



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28-11-2025

CORAM

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CRL A No. 1373 of 2025

Steven Frank
S/o.Gabriel, Okola, Door 115,
Osemudiamen Street, EDO STate,
Nigeria Also at M.S.Ballaiya, 2nd Cross
Street, Bengaluru, Karnataka. (Now in
Central Puzhal Prison)

Appellant(s)

Vs

The State. Rep. by
Sub-Inspector of Police, Erode North
Police Station, Erode.

Respondent(s)

PRAYER: Criminal Appeal filed under Section 374(2) of Criminal Procedure Code, praying to set aside the judgement and conviction order dated 03.07.2025 made in S.C.No.57 of 2023, on the file of the I – Additional District Sessions Judge, Erode.

For Appellant(s): Mr.R.Harinath



For Respondent(s): Mr.V.Meganathan
Government Advocate (Crl.Side)

ORDER

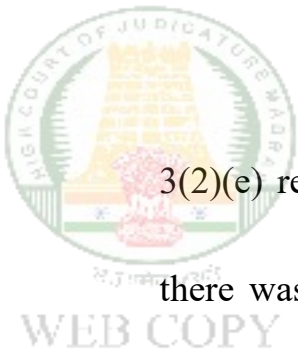
The petitioner has filed this petition to set aside the judgement and conviction order dated 03.07.2025 made in S.C.No.57 of 2023, on the file of the I – Additional District Sessions Judge, Erode.

2. The learned counsel for the petitioner submitted that the prosecution case alleges that the appellants/accused fraudulently lured individuals through advertisements circulated on social media platforms such as Facebook and WhatsApp, stating that kidneys would be purchased for a sum of Rs.2 crores. It is further alleged that they collected an advance amount of Rs.15,000/- from various persons in the name of “Kalyani Kidney Health Care Hospitals, Erode,” thereby misusing the hospital’s name and committing forgery. The initial complaint dated 04.06.2019 was lodged by the Managing Director of the hospital based on a phone call received from one Shravanti, who claimed to have deposited Rs.15,000/- in Union Bank of India, Kolasiv Branch, after viewing such an advertisement. However, the said Shravanti was never



examined before either the Trial Court or this Hon'ble Court despite repeated summons. It is further submitted that no bank statement from Union Bank of India, Kolasiv Branch, was produced before the Trial Court to show any deposit of Rs.15,000/- during the relevant period, nor were any ATM cards, cheque books, or related documents seized from the accused. Even the bank manager deposed that he had no knowledge of such a transaction and no bank statements relating to the alleged account were submitted for the period between 01.03.2019 and 04.06.2019. The prosecution also failed to corroborate its case through any material evidence and did not produce any affected individual who claimed to have lost money or deposited funds in an account linked to the accused. Further, the investigation officer never investigated or examined the accused regarding the alleged offence, nor did he state that any such inquiry was conducted.

3. The learned counsel for the appellant further submitted that the Trial Court acquitted the accused of offences under Sections 419 and 471 IPC, Sections 51 and 63-A of the Copyright Act, and Sections 31-A and 31-B and



3(2)(e) read with Section 14 of the Foreigners Act, 1946, clearly holding that there was no evidence to support those charges. Despite this, the Trial Court convicted the accused under Sections 420 and 468 IPC without any substantive evidence, even though the prosecution's case of misuse of the complainant hospital's name under the Copyright Act had already been disbelieved. There was no direct eye-witness, and even the police officials admitted they had no knowledge regarding the involvement of the accused. Therefore, the conviction under Sections 420 and 468 IPC and the imposition of six years' imprisonment for each offence, to run concurrently, is unsustainable, illegal, and liable to be set aside.

4. Further learned counsel argues that the complainant, Prabakaran, Managing Director of Kalyani Kidney Care Centre, alleged that one Shravanti visited the hospital on 01.03.2019, while the hospital staff stated she only made a phone call, creating contradictory versions. Moreover Doctor Vijayan gave inconsistent statements regarding whether he called Shravanti or she called the hospital. Despite these contradictions, the Trial Court failed to consider them.



Further, there was an unexplained delay of 90 days in registering the FIR, which itself casts serious doubt on the genuineness of the prosecution case.

