IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10-09-2025

CORAM

THE HONOURABLE MR JUSTICE M. NIRMAL KUMAR

CRL RC No. 1567 of 2025
and
CRL MP No.16199 of 2025

1. S.Thillai Selvan,
S/o. P.Sachidanandham, old No.3, New
No.6, SBI Colony, Virugambakkam,
Chennai - 600092.

2. R.Rathinakumar
S/o. Ramasamy, Samuthrapatti Village,
Nathan Taluk, Dindugal District.

Petitioner(s)

Vs

1. R.Vijayakumar,
s/o. Ranganathan, BNO.13-A,
Kamarajar Street, Vinayakapuram Near
Red Hills Chennai - 600009.

2.The State Rep by the Additional
Superintendent of Police,
SPE, CBI, EOB, Chennai. (In
RC.No.4/E/2004/CB/EOW/Chennai)

Respondent(s)

PRAYER

This Criminal Revision Petition is filed under Sections 397 & 401 of Cr.P.C., /Section 442 read with 438 of BNSS, to set aside the order in Crl.M.P.No.25575/2024 dated 29.07.2025 on the file of the I Additional (TADA) City Civil and Sessions court, Chennai by allowing this Revision petition.

For Petitioner(s): M/s.Subhasree N

For Respondent(s): Mr.B. Mohan
Special Public Prosecutor -
For CBI Cases

ORDER

This Criminal Revision Petition has been filed to set aside the order dated 29.07.2025 passed in Crl.M.P.No.25575/2024 on the file of the I Additional (TADA) City Civil and Sessions court, Chennai.

2. Heard the learned counsel appearing for the petitioners and the learned Special Public Prosecutor for CBI Cases, appearing for the respondent and perused the materials available on record.

3. The revision petitioners are the appellants 1 and 2 in Crl.A.No.102 of 2022 on the file of the I Additional City Civil and Sessions Court, Chennai. The petitioners herein/A3 & A4 had filed a petition under Section 391 of the Cr.P.C.,/ Section 432 of the BNSS, 2023, in Crl.M.P.No.25575 of 2024 on the file of the I Additional (TADA) City Civil and Sessions Court at Chennai, seeking to adduce the charge sheet in CC.Nos.17 and 18 of 2002, judgments made in CC.Nos.17 & 18 of 2002 and relevant pages from UCPD Guidelines, 1993 as additional documents in Crl.Appeal No.102 of 2022. The Lower Appellate Court dismissed the abovesaid Crl.M.P by the impugned order dated 29.7.2025, against which, the present criminal revision petition has been filed by the petitioners/A3 and A4.

4. Four cases have been registered by the second respondent-Police as against the first petitioner/A3. Two cases have been registered by the second respondent/Police as against the second petitioner/A4. All these cases pertaining to sanction and release of credit facilities by way of submitting forged and fabricated sale deeds and other related documents, such as balance sheets, stock statements, invoices, delivery challans, Bills of Exchange etc.,

5. The learned counsel for the petitioners submitted that the second respondent/CBI registered a case against A1-V.M.S.Jafarullah, Managing Director of M/s.Maharaja Timber Traders and others. After completion of investigation, charge sheet was filed before the Additional Chief Metropolitan Magistrate Court, Egmore, Chennai, against A1-V.M.S.Jafarullah, the Managing Director of M/s.Maharaja Timber Traders, A2/ V.M.S.Hajee Mohamed, the Director of M/s.Maharaja Timber Traders, A3-Thillaiselvan, Proprietor of M/s.S2G Business Solutions, A4-R.Rathinakumar and A5-R.Vijaya Kumar, for the offences under Sections 120-B read with Sections 420, 467, 468 & 471 of the IPC. Four separate charge sheets were filed and the cases in C.CNo.17 of 2002, C.C.No.18 of 2002, C.C.No.10739 of 2003 and CC No.2037 of 2006 were filed before the trial Court. The petitioners were convicted by the trial Court in the cases as mentioned above, against which, appeals have been filed before this Court. SLP is pending before the Hon'ble Supreme Court for two cases.

6. The accused persons were convicted in all the cases. Thereafter, SLP is pending for two cases and in the third case, SLP was dismissed and Curative Petition is also filed. As regards the conviction order made in C.C.No.2037 of 2006, an appeal in Crl.A.No.102 of 2022 has been filed before the Sessions Court and the same is pending.

7. The learned counsel for the petitioners further submitted that the case projected as against the petitioners is that they have conspired to cheat the Banks, by misappropriating the amount with other accused are one and the same except, the banks, conspirators vary in each case. But the modus and execution shows that the petitioners are one and the same.

