



CrI.R.C.No. 737 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.06.2025

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CrI.R.C.No.737 of 2023

Pappa @ Dhanalakshmi

... Petitioner

Vs

State rep. by
The Inspector of Police
E.O.W. - II (H.Q.)
Chennai - 39

... Respondent

PRAYER: Criminal Revision Case is filed under Section 397 & 401 of Cr.P.C. to set-aside the judgment in C.C.No.1032 of 2013 dated 01.02.2022 of Chief Metropolitan Magistrate, confirmed with modification of sentence by the XXI Additional Sessions Judge on 01.02.2022 in C.A.No.35 of 2022 and call for the records and acquit the petitioner from all the charges.

For Petitioner : Mr.T.Pachamuthu

For Respondent : Mr.A.Gopinath
Government Advocate (Crl. Side)

ORDER



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WEB NO.35/2022

This Criminal Revision has been filed as against the judgment in CA No.35/2022 on the file of the XXI Additional Sessions Judge, Chennai, thereby dismissed the appeal by confirming the conviction and modified the sentence alone imposed in C.C.No.13 of 2013 on the file of Chief Metropolitan Magistrate, Egmore, Chennai for the offence punishable under Section 409, 420 IPC and Section 76 of Chit Fund Act.

2. The case of the prosecution is that the first accused is the wife of the second accused. They canvassed the general public of their locality and conducted monthly chit and also induced the local people to subscribe to their monthly chit. Accordingly, from the month of October, 2010 to January 2012, they have collected a sum of Rs.43,16,625/- from 38 subscribers. Thereafter, they failed to repay the amount even after maturity. One fine morning both the accused found missing from their residence. On the complaint, the respondent registered FIR in Cr.No.1032 of 2013 for the offences punishable under Section 409 & 420 IPC and Section 76 of Chit Fund Act. After completion of the investigation, the respondent filed final report and the same has been taken cognizance by the trial Court. Before the trial Court, the prosecution had examined P.W.1 to P.W.39 and marked Exs.P1 to P43. On the side of the accused no one was examined and no documents were marked.



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WEB COPY 3. On perusal of the oral and documentary evidence, the trial Court found the accused guilty for the offence punishable under Sections 409 & 420 IPC and Section 76 of the Chit Fund Act. They were sentenced to undergo three year rigorous imprisonment for the offence under Section 409 IPC and to pay fine of Rs.10,000/-, in default to undergo three simple imprisonment and to undergo three years rigorous imprisonment for the offence under Section 420 IPC and to pay fine of Rs.10,000/-, in default to undergo three months simple imprisonment. The accused weree also sentenced to undergo two years rigorous imprisonment with fine of Rs.5,000/- for the offence under Section 76 of the Chit Fund Act. Aggrieved over the same, the petitioners preferred an appeal and the same was also dismissed by confirming the order of conviction and sentence alone was partly modified. Aggrieved over the same, the present revision is filed.

4. The learned counsel for the petitioner would submit that while pending appeal the petitioner's husband died who was arrayed as A2 and the entire charges abated were against him. The prosecution miserably failed to prove any of the charges. Except the statement of alleged subscribers to the chit, no documents were produced to prove the charges against the petitioner. Except



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Exs.P2 and P4 no other piece of evidence were produced by the prosecution to

WEB COPY prove that the appellant had conducted the chit. Exs.P2 and P4 are piece of paper that too without any signature and without the name of any of the accused or any of the subscribers. Even assuming that Exs.P2 and P4 are true and issued by the accused / appellant, the other victims did not even produce those papers to prove that they have also subscribed to the chit which was allegedly conducted by the accused. Those who subscribed to the alleged chit conducted by the accused were examined as P.W.1 to P.W.37. However, no one had even whispered that they entrusted the money with the petitioner herein towards subscription of the chit. They did not even produce any document to show that they subscribed to the chit conducted by the accused and what were the amount paid to them and what were the amount to be repaid by the accused to them.

4.1 He further submitted that P.W.19 and P.W.35 are one and the same and in fact she did not produce any document to show the amount which was subscribed in the alleged chit conducted by the accused. She lodged two complaints by using two different address. In one of the complaints she mentioned her husband name and in another complaint she mentioned her father's name. Therefore the entire claim of the prosecution of the subscribers are false one and they failed to prove before the trial Court.



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4.1 Only by considering the oral evidence, the trial convicted the petitioner. Unfortunately, the first appellate Court also confirmed the judgment of the trial Court. In fact, the appellate court concluded that the first accused only received the subscription from the victim that too without any evidence. Therefore the entire conviction cannot be sustained and the same is liable to be set aside.

