



Crl.A.No.385 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Judgment reserved on : 14.07.2025

Judgment pronounced on : **16.09.2025**

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Crl.A.No.385 of 2014

T.V.S.Sarma

.. Appellant

Versus

State Repst by,
Inspector of Police,
SPE/CBI/ACB/Chennai.
(R.C.MAI 2007 (A) 0024)

.. Respondent

Prayer : Criminal Appeal filed under Section 374(2) of Cr.P.C., r/w Section 27 of P.C. Act, 1988, against the conviction and sentence imposed on the appellant by the Court of learned XIII Additional Special Judge for CBI Cases, Chennai by judgment, dated 11.07.2014 in C.C.No.33 of 2009.

For Appellant : Mr.K.Shanker

For Respondent : Mr.N.Baaskaran,



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**Special Public Prosecutor
(CBI Cases)**



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JUDGMENT

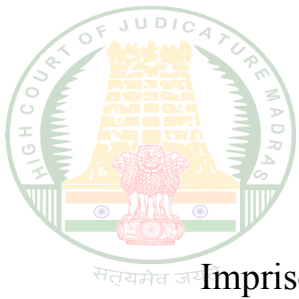
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This Criminal Appeal is filed against the judgment of the learned XIII Additional Special Judge for CBI Cases, Chennai, dated 11.07.2014, made in C.C.No.3 of 2009. By that judgment, the appellant, who was tried as the sole accused, was found guilty:

(a) of an offence punishable under Section 120B of the Indian Penal Code and sentenced to undergo one year of Rigorous Imprisonment and pay a fine of Rs.1,000/-, in default, to undergo three months of Rigorous Imprisonment;

(b) of an offence punishable under Section 381 of the Indian Penal Code and sentenced to undergo one year of Rigorous Imprisonment and pay a fine of Rs.1,000/-, in default, to undergo three months of Rigorous Imprisonment;

(c) of an offence punishable under Section 420 of the Indian Penal Code and sentenced to undergo one year of Rigorous Imprisonment and pay a fine of Rs.1,000/-, in default, to undergo three months of Rigorous



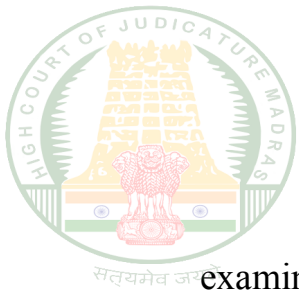
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Imprisonment; and
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(d) of an offence punishable under Section 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act, 1988, and sentenced to undergo one year of Rigorous Imprisonment and pay a fine of Rs.1,000/-, in default, to undergo three months of Rigorous Imprisonment.

For convenience, the parties are referred to as per their order in the Trial Court.

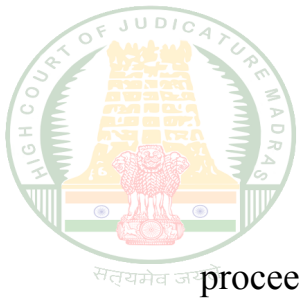
2. On 30.05.2007, the respondent received a complaint from *T.Nagarajan*, an Engineer & Ship Surveyor-cum-Deputy Director (Technical) at the Mercantile Marine Department, Chennai. The complaint stated that the Mercantile Marine Department is under the Ministry of Shipping, Government of India. The department conducts examinations for Marine Engineer Officers of various grades, from Class-IV to Class-I. These officers, having completed their graduation in Mechanical Engineering and undergone Sea Service or training at Sea, are eligible to sit for the



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examination. The exam is held centrally across India and comprises two sections: Written and Oral. Question papers are prepared and sent from the Directorate General of Shipping, Jahaz Bhavan, Mumbai. There are only three exam centers nationwide: Mumbai, Chennai, and Kolkata. In Chennai, the Principal Officer-cum-Joint Director General (Technical) is the head of the department and appoints the Examination In-charge, Invigilators, and Evaluators. Evaluators are chosen from a panel approved by the Director General. The written exam lasts three hours, with morning and evening sessions, and is conducted in the Mercantile Marine Department's examination hall in Chennai. Immediately after the exam, the Invigilator collects the answer sheets from candidates and hands them over to the Examination In-charge for safekeeping. The In-charge, after coding (assigning a secret number), supplies the answer sheets to the empanelled Evaluators for assessment. Evaluators conduct their evaluations either in the conference hall or in the department's examination hall. Once evaluated, answer sheets are returned to the Examination In-charge. Candidates then



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proceed to the Viva/Oral Test. Those who qualify in both tests receive Certificates of Competency (COC) for sailing in international shipping, which are recognized worldwide.