5. On considering both submissions fact reveals that the first FIR was filed under Sections 419, 420, 468, 471 IPC and Sections 51 and 63-A of the Copyright Act, but after completion of cross-examination, it was altered to include Sections 3(1), 3(2)(e), and 14-A of the Foreigners Act, 1946, despite Section 14-A being wholly inapplicable. This alteration was done only to prolong the proceedings and transfer the case from the Judicial Magistrate to the Sessions Court. He also pointed out that A1, Stefen Franc, had a valid visa at the time of arrest and his passport was recovered, whereas A2, alleged to be Andy Collin, had no passport recovered and no identification was carried out to confirm his identity. His actual name is Agulu Evince Irechukwu, a Nigerian national, who appears to have been falsely implicated to shield someone else, particularly the complainant hospital. No witness, including the alleged victim Shravanti, ever appeared before the Trial Court despite repeated summons during the last six years. She neither lodged any complaint nor appeared as



P.W.1, strongly indicating that no such person exists and that the case was fabricated in collusion with Kalyani Kidney Care Hospital. This failure to produce the most crucial witness destroys the prosecution case in its entirety, as held in *State of Andhra Pradesh v. Cheemalapati Ganeswara Rao*, AIR 1963 SC 1850, that the prosecution must prove its case beyond reasonable doubt.

6. It also reveals that the de facto complainant has no locus standi as he suffered no loss, nor was any forgery committed against him. Even assuming multiple persons contacted the complainant on 01.03.2019, the prosecution failed to verify or produce any such records. The unexplained 90-day delay in lodging the FIR raises serious suspicion, demonstrating that the respondent police and the complainant acted hand-in-glove to foist a false case, rendering the prosecution version unreliable as observed in *Kailas v. State of Maharashtra*, (2011) 1 SCC 793. The misuse of provisions of the Foreigners Act without proof of overstay is impermissible as held in *Union of India v. Bhanudas Krishna Gawde*, (2012) 2 SCC 510. The accused have been made scapegoats, forced to suffer six years of incarceration for an offence they never committed,



leading to irreparable damage to their lives and families. Hence, for the forgoing reasons the judgment of the Trial Court is erroneous, perverse, and liable to be set aside.

7. The petitioner is ranked as A1. Since the charges against the accused have not been proved, the accused is acquitted of all the charges. He is directed to be released from jail. However, until he leaves India, he is ordered to stay at the Special Camp, Tiruchirappalli, Central Puzhal.

8. The learned counsel for the petitioner submitted that the petitioner intends to leave India as soon as he obtains his passport and visa from the District Court, Erode, where those documents are presently deposited. Until such time, the petitioner is directed to reside at the Special Camp, Tiruchirappalli.

9. The prison authorities are directed to send the petitioner to the Special Camp, Tiruchirappalli. The petitioner is also permitted to travel to the District



Court, Erode, to obtain his passport and other related documents as and when required. After obtaining the passport and visa, the petitioner is directed to purchase the necessary travel ticket and leave India within a period of twelve (12) weeks.

10. Accordingly, this Criminal Appeal is allowed.

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Index: Yes/No

Speaking/Non-speaking order

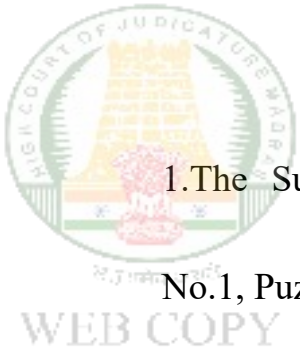
Internet: Yes

Neutral Citation: Yes/No

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Note: Issue order copy on or before 02.12.2025.

To



1.The Superintendent, Central Prison

No.1, Puzhal, Chennai-600 066.

2.The Special Refuge camp, DRO,

Trichirapalli.

3.The I-Additional District Sessions

Judge, Erode.

4.The Public prosecutor, High Court of

Madras, Chennai.

5.The State. Rep. by
Sub-Inspector of Police,
Erode North Police Station,
Erode.

6.The Section Officer,
Criminal Section (Records)
High Court of Madras.



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