5. The learned Government Advocate submitted that in the village there are four victims who subscribed to the accused in the name of chit and lost their hard earned money. Though the petitioner is the wife of A2, she only actively participated in the chit and received a sum of Rs.43,16,625/- from 38 victims. Thereafter, they failed to return the same even after maturity. All the prosecution witnesses categorically deposed that they have paid their respective money to the accused. In order to prove the charges, the prosecution marked Exs.P2 and P4 which were given by the accused. In the villages, without permission or license, they used to conduct chits for the benefit of general public. They simply used to note the amount paid by the subscribers and once it got matured, they return the same. They are not maintaining any account ledger. They conducted chit without any permission or license. Now the second



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accused died and the first accused alone is alive. Both the courts below have
WEB COPY rightly convicted the accused and the same does not need any interference by
this Court.

6. There are two accused in this case in which the petitioner is arrayed as A1 and her husband is A2. Now A2 is no more and all the charges are abated against him. The specific case of the prosecution was that the victims subscribed to the chit conducted by accused. On receipt of the chit amounts, the accused failed to return the matured amount to the subscribers. The subscribers were examined as P.W.1 to P.W.37. On perusal of the deposition of P.W.1 it is revealed that the accused were running chit fund in their locality and he subscribed to the chit to the tune of Rs.2,18,100/- . The accused assured that after maturity, the matured amount will be returned. However, on verification, P.W.1 found that both the accused were absconding and their house was under lock and key. Therefore, he lodged complaint and the same was marked as Ex.P1. He was issued with handwritten papers which was marked as Ex.P2.

7. On perusal of Ex.P2 reveals that some amounts were noted in a piece of paper. It was in the name of one Vasantha and Velu. The said Vasantha was examined as P.W.30. The another piece of paper was in the name of Velu,



however the said Velu, did not lodge any complaint and he was not examined

by the prosecution. Therefore, Ex.P2 is no way connected with P.W.1. On perusal of deposition of P.W.30 reveals that she did not even whisper about Ex.P2. Therefore, Exs.P2 and P4 was produced by the prosecution to expose that the accused were issuing such a piece of paper to all subscribers after the receipt of their respective installments.

8. Even assuming that the piece of papers are related to any chit transaction, it was not signed by any of the accused and it was not issued in any name. Those piece of papers can be prepared by anyone. However, the trial Court mechanically marked Exs.P2 and P4 as if they were issued by the accused. Further, one Lakshmi was examined as P.W.19 and P.W.35. Both are same persons. In one complaint her husband name is mentioned and in another complaint, her father name was mentioned. Both are same person and for one subscription she lodged two complaint as if she had subscribed two different amount to the accused. The trial Court without even considering her evidence, mechanically convicted the petitioner herein.

9. That apart, on perusal of the depositions of all the exhibits revealed



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that they generally have spoken that the accused received the subscription, without mentioning the particular accused as there were two accused in this case. Therefore no offence is made out under the Chit Fund Act.

10. Insofar as the offences under Sections 409 and 420 IPC are concerned, the prosecution miserably failed to prove the said charges as the victims failed to prove any payment by producing any receipt or Fixed Deposit. No prudent person would deposit such a huge amount without any receipts from any chit fund or any financial company. P.W.1 to P.W.37 did not even produce any notebook or ledger to prove that the accused were running chit for which they subscribed to it. Further, they did not even whisper that what type of chit they had conducted and on what scheme they subscribed. Therefore, the prosecution miserably failed to prove any charge as against the appellant and the entire conviction and sentence is liable to be set aside.

11. Accordingly, the judgment dated 01.02.2022 in CA No.35/2022 on the file of the XXI Additional Sessions Judge, Chennai, and the judgment dated 01.02.2022 in C.C.No.13 of 2013 on the file of Chief Metropolitan Magistrate, Egmore, Chennai, are set aside and the petitioner is ordered to be set at liberty. Fine amount, if any paid by the accused shall be refunded to her. Bail bond if



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any executed by the accused shall stand discharged.

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12. Accordingly, the Criminal Revision Case stands allowed.

23.06.2025

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order

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To

1. The XXI Additional Sessions Judge, Chennai.
2. The Chief Metropolitan Magistrate, Egmore, Chennai.
3. The Inspector of Police
E.O.W. - II (H.Q.)
Chennai - 39
4. The Public Prosecutor,
Madras High Court,
Chennai.



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G.K.ILANTHIRAIYAN, J.

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