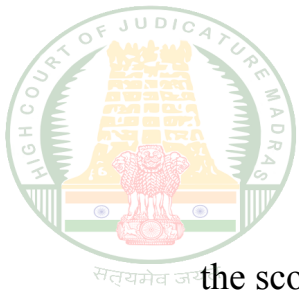
3. While the accused, *T.V.S.Sarma*, was serving as Examination In-Charge from April 2005 to January 2006, information about widespread malpractice during the Engineers' examination was received. Two specific instances of cheating were identified. During the examination on 18th and 19th January 2006 for the subjects Marine Electro Technology and Ship Cadet Stability, some candidates submitted answer sheets with most pages left blank, which were scored off in pencil, and on certain pages, answers were written partially in pencil. The invigilator supervising the exam hall, suspecting foul play, took photocopies of the answer sheets of two candidates, *Sathyasrinivasaallu* and *Peddada Kalyana Krishna*, before handing the originals to the Examination In-Charge, the accused. Later, since the same invigilator, *Ajivasudevan (P.W.6)*, was the subject expert,



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these papers were brought to him for evaluation. He discovered that the blank spaces scored off were filled with complete answers in pen, and the partially written answers were also completed. He immediately reported this to the Principal Officer, *T.Nagarajan*. *Nagarajan* then called the two candidates and confronted them with photocopies of their original answer sheets. They admitted that they had rewritten the answers afterwards. They revealed the *modus operandi*: they had been told by the owner of Jayanthi Lodge that passing the exam was possible by paying a certain amount through agents. Subsequently, a person named *W.N.S.Butt* approached them at the lodge and quoted Rs.50,000/- per paper. He claimed to have helped many candidates before. He instructed them to leave the answers blank or fill them in pencil, and after the exam, he would collect the answer sheets and provide them with the correct answers from books or materials. The candidates admitted to paying *W.N.S.Butt* Rs.3,00,000/- for six papers and Rs.2.5 lakhs for five papers. They followed these instructions during the exam. That very night, they received the answer sheets at the lodge, erased

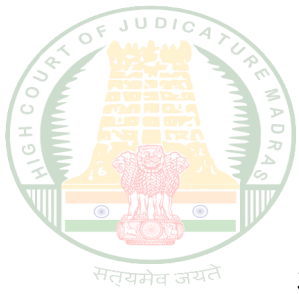


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the scored and pencil-written portions, and filled in the correct answers.

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4. Based on these revelations, 24 answer sheets of candidates were randomly selected and sent to the Forensic Laboratory in Chennai for expert analysis. The experts confirmed erasures and re-writings on the answer sheets. Subsequently, another report was obtained for 23 more answer sheets, which was also confirmed by the experts. In light of these findings, a complaint was lodged at the B1 North Police Station, Flower Bazar, Chennai, which also registered a case (Crime No.72 of 2006). Regarding the incident involving those two candidates, the local police were unable to identify the *individual* involved. The two candidates approached the High Court to declare the results. During a detailed investigation, it was discovered to be part of an ongoing scam; as a result, a total of 565 answer sheets were sent to the Forensic Science Laboratory, leading to the filing of the current complaint.



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5. On the basis of the said complaint (**Ex.P-56**), a case in RC MA1 2007 (A) 0024 was registered by the respondent for the offences under Sections 120B read with Section 420 of the Indian Penal Code and under Section 13(2) read with 13(1)(d) of the Prevention of Corruption Act, 1988 by *P.W.24*. *P.W.24* then completed the investigation and filed a Final Report proposing the accused be held guilty of the offences under Section 120B read with Section 420 of the Indian Penal Code and Sections 7 and 13(2) read with 13(1)(d) of the Prevention of Corruption Act, 1988. The case was registered as C.C.No.33 of 2009. Upon the appearance of the accused and the provision of the copies, the following seven charges were framed against the accused:-

"Firstly, you Thiru T.S. Sarma while working as Engineer and Ship Surveyor-cum-Deputy Director General (Technical) and also Examination in Charge vide office order No.4 - EST (37) A 00680 dated 15.4.2005 in Mercantile Marine Department, Chennai-1, during the period from April 2005 to January 2005, entered into a criminal conspiracy with B.Karunakar (approver) Sh.Dommetti Shanmukhesh (approver) and Sh.Dilip Kumar Pandey (approver) at Chennai and other places to commit criminal misconduct and to cheat the Mercantile Marine Department in pursuance of the said criminal



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conspiracy Thiru B.Karunakar (approver), as your agent and on your behalf contacted the candidates namely Thiru Dommetti Shanmukhesh (approver) and Dilip Kumar Pandey (approver) who were appearing for the Marine Engineering Examination, with an assurance that they would be passed if they make pencil writings/drawings in the answer sheets in the examination hall as the same will be made available to them after the examination is over and they would be allowed to write the correct answer in ink after erasing the pencil writings/drawings and for that the candidates Dommetti Shanmukhesh (approver) and Dilip Kumar Pandey (approver) have to pay a sum of Rs.2.75 lacs and Rs.2.4 lacs respectively to you who was examination in charge for conducting examination for Marine Engineers Class IV to Class I through Sh.B.Karunakar (approver) and in pursuance of the conspiracy, you stealthily handed over the answer sheets to Thiru Dommetti Shanmukhesh (approver) and Sh.Dilip Kumar Pandey (approver) through B.Karunakar (approver) and allowed them to erase the pencil drawings/writings and rewrite the answer sheets dishonestly and collected the rewriting answer sheets from them through B.Karunakar (approver) and also collected the illegal gratification of Rs.2.75 lakhs and Rs.2.4 lacs from Thiru Dommetti Shanmukhesh (approver) and Sh.Diip Kumar Pandey (approver) and got them passed in the examinations as the result was published and thereby you committed an offense punishable u/s 120-B r/w 420, 381 IPC, sec.7 and 13 (2) r/w 13(1)(d) of P.C. Act 1988 and within my cognizance.