8. Learned counsel for the petitioners further submitted that the case projected as against the petitioners in the present case, is that during the period between 1997 and 2002, to cheat the erstwhile Nedungudi Bank, (presently Punjab National Bank) Mylapore branch, Chennai, in the matter of getting sanction and release of credit facilities, viz., Foreign Letter of Credit to the tune

of Rs.175 Lakhs, Inland Letter of credit to the tune of Rs.50 lakhs, Cash Credit (Hypothecation) of Rs.75 lakhs, totalling Rs.300 Lakhs by way of submitting forged and fabricated sale deed and other related documents such as balance sheets, delivery challan, Bills of Exchange, etc., and thereby, committed forgery by showing the forged documents as genuine and thereby, caused a wrongful loss to the tune of Rs.259.94 lakhs as on 01.02.2003 (including interest) and corresponding wrongful gain to themselves. She further submitted that during trial, the Investigating Officer was examined as P.W.25, who during cross-examination, had specifically deposed that he did not know that A3 to A5 were the witnesses in C.C.Nos.17 and 18 of 2002.

9. It is the case of the petitioners that A4 and A5 who are shown as accused in this case, are shown as witnesses in C.C.No.17 of 2002 and C.C.No.18 of 2002. In order to disprove the case of the prosecution and to expose the concocted stories and prosecution taking prevaricating stand in each case arising out of same transaction, it is just and necessary to produce the charge sheet in C.C.Nos.17 & 18 of 2002.

10. Further, the trial Court referring to the judgment in paragraph No.24 submitted that, in pursuance of the criminal conspiracy, A3, who was the Proprietor of S2G Business Solutions ,was helping V.M.S.Haje Mohammed/A2 in regard to discounting of local Bills of Exchange through Banks against commission received from him. Mr.R.Rathinakumar/A4/second petitioner herein, had opened the Bank Account with the Federal Bank of India, Royapettah Branch, Chennai in the name of M/s.TM Trading Services. Mr.P.Vijayakumar/A5 had opened a current account in the name of M/s.Senthil Trading Service. Further, in pursuance of criminal conspiracy, Mr.R.Vijayakumar had prepared a false invoice dated 24.02.2000 in the name of M/s.Senthil Trading Services and had also prepared false Bills of Exchange. Further, in pursuance of the criminal conspiracy, the second petitioner herein Mr.R.Rathina kumar/A4 had opened a current account No.1460 on 17.05.2001 with Federal Bank Limited, Royapettah High Road, Mylapore, Chennai in the name of M/s.T.M.Trading Agencies. These are the findings of the trial Court in this case.

11. On the contrary, the learned counsel referred to the charges framed against the first petitioner, who was arrayed as A2 in C.C.No.17 of 2002 along with Mr.V.M.S.Haje Mohammed and one Mr.K.Subramaniam. Charges against the accused is that all the accused have entered into a criminal conspiracy during the period from 1998 to 2001 and the object of which was to commit criminal breach of trust and cheating in respect of funds of the Union Bank of India, Egmore Branch.

12. In the 16th charge in C.C.No.17 of 2002, it is stated that, in pursuance of the criminal conspiracy, first petitioner herein dishonestly and fraudulently facilitated opening of Letter of Credits by A1 with the Union Bank of India, Egmore Branch and issued forged /fabricated invoices, delivery challans, Bills of Exchanges etc.,

13. In charge No.17, it is stated that, in pursuance of the criminal conspiracy and in the course of transactions, the first petitioner dishonestly and fraudulently facilitated opening of Letter of Credits by A1 in the name of M/s.

MFP favouring propped up and non existent firms like M/s.Senthil Trading Services, M/s.AMP Timber and Saw Mills, M/s.Kandan Trading Services etc., with the Union Bank of India, Egmore Branch and issued forged and fabricated invoices, delivery challans and Bills of Exchanges.

14. In Charge No.18, it is stated that pursuant to the criminal conspiracy, in the course of transaction, the first petitioner herein, with dishonest intention, got the propped account in the name and style of M/s.Senthil Trading Services, Chennai with Mr.Vijayakumar/A5 in this case, who is the Proprietor of M/s.Senthil Trading Services, Chennai.

15. In Charge No.19, it is stated that, in pursuance of the criminal conspiracy and in the course of some transactions, the first petitioner herein with dishonest intention, got the propped account in the name of M/s.Senthil Trading Services, Chennai with Mr.Vijayakumar as Proprietor and introduced and opened account with the Federal Bank Limited, Royapettah Branch Chennai, by filing the account opening form and getting it signed by

Mr.Vijayakumar. Similar charges were framed in C.C.No.18 of 2002 also as against the accused persons, namely Mr.V.M.S.Haji Mohammed, Mr.Thillai Selvan (the first petitioner herein) and Mr.V.Pattabiraman.

