into the issue and found that each and every rupee ultimately went only to the third accused or the person shown by him and the amounts were recovered and were brought back to the public coffers. This apart, four luxury cars and eighty watches, which the third accused purchased, were also seized and produced before the Court.

5. The first accused was not a beneficiary of even a single rupee. He did not intend to cheat the bank as he genuinely believed that the offer was forthcoming. The learned Counsel would take this Court through the

various e-mails that were cleverly drafted in the manner so as to lure the first accused, *Balasubramaniam*, and sent and the third accused stage managed that the first accused somehow sent the money to him.

6. The learned Counsel would point out one e-mail, whereby, the third accused made him to pay the money by even promising that Rs.84 crores Demand Draft has been issued on the same day. Thus, if the various documents that are produced along with the Final Report are gone into date wise, the manner in which the first accused got cheated is categorically demonstrable and therefore, instead of treating these accused as witnesses while prosecuting the third accused, the prosecution is erroneously arraying him as an accused. Therefore, the Trial Court ought to have seen the merits in the discharge applications and ought to have discharged the first accused.

7. *Mr.G.S.Magesh*, the learned Counsel for the second accused, Bank Manager, would submit in this case, that it is not even the allegation of the

prosecution that he had received any pecuniary advantage or undue favour. The only allegation that is made is that in violation of certain guidelines, the loans were sanctioned to the first accused. The first accused was a regular customer to the branch and on the good faith, it is the collective decision that is taken on behalf of the bank and not individually by the second accused alone. As a matter of fact, the role played by L.W.17 is more than the role played by the second accused. As a matter of fact, the second accused had merely carried out the ultimate sanction that is made by L.W.17. In any event, there was neither any intention for the accused at the inception of the transaction to deceive the bank nor ultimately the bank got deceived in view of the fact that the entire money has since been recovered during the course of the investigation and as on date, nothing is due to the bank.

8. The second accused had in no way caused any loss to the bank. Even the allegations are in the nature of violation of the banking protocols and rules while grant of loan. While that is not the decision of the second

accused, even taking into account the same is attributable to the second accused, still, it would not amount to criminal misconduct or to an offence of cheating. Therefore, there is absolutely no material for the prosecution to proceed against the second accused. The second accused is not different from L.W.17 and as such, instead of citing the second accused as a witness, the prosecution is wrongly prosecuting the second accused. Therefore, the Trial Court ought to have allowed the discharge applications. As a matter of fact, it can now be seen that the amount totally received by the bank is well over and above the amount disbursed.

9. *Mr.K.Srinivasan*, learned Special Public Prosecutor (CBI cases) for the respondent, by pointing out the specific loan request and the sanction orders, would submit that the Investigating Officer himself has fairly stated even in the Final Report wherever the accused Nos.1 and 2 were lured and conned by the third accused. But, the matter does not end there. It is ultimately the bank which was cheated. From the point of view of the bank

and the bank's money, the very application made by the first accused periodically and the very sanction that is made by the second accused periodically that too on the same day of request, without following any mandatory procedure, itself would amount to egregious misconduct and the said conduct of the accused Nos.1 and 2 had resulted in great loss to the bank. The fact that the Investigating Officer or for that matter, the Enforcement Directorate subsequently registered an offence under the Prevention of Money Laundering Act, 2002 and recovered the money, will not absolve the accused of the offences.

10. I have considered the rival submissions made on either side and perused the material records of the case.

11. The relevant request letters, dated 12.02.2013, 14.02.2013, 21.02.2013, 25.02.2013, 26.02.2013 that are made by the first accused, *Balasubramaniam*, and the endorsement granting the loan made by the

second accused, *Jagadeesha*, are placed along with the Final Report and I have perused the same. It can be seen that on the days, on which, the third accused lured the first accused, immediately, the first accused is placing the request and immediately, the second accused is sanctioning the loan. If the bank had insisted on the proper procedure, even the very cheating by the third accused could have been averted in this case.

12. Be that as it may, when it is the pleading of the first accused that he was conned by the third accused, even going by the version of the first accused, he readily allowed himself to be conned, not of his own money, but, by using the money borrowed from the bank i.e., the public money. Therefore, when the public money is being borrowed and disbursed, instantaneously, for absolutely unfathomable and dubious purposes, where the monies have gone even to jewelers etc., how far the conduct of the first accused and the second accused would amount to dishonest intention and whether they have to be absolved in toto, are all matters for trial and it

cannot be said that there is no material at all to proceed against the accused Nos.1 and 2. Howsoever faint, the materials are available as against the accused for prosecuting, discharging is not the option and it is for the accused to take such defences during the course of trial, which will be considered.

13. Even the plea of the second accused is that L.W.17 took more decisions than him. In view thereof, it may so happen in the trial that there may be some other public officials also who were involved will be implicated by the Trial Court. In such kind of cases, the parties cannot be discharged upfront and it will be open for the Trial Court to consider the entire issue as the trial progresses on. I am of the view that the ultimate decision of the Trial Court in dismissing the discharge applications cannot be interfered with by this Court.

14. At this juncture, the learned Counsel for the accused Nos.1 and 2

would plead that this Court may dispense with their presence before the Trial Court except for the necessary hearings. Considering the facts and circumstances of the cases, the said request can be accepted.

15. In view thereof, these Criminal Revision Cases are disposed of on the following terms:-

(i) The prayer made in these Criminal Revision Cases to set aside the orders in Crl.M.P.No.514 of 2021 and Crl.M.P.No.4804 of 2020 in C.C.No.3 of 2015, shall stand rejected;

(ii) If the first accused appoints a Counsel, then, his presence, except for the necessary hearings, such as the charge framing, questioning and such other hearings as may be insisted upon by the Trial Court, shall stand dispensed with;

(iii) Similarly, the presence of the second accused except for the necessary hearings, such as charge framing and such other necessary hearings that may be insisted upon by the Trial Court, stands dispensed with;

(iv) All the contentions of the petitioners that they are only conned by the third accused and that they did not have any dishonest intention, are all kept open to be raised before the Trial Court in the due course of trial.

09.07.2025

Neutral Citation : no
grs

To

1. The XI Additional Special Judge for CBI Cases,
Chennai.

2. The Inspector of Police,
Central Bureau of Investigation,
Bank Securities and Fraud Cell,
No.36, II Floor, CBI Complex,
Bellary Road, Ganga Nagar,
Banglore - 560 032.

3. The Public Prosecutor,
High Court of Madras.

D.BHARATHA CHAKRAVARTHY, J.,

grs

Crl.R.C.Nos.512 and 552 of 2025

09.07.2025