Secondly, that in pursuance of the above said conspiracy you being the custodian of the answer sheets for the Marine Engineer's Examination for Class IV Part B from 21.11.05 to 24.11.05 has stealthily taken out the answer Sheets of Thiru Sh.Dommetti Shanmukhesh (approver) from your custody in the office and gave them to Thiru B.Karunakar (approver) for the purpose of



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handing over to Thiru Dommetti Shanmukhesh (approver) and thereby allowed Thiru Dommetti Shanmuthesh (approver) to rewrite the answer sheets dishonestly and got back the rewritten answer sheets and thereby you have committed an offence punishable u/s 381 IPC and within my cognizance.

Thirdly, that in pursuance of the above said conspiracy you being the custodian of the answer sheets for the Marine Engineer's Examination for Class II Part B from 19.12.2005 to 23.12.05 has stealthily taken out the answer sheets of Thiru Dilip Kumar Pandey (approver) from your custody in the office and gave them to Thiru B.Karunakar (approver) for the purpose of handing over to Thiru Dilip Kumar Pandey (approver) and thereby allowed Thiru Dilip Kumar Pandey (approver) to rewrite the answer sheets dishonestly and got back the rewritten answer sheets and thereby you have committed an offence punishable u/s 381 IPC and within my cognizance.

Fourthly, in pursuance of the above said conspiracy you being examination in charge of Marine Engineering examinations, a public servant collected Rs.75,000/- from Sh. Dommetti Shanmuhesh (approver) as illegal gratification through Thiru B.Karunakar (approver) and received the amount from Thiru B.Karunakar (approver) at Beach Railway Station along with rewritten answer sheets on 22.11.2005 and further received the balance illegal gratification of Rs.2 lakhs from Thiru Dommetti Shanmukhesh (approver) through Thiru B.Karunakar (approver) as illegal gratification in the last week of November 2005 in your house at Visakhapatnam and the above amounts were collected as reward for allowing Thiru Dommetti Shanmukhesh (approver) for rewriting the answer sheets of Marine Engineering Practice and oral examination and got him passed and thereby you have committed an offence punishable u/s 7 of P.C.Act 1988 and within my cognizance.



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Fifthly, in pursuance of the above said conspiracy you being examination in charge of Marine Engineering examinations a public servant collected Rs.2.4 lakhs from Sh.Dilip Kumar Pandey (approver) as illegal gratification through Thiru B.Karunakar (approver) and received the amount on 28.12.05 from Thiru B.Karunakar (approver) at Beach Railway Station and the rewritten answer sheets were received by you on 22.12.2005 and the above amount was collected as reward for allowing Sh.Dilip Kumar Pandey for rewriting the answer sheet of Marine Engineering examination and got him passed and thereby you have committed an offence punishable u/s 7 of P.C.Act 1988 and within my cognizance.

Sixthly, in pursuance of the above said conspiracy you being the examination in charge conducted by Mercantile Marine Department by abusing your official position cheated the Mercantile Marine Department by committing criminal misconduct and abusing your official position dishonestly i.e. stealthily removing the answer sheets from your custody in the office and handing over them to the candidates Thiru Sh.Dommetti Shanmukhesh (approver) and Thiru Dillip Kumar Pandey (approver) through B.Karunakar (approver) for allowing them to rewrite the answer sheets after erasing the pencil marks/drawings dishonestly and thereby received the illegal gratification of Rs.2.75 lakhs and Rs.2.4 lakhs respectively from them as illegal gratification and got them passed in the examinations and thereby you have committed an offence punishable u/s 420 IPC and within my cognizance.

Seventhly in pursuance of the above said conspiracy you being the examination in charge conduct by Mercantile Marine Department by abusing your official position as a public servant cheated the Mercantile Marine Department by committing criminal misconduct and abusing your official position dishonestly i.e. stealthily removing the answer sheets from your custody in the



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office and handing over them to the candidates Thiru Sh.Dommetti Shanmukesh (approver) and Thiru Dilip Kumar Pandey(approver) through B.Karunakar (approver) for allowing them to rewrite the answer sheets after erasing the pencil marks/ drawings dishonestly and thereby received the illegal gratification of Rs.2.75 lakhs and Rs.2.4 lakhs respectively from them as reward or pecuniary advantage and got them passed in the examinations and thereby you have committed an offence punishable u/s 13(2) r/w 13(1)(d) of P.C.Act, 1988."