16. Now, the petitioners have restricted their plea for marking additional documents in respect of charges framed in C.C.Nos.17 & 18 of 2002 to show that A4 and A5 are the persons introduced by the prosecution to implicate the petitioners. The trial Court had agreed to consider the UCPD guidelines at the time of hearing the arguments. Hence, certified copy of the two documents which are available with the petitioners can be produced and taken as additional documents and no delay will cause to the proceedings.

17. The learned Special Public Prosecutor appearing for the second respondent vehemently opposed that he was not served with the copies of the impugned order . He had only downloaded the same from the net. The learned counsel for the petitioners submitted that, only after serving copies of the papers to CBI, she filed the revision petition before this Court.

18. In this case, it has not been shown as projected by the petitioner that the conspiracy and conspirators are one and the same in all the four cases. In C.C.No.17 of 2002, the de-facto complainant is the Union Bank of India. In C.C.No.18 of 2002, the de-faco complainant is the Syndicate Bank. In C.C.No.10739 of 2003, the de-facto complainant is the State Bank of India. In C.C.No.2037 of 2006, the de-facto complainant is the Nedungudi Bank (Presently Punjab National Bank). The period of conspiracy is overlapping. The conspirators are different persons. There are certain similarities in the conspiracy and some common conspirators, hence the same does not amount to consider that it is a single conspiracy.

19. Learned Special Public Prosecutor appearing for the respondent has referred to the impugned order of the trial Court and submitted that the Court below had rightly referred the judgement of the Hon'ble Supreme Court in the case of Ajitsingh Chehuji Rathod Vs. State of Gujarat and another (Criminal Appeal @ SLP (Crl.) No.(s).16641 of 2023 and had dismissed the application stating that the petitioners herein had sought for marking the charge sheet in

C.C.No.17 of 2002 and C.C.No.18 of 2002 and relevant pages from UCPD guidelines. The petitioners are unable to give any explanation as to why these documents though were available with the petitioners earlier, not produced during the trial or at the time of filing the appeal. Now, at this stage, when the case is taken up for final hearing, in order to drag the proceedings, they have filed this revision petition. He further submitted that there had been no pleadings made earlier to that effect as to why the above documents are necessary. In the absence of any pleadings, the petitioners' plea cannot be entertained and further, the petitioners were unable to give any explanation as to what had prevented them from presenting the evidence before the trial Court , despite due diligence exercised.

20. Considering the submissions made on either side, it is seen that the petitioners' plea is that in one stretch A4 and A5 have been shown as co-conspirators and tried along with A3, now convicted and the appeal is pending before the Court below. In C.C.Nos.17 and 18 of 2002, A4 and A5 have not been shown as accused and were examined as prosecution witnesses and they

deposed by supporting the prosecution case. The co-conspirators /A4 and A5 have spoken against the first petitioner. There cannot be conspiracy as propounded by the prosecution. The same can be decided in the appeal. In any event, the only requirement of the petitioners is that the certified copy of charges framed in C.C.No.17 & 18 of 2002 are required to be marked as exhibits before the lower appellate Court and the lower appellate Court can consider the same. The Lower Appellate Court had earlier, in the impugned order, held that the third document namely the relevant pages from UCPD guidelines can be relied during the course of arguments and the same would be considered and need not be shown as additional documents.

21. In view of the above facts and circumstances, this Court finds that the abovesaid documents are different documents, which are already available in the Court. The petitioner is seeking only to mark the documents which are certified copy of the charges framed in C.C.Nos.17&18 of 2002 as additional documents which are undisputed documents and no prejudice would be caused. It would be beneficial to the petitioners as well as the respondent/prosecution, if

these documents were considered in the appeal before the Court below. Both the documents can be taken and marked as additional exhibits. The trial Court, after receiving the same, shall consider the arguments, and dispose the appeal without any further delay. Already, certified copy had been filed before the lower appellate Court which is available before the lower appellate Court. The lower appellate Court is directed to take the same on file and mark them as additional documents, without any further delay and to hear the arguments of the petitioner and the prosecution and take the case to its logical end.

22. With the above observations, this criminal revision petition is allowed. Consequently, connected miscellaneous petition is closed.

10-09-2025

mfa
Index:Yes/No
Speaking/Non-speaking order
Internet:Yes
Neutral Citation:Yes/No

To

1. The I Additional (TADA) City Civil and Sessions Judge, Chennai

2.The Additional Superintendent of Police,
SPE, CBI, EOB, Chennai.
(In RC.No.4/E/2004/CB/EOW/Chennai)

3. The Special Public Prosecutor for CBI Cases. High Court, Chennai.

M.NIRMAL KUMAR J.

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