6. The accused denied the charges and stood trial. To establish the charges, the sanctioning authority was examined as *P.W.1. B.Karunagar*, who conspired with the accused in committing the crime, contacted one of the candidates, *Shanmukesh*, and arranged for him to pay a bribe, engaged in malpractice in the examination in collusion with the accused, later turning approver and receiving a pardon, was examined as *P.W.2*. Similarly, the candidate *Shanmukesh*, who paid the bribe, cleared his examination, became an approver, and received a pardon from the court, was examined as *P.W.3*. Another candidate, who also confessed to paying money, was examined as *P.W.4*. The Principal Officer, who took charge of the department in Chennai from July 2005 onwards, was examined as *P.W.5*. The Deputy Chief



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Surveyor, a subject expert and invigilator, who collected photocopies of answer sheets, which were scored off in pencil, corrected these answer sheets, and uncovered the scam, was examined as *P.W.6*. The officer who identified and attested the document making the accused the Examination Incharge was examined as *P.W.7*. The then Manager of Jayanthi Lodge, where these candidates stayed, was examined as *P.W.8*, and through him, the relevant ledgers and proofs regarding the candidates' stay were produced. The person responsible for evaluating and correcting the answer sheets was examined as *P.W.9*, while an external examiner who corrected the answer sheets was examined as *P.W.10*. An employee of the lodging house, GB Manson, was examined as *P.W.11*; through him, the ledgers, receipts, and proof of stay were sought to be marked. Another employee of Welcome Guest House was examined as *P.W.12*. An external examiner was examined as *P.W.13*. The Upper Division Clerk of the examination section at that time was examined as *P.W.14*. The Forensic Expert, who examined the answer sheets and opined that the writings were made after partial and mechanical



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erasure of pencil marks, was examined as *P.W.15*. The Magistrates who recorded statements under Section 164 of the Criminal Procedure Code or confession statements of the accused were examined as *P.W.16* to *P.W.21*. The officer heading the department in Chennai's Mercantile Marine Department at that time was examined as *P.W.22*. The other person, who was also the Examination Incharge and lodged a complaint, was examined as *P.W.23*. The Investigating Officer was examined as *P.W.24*. Prosecution exhibits, including answer sheets, Section 164 statements, registers, ledgers, and expert opinions, were marked as *Ex.P-1* to *Ex.P-57*. During questioning under Section 313 of the Criminal Procedure Code, the accused denied the incriminating evidence and circumstances as false. No evidence was presented by the defense. After hearing the parties, the Trial Court found that the prosecution proved charges Nos.1, 2, 3, 6, and 7 beyond all reasonable doubt and sentenced the accused. Accordingly, while acquitting him of charges Nos.4 and 5. Aggrieved, the present Criminal Appeal has been filed.



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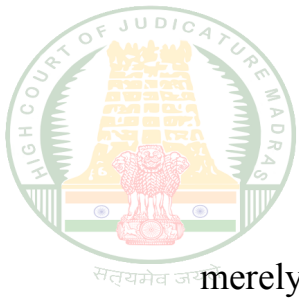
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7. *Mr.K.Shanker*, learned counsel for the appellant/accused, by taking this Court with the entire oral and documentary evidence submitted by the prosecution, would make the following submissions:-

(a) There is no conclusive evidence on record that the accused received any pecuniary benefit in this case.

(b) It can be seen that while the accused was also Examination Incharge, he was not the only person; he shared the responsibility with another Examination Incharge, *P.W.23*. Therefore, the accusation against the accused is based on mere suspicion. It is entirely possible that the other Examination Incharges alone committed the offense.

(c) The *modus operandi*, as alleged by the candidates in this case, is that the papers would be handed to them later, and they would fill them in. From the evidence of the prosecution witnesses, it is very clear that the papers were kept in the almirah of the section, and apart from the accused, several other officers of the section had access. Therefore, the prosecution



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merely wants the Court to presume that it is only this accused who might have taken the papers and given them back to the candidates.

(d) The evidence of *P.W.2*, *P.W.3*, and *P.W.4*, the Approver and the other candidates, is completely inconsistent with each other and with their own earlier statements under Section 164 of the Code of Criminal Procedure. Reading all of it together, it would render them utterly untrustworthy to serve as the basis for a conviction of the accused.

(e) The original complaint received is identical to the case lodged earlier before the Beach Police Station, Chennai North. Therefore, without properly addressing the initial complaint, filing a second complaint about the same incident is unjustifiable.

(f) If the prosecution is unable to trace the said *W.N.S.Butt* or the owners of the lodging house, who had perpetrated the fraud, then, only to give a quietus and to blame somebody, the accused alone was prosecuted. The Investigating Officer conducted a farcical investigation and, unable to uncover anything, filed a charge sheet with all irrelevant materials just to



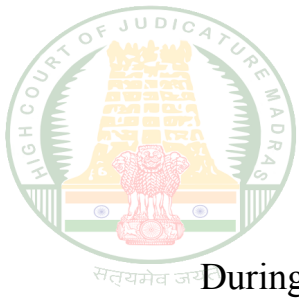
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create an artificial semblance of a case, while no serious evidence could be found by him. The origin of the case is based on the statement of *P.W.6*, who claimed to have taken photocopies of the original answer sheets, on which the blank spaces were scored off in pencil and subsequently filled in, which the prosecution did not produce.

(g) In the absence of any information or evidence regarding the conspiracy or any proof of receiving any pecuniary benefit, the entire case of the prosecution is based on presumption and conjecture and therefore, should be rejected by this Court.

8. Per *contra*, *Mr.N.Baaskaran*, learned Special Public Prosecutor (CBI Case) for the respondent, submitted that the prosecution's case, in brief, is that the accused, who was working as an Engineer-cum-Ship Surveyor-cum-Deputy Director General (Technical), also served as the Examination Incharge in the Mercantile Marine Department from April 2005 to January 2006. During this period, he conducted examinations for classes IV to I.

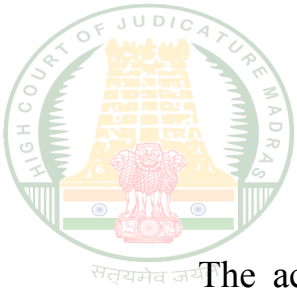


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During this time, *P.W.2, Karunakar*, Manager of M/s. Holy Island Fishing Company at Visakhapatnam, came into contact with the accused in 2003-2004, as the accused was Surveyor then, for obtaining a Certificate of Fitness for Trawlers of the company. Through this contact, *P.W.2, Karunakar*, acted as the accused's agent and contacted *P.W.3, Shanmukesh*, and *P.W.4, Dilip Kumar Pandey*, the candidates appearing in the examination, and they conspired to cheat the department and pass the exam. *P.W.2* instructed *P.W.3* and *P.W.4* to make pencil writings/drawings on the answer sheets, which would be handed back to them after the exam, allowing them to erase the pencil marks and write correct answers in ink. Accordingly, *P.W.3* paid Rs.2,75,000 and *P.W.4* paid Rs.2,40,000 through *P.W.2*.

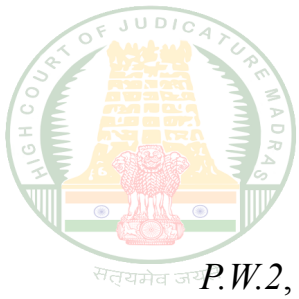
9. Pursuant thereto, *P.W.2* collected details of *P.W.3*, and examinations were conducted on 21.11.2005 and 24.11.2005, which consist of these papers. *P.W.3* appeared for the said examination under rotation No.2067.



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The accused, as the custodian of the answer sheets, took out the answer sheets and handed them over to *P.W.3* through *P.W.2*. *P.W.3* erased the pencil drawings and re-wrote the answer sheet during the nights of 21.11.2005 and 24.11.2005 in room No.307, booked in the name of *P.W.2* at Welcome Lodge, Chepauk. The re-written answer sheets were returned to the accused on 22.11.2005 and 24.11.2005 by *P.W.2* at Beach Railway Station. *P.W.3* handed over illegal gratification of Rs.75,000 for the accused on 21.11.2005 at Welcome Lodge. *P.W.2* handed over the same amount to the accused on 22.11.2005 at Beach Railway Station. *P.W.3* delivered the remaining Rs.2,00,000/- at Visakhapatnam in the last week of November, and *P.W.2*, in turn, handed it over to the accused at his house in Visakhapatnam. Similarly, *P.W.2* collected details of *P.W.4* for the December 2005 examination. The bribe amount was fixed at Rs.2.5 lakhs. *P.W.4* was specifically instructed by *P.W.2* to write only correct answers and mark only with a pencil. The examination was held from 19.12.2005 to 23.12.2005, with *P.W.4* appearing under rotation No.2394. Using the same *method*, the accused, through



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P.W.2, handed over answer sheets on 23.12.2005, which *P.W.4* duly returned to the accused. *P.W.4* handed over an illegal gratification of Rs.2.4 lakhs to *P.W.2* on 28.12.2005 outside G.P.Manson, Mannady, Chennai. *P.W.2* collected this amount and transferred it to the accused at Beach Railway Station on the same day.

10. The learned Special Public Prosecutor would submit that *P.W.2*, *P.W.3*, and *P.W.4* confessed to all the above, and they were tendered pardon by the Court. To further prove the charges, *P.W.1* to *P.W.4* were examined by the prosecution. The sanctioning authority was examined as *P.W.1*. The aforementioned Approvers were examined as *P.W.2* to *P.W.4*, who testified about each and every detail of the entire fraud committed. By examining the Principal Officer as *P.W.5*, the fact of how *Ajivasudevan* developed doubt and the genesis of the case came into existence was proved. The said *Ajivasudevan* was examined as *P.W.6*. *P.W.7* was examined to prove that the custody of these answer sheets was with the accused. The concerned

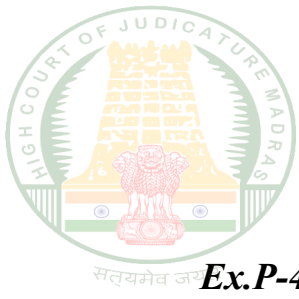


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valuers/external experts were also examined. *P.W.14*, the Upper Division Clerk, was examined to prove the safe custody of the answer sheets with the accused and to confirm the invigilation duties and conduct of the examination. *P.W.15*, the Forensic Expert, categorically stated that after partially and mechanically erasing the previous (pencil matter), which can be deciphered as lines, designs, alphabets, and numbers, the present writings were made on the answer sheets of *P.W.3* and *P.W.4*. The learned Magistrates who recorded the confession statements of *P.W.2* to *P.W.4* were also examined. *P.W.22* was examined to prove that it was actually the accused who served as the Examination Incharge. The other person in charge of *P.W.23* was also examined, who testified about going on study leave to Mumbai during the relevant period. The Investigating Officer was examined as *P.W.24*. Through all this evidence, the prosecution has proved the offence beyond reasonable doubt.

11. The learned Special Public Prosecutor would submit that the very



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Ex.P-4, dated 15.04.2005, clearly shows that it was the accused who took over the examination section from *T.Nagarajan* and was responsible for the relevant documents, keys, registers, etc. All the answer sheets were kept only by the accused in a locker in his room, and he was the custodian. The fact that *P.W.2, Karunakar*, frequently met the accused in his office in Chennai also stands proved. The expert opinion demonstrates the *modus operandi* of erasing the previous pencil markings and filling in the correct answers. Although many other candidates did not come forward to give statements, the specific cases of *P.W.3* and *P.W.4* were proved, leading to the restricted allegations despite suspicion that a large number of answer sheets were prepared in an identical manner. The proof of passing illegal gratification is established through *P.W.2*. Therefore, the Trial Court rightly convicted the accused, and that decision does not require any interference.

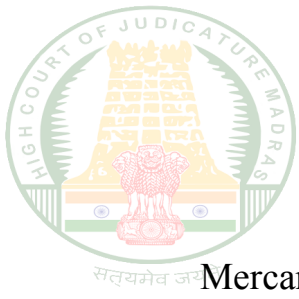
12. I have considered rival submissions on either side and perused the material records of this case.



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13. The prosecution's allegation pertains to the examinations conducted from 21.11.2005 to 24.11.2005 and from 19.12.2005 to 23.12.2005. First, the prosecution must prove that only the accused was in charge of these examinations. It is evident that the office order issued by the Principal Officer on 15.04.2005, marked as **Ex.P-34**, states that the Principal Officer appointed *T.V.S.Sarma*, an Engineer and Ship Surveyor, as the examination in-charge of the Engineering exam, along with his other statutory duties as a surveyor, effective immediately. Additionally, *T.Nagarajan* (*P.W.23*) was instructed to hand over all relevant keys, registers, and related documents concerning the Engineering exam to *Sarma*, the accused, without delay. *P.W.5* also confirms this, stating that during 2005-2006, *Sarma* was the designated Examination Incharge, and all matters related to the examination were handled by him. All answer sheets were stored by *Sarma* in a locker in his room, making him the sole custodian. **Ex.P-34** was also verified through *P.W.7*, the Deputy Chief Surveyor of the

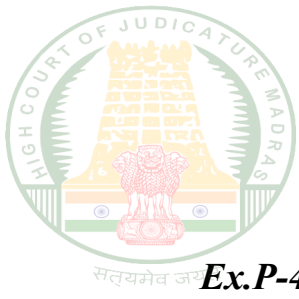


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Mercantile Marine Department, who attested the copies of **Ex.P-34**. *P.W.14*, an Upper Division Clerk working in the department, corroborates that the accused, *Sarma*, was in charge of the examination during this period. Therefore, it is established that the accused was solely responsible for overseeing the examination.

14. The fact that *P.W.3*, *Shanmukesh*, took the examination with rotation No.2067 is demonstrated by **Ex.P-4** and **Ex.P-5**. Similarly, **Ex.P-6** to **Ex.P-8** show that *P.W.4* took the examination on the same dates with rotation No.2934. The answer sheets, **Ex.P-4** to **Ex.P-8**, indicate that the writings of *P.W.3* and *P.W.4* were not entirely done normally. Several pages contain incorrect answers and are scored off. For example, in **Ex.P-4**, pages 3 and 4, where answers to question No.2 were written, are scored off by the candidate. Similarly, three other pages are scored off, and the answers were re-written. According to the expert, *P.W.15*, who provided his report in **Ex.P-44**, these answer sheets, belonging to *P.W.3* and *P.W.4*, show that



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Ex.P-4 was referred to as Q.62, *Ex.P-5* as Q.88, *Ex.P-6* as Q.221, *Ex.P-7* as Q.190, and *Ex.P-8* as Q.207. Except for Q.207, many pages of the other answer sheets have been partially, mechanically erased, with lines, designs, alphabets, and numerals faintly visible under light and infrared sources.

15. Further, with reference to Q.207, *Ex.P-8* indicates that the writings were made after partially erasing the cross lines made by pencil on page Nos.7 to 13, using a light source of oblique and infrared. The marks observed by *P.W.2* and *P.W.3* have been proven by producing these papers, along with the external examiners who evaluated these exhibits. Additionally, the valuers have explicitly stated that it was the accused who handed over the paper, and after evaluation, the papers were handed back to the accused. To that extent, the *modus operandi* adopted to cheat in the examination is established.

16. In this context, the evidence of the concerned candidates, as



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approvers, becomes relevant. *P.W.3* explicitly states that *P.W.2* instructed them to write known answers in blue ink and to draw with a pencil for unknown answers. He followed these instructions on 21.11.2005 for his Engineering knowledge (motor paper). On the same day, he was called by *P.W.2* to Chepauk stadium, where *P.W.2* took him to his room at Welcome Guest House, handed him the answer sheet, and directed him to erase the unknown answers written in pencil and copy the correct answers after referring to the books. The candidate also identified ***Ex.P-4***. Regarding the other answer book in ***Ex.P-5***, the same *method* was followed. His earlier statement before P.W.18, the learned Magistrate, recorded under ***Ex.P-19*** under proper caution and procedure, and given after a day's notice, was in the same lines where he categorically described meeting *P.W.2*, who asked him to come to his lodge room, handed over the papers, and instructed him to write. Therefore, the *modus operandi*, as alleged by the prosecution, is proven.



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17. *P.W.2, Karunakaran*, deposed that *P.W.3, Shanmukesh*, first met him at Visakhapatnam Railway Station, discussed the matter, and expressed his willingness to pay money and pass the exams. Since the accused had already informed him that it would cost Rs.75,000/- per paper, he conveyed this to the accused, contacted him, and received instructions regarding the *modus operandi* and the payment. The scheme involved writing correct answers with a pen and unknown answers with a pencil, and papers were provided to *P.W.2* by the accused. *P.W.2*, in turn, handed these papers over at Welcome Lodge on the scheduled dates, and *P.W.3* wrote the exams accordingly. *P.W.2* clearly states that he received Rs.75,000/- on 21.11.2005 and handed it over to the accused in a cover along with the answer sheet. Similarly, during the second exam, he testified that *P.W.3* gave him Rs.2,00,000/- at Seethammadara, Visakhapatnam, which he also handed over to the accused.

18. *P.W.2's* version is supported by the rental receipts for his stay at



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Welcome Lodge, including ***Ex.P-13***, ***Ex.P-14***, and ***Ex.P-15***. The room

arrival and departure ledgers are marked as ***Ex.P-16***, ***Ex.P-17***, and ***Ex.P-18***.

The lodge employee was also examined as *P.W.12*, who signed these exhibits. In the first Section 164 Cr.P.C. statement recorded before the learned XIX Metropolitan Magistrate on 21.01.2009, *P.W.2* stated that he helped *P.W.3* and *P.W.4* and that they gave him money, which he handed over to the accused. However, this statement did not explain how papers were handed over or how the answer sheet was filled out. As a result, a further confession statement with detailed references was recorded before the learned XX Metropolitan Magistrate. Both Magistrates were examined, and these statements were marked as ***Ex.P-9*** and ***Ex.P-10***. Therefore, there is no reason to disbelieve *P.W.2*. Although there are discrepancies regarding details, the Court recognises *P.W.2*, *P.W.3*, and *P.W.4*'s anxiety to reveal the truth and at the same time to possibly avoid punishment. Overall, their statements are corroborated by other evidence. There was no motive or desire for *P.W.2* to falsely depose against the accused.



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19. The genesis of the case is explained in detail by the prosecution.

P.W.5, the Principal Officer, discussed the doubt that first arose in September 2005. In a candidate's answer sheet by *Ramesh*, present on all pages, there were no written theoretical answers; only pencil drawings. This document is marked as **Ex.P-25**. Upon noticing this, he immediately marked the answer sheet as failed. Similarly, for another candidate, *P.Kameswara Rao*, whose answer sheet is marked as **Ex.P-27**, all pages consisted of pencil drawings with no detailed theoretical answers. He endorsed on the first page that the candidate failed. The accused was present when *P.W.5* made this endorsement. They suspected that external examiners might be involved and decided that external examiners would correct all answer sheets in the department. In January 2006, *P.W.6*, on invigilation duty, observed that candidate *P.Kalyanakrishnan* was writing answers with a pencil and making sketches instead of using a pen. Curious, he reported this to his superior, Captain *Mishra*. *Mishra* took photocopies of the answer sheets with pencil

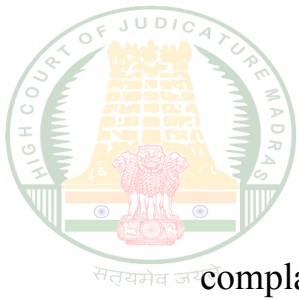


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marks and instructed *P.W.6* not to disclose this to the Examination In-Charge, *T.V.S.Sarma*. Similarly, on 19.01.2016, candidate *Satyasrinivasulu Allu*'s answer sheets were mostly blank except for one page. Since a similar incident had been noticed the day before, he reported it to Captain *Mishra*, who took photocopies and instructed him not to inform the Examination In-Charge. Normally, these answer sheets are kept in the custody of *T.V.S.Sarma*, the Examination In-Charge. When these answer sheets were presented for correction, he discovered that *Peddada Kalyanakrishna*'s original pencil answer sheet had been altered to pen. He immediately reported this to *Mishra*, who compared the answer sheets to the photocopies and found evidence of modifications.

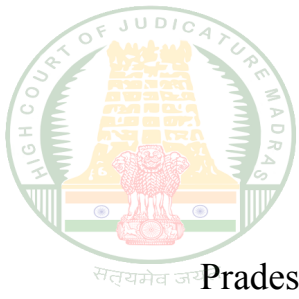
20. Upon confrontation, the said candidates confessed the truth that at Jayanthi lodge, they retrieved answers, paid Rs.50,000/- per paper, and wrote the correct answers before returning them. Immediately thereafter, the accused was removed from the post of Examination Incharge, and a police



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complaint was filed against him at B2 Police Station. Following his removal, the accused, *Sarma*, was also suspended. When 24 answer sheets were randomly collected, they were sent to the Tamil Nadu Forensic Laboratory for assessment. Most of these sheets were found to be tampered with. The reports were forwarded to higher officials, and further inquiry was ordered. Subsequently, 565 papers were sent for forensic examination, revealing that most had been erased and rewritten. A complaint was lodged with the respondent Police. *P.W.23, Nagarajan*, the other officer in charge, confirmed the custody and distribution details of the papers for evaluation. The prosecution explained that although efforts were made to contact many candidates, only *P.W.3* and *P.W.4* provided credible evidence of malpractice. Despite strong suspicions involving several individuals, charges were filed only regarding the two incidents, as other persons involved in Jayanthi lodge could not be traced. The connection of the accused, *T.V.S.Sarma*, to *P.W.2* is established. The investigation officer's evidence shows that the other accused, *W.N.S.Butt*, had his house searched at Vizianagaram, Andhra

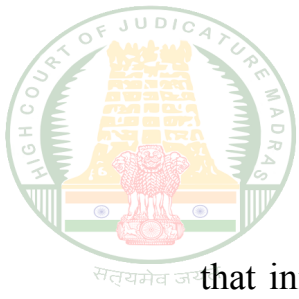


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Pradesh, but since no evidence could be found against him, charges were dropped. Therefore, the contention of the learned Counsel for the appellant in this regard is rejected.

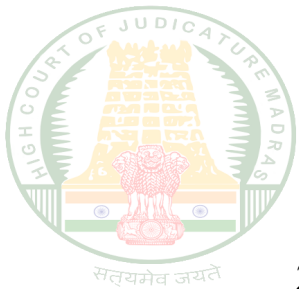
21. In this regard, although the learned Counsel pointed out certain contradictions in the statements made by *P.W.4*, a careful review of the initial confession statements of *P.W.4*, marked as ***Ex.P-23*** and ***Ex.P-24***, along with the overall reading of the evidence in chief and cross-examination, reveals the core facts concerning the cheating in the examination and the payment of money. Although *P.W.4* introduces an element of threat, it is possible to distinguish between irrelevant details and substantive evidence, and in general, *P.W.4*'s testimony remains credible. Concerning the charge under Section 381 of the Indian Penal Code, there is clear evidence from the prosecution witnesses that only the appellant/accused was responsible for safeguarding the question papers and answer sheets until the results, after correction, were sent to Bombay. The First Information Report indicates



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that initially, suspicion fell on external valuers, and thus, the answer sheets were not sent out of the examination center. Instead, all experts were summoned to the department to correct the answers there. Witnesses *P.W.6*, the Deputy Chief Surveyor working at the center at that time; *P.W.7*, another Deputy Chief Surveyor in the department; and *P.W.14*, the Upper Division Clerk, all affirm that, as Examination Incharge, the answer sheets were kept only in the safe custody of the appellant/accused. Their testimonies corroborate the evidence of *P.W.2*, the Approver, who states that the appellant/accused secretly removed the answer sheets from the cupboard and handed them over at Beach Railway Station, then took them to the candidates *P.W.3* and *P.W.4* for correction. As a result, the *modus operandi* of both stealing the answer sheets from custody and cheating the department is established. From the Head of the Department down to the Upper Division Clerk, all have consistently stated that the appellant/accused was the Examination Incharge, a fact the accused does not deny.

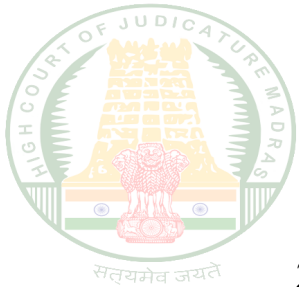


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22. Thus, in this case, the chain of circumstances points to the only conclusion that the accused is guilty. The *modus*, the custody of the answer sheets, the tampering, and the writing of the examinations all categorically and conclusively point only towards the accused. Although it is suspected that he has perpetrated a continuous scam over time, without bringing the case to trial on suspicion, the prosecution has chosen to limit the charges to what can be supported by concrete evidence and it has succeeded in establishing the guilt beyond any reasonable doubt.

23. Consequently, I find all the charges against the accused under Section 120(b) read with Sections 381 and 420 of the Indian Penal Code, as well as Section 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act, 1988, to be proved. For the proven charges, the Trial Court imposed only the minimum sentence of one year and a fine of Rs.1,000/-, which does not warrant interference.



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24. Accordingly, finding no merits, this Criminal Appeal stands dismissed. The appellant is granted twelve weeks time, from the date of receipt of a web-copy of this order, to surrender before the Trial Court to undergo the sentence.

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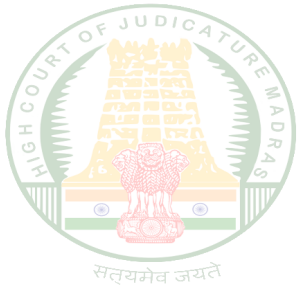
Neutral Citation : yes
grs

To

1. The XIII Additional Special Judge for CBI Cases,
Chennai.
2. The Inspector of Police,
SPE/CBI/ACB/Chennai.
3. The Public Prosecutor,
High Court of Madras.

D.BHARATHA CHAKRAVARTHY, J.

grs



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