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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.09.2025

CORAM:

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CrI.R.C.No.2047 of 2023

Ganesh

... petitioner

Vs.

The State Rep by its
The Inspector of Police,
District Crime Branch,
Salem

... Respondent

PRAYER: This petition is filed under Sections 397 and 401 of Cr.P.C BNSS Act to set aside the order passed by the Hon'ble I Additional Sessions Judge, Salem in CrI.A.No.98 of 2022 dated 02.11.2023 confirming the sentence passed by the learned Judicial Magistrate – VI Salem in C.C.No.67 of 2019 dated 20.10.2022 against the petitioner and pass orders.

For petitioner : Mr.P. Wellington

For Respondent : Dr.C.E. Pratap, Government Advocate



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ORDER

This appeal is filed to set aside the order passed by the Additional Sessions Judge, Salem in CrI.A.No.98 of 2022 dated 02.11.2023 confirming the sentence passed by the learned Judicial Magistrate – VI Salem in C.C.No.67 of 2019 dated 20.10.2022

2. Brief facts of the case is as follows:

The case of the prosecution is that the petitioner was Village Panchayat President of Thumbal Village for 10 years till 216. As the G.O.(MS) No.146, Mahatma Gandhi National Rural Employment Guarantee Scheme account shall be operated jointly by the President and Vice-President of the Village Panchayat only if they are accompanied by the release order in the form of proceedings of the Block Development Officer (Village Panchayat) for the payment of works from the Village Panchayat (NREGS) Account concerned. That being so, the petitioner being the President for Thumbal Village Panchayat has commenced an account No.587077350 and maintained. The account of the petitioner was merged with the account maintained in Indian Bank, Thumbal Branch

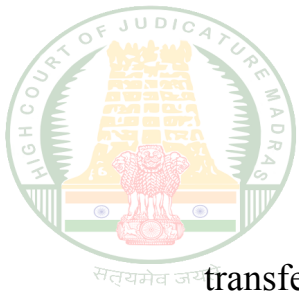


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Vide Account No.762113994 on technical fault. By using the technical fault, the petitioner has transferred a sum of Rs.6,37,300/- by mobile transfer from the account of the Mahatma Gandhi National Rural Employment Guarantee Scheme account maintained in Indian Bank,Thumbal branch from 05.04.2016 to 13.10.2016. By the way, the petitioner has transferred Rs.30,000/- Rs.10,000/- and Rs.1,00,000/- to the account of Gopal, Venkatraman and Rajendran to their bank accounts. The petitioner in total misappropriated Rs.7,73,000/- which was allotted for the Mahatma Gandhi National Rural Employment Guarantee Scheme.

2.1. Hence, the respondent herein has filed a C.C.No.67 of 2019 before the learned Judicial Magistrate – VI Salem, who has allowed the same in the Judgment dated 20.10.2022. Challenging the same the petitioner herein has filed a CrI.A.No.98 of 2022 before the Additional Sessions Judge, Salem who has dismissed the appeal on 02.11.2023. Aggrieved over the same the petitioner has filed the present revision case.

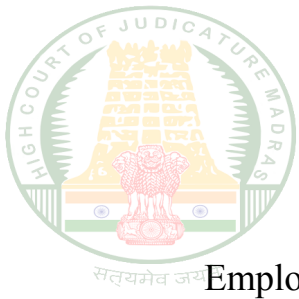
3. The learned counsel for the petitioner submitted that the final report itself shows that due to technical defect the accounts were



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transferred from the account of Mahatma Gandhi Gandhi National Rural Employment Guarantee Scheme and subsequently the same was remitted to the account within a day. The prosecution has not examined the secretary of the Village Panchayat who dealt with the day to day banking affairs. There is no incriminating evidence adduced by P.W.1 and P.W.2. So that, they were not cross examined on behalf of the petitioner . The prosecution has not proved that the amount was deposited by the petitioner. The mobile number of the petitioner was not furnished by the prosecution. The Trial Court has not considered all those things and found the petitioner guilty for an alleged offence U/s 409 of I.P.C. Hence, prays to allow this Criminal Revision.

4. *Per Contra* the learned Government Advocate appearing for the respondent submitted that since the amount was subsequently remitted we cannot say that that there is no offence. If at all the inspection was not carried out, the misappropriated was public fund. Considering the evidence available on records, the Trial Court found the petitioner guilty. He further submitted that the petitioner was the President during the relevant period for Thumbal Village Panchayat and he was in charge of operating the account of Mahatma Gandhi Gandhi National Rural



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Employment Guarantee Scheme. In order to honour the cheques signed by the President and Vice President, they must be with the endorsement of the Block Development Officer by issuing pay authorization. It is the specific case of the prosecution that the petitioner from 05.04.2016 till 13.10.2016 has transferred by using mobile transfer to various accounts to the tune of Rs.7,73,000/-. A written complaint was filed before the Superintendent, District Crime Branch Salem by Tr.N.Raja the then Block Development Officer of Pethanaickenpalayam Block. During the course of his evidence P.W.1 Tr.Raj has deposed that he inspected the accounts of Mahatma Gandhi Gandhi National Rural Employment Guarantee Scheme for the period of 01.04.2016 to 20.10.2016. During the course of inspection, he found that by using mobile transfer Rs.7,73,000/- was transferred to some of the persons. Subsequently, on two installment the amount was remitted in the account through mobile transaction. As per the direction of his superiors, he filed a written complaint marked as Ex.P.1. P.W.1 Was examined in chief on 11.03.2020 he was not cross examined on behalf of the accused. Hence, prays to dismiss this Criminal Revision.

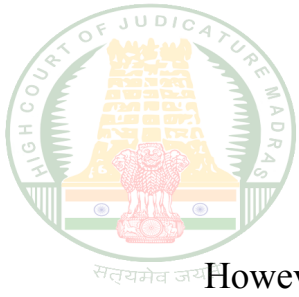


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5. Heard both sides and perused the materials available on record.

6. On a perusal of the Judgments passed by the Court below it is seen that both the Trial Court and the Appellate Court have not considered the cross examination of P.W.7 wherein she had stated that she did not investigate from which mobile number these alleged transactions were made. Furthermore the prosecution had not disclosed that who had transferred the funds from the NEGS account. It is also seen from the Ex.P.3 F.I.R that the petitioner obtained permission through Thumbal Indian Bank to transact the money through mobile banking in Account No.762113994 which belongs to Thumbak Panchayat Mahatma Gandhi National Rural Employment Guarantee Scheme. PW.8- I.O who did further investigation and laid charge sheet deposed in his cross examination that due to technical fault the petitioner's mobile number was mistakenly linked with the Account No.762113994.

7. In view of the above it is made clear that the Trial Court and the Appellate Court had not appreciated the facts in a proper manner and concluded that the petitioner herein is found guilty for the offence.



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However, this Court while re-appreciating the evidence and witnesses is of the view that the petitioner is not found guilty U/s 409 of I.P.C as alleged by the prosecution. Hence, the order passed in CrI.A.No.98 of 2022 dated 02.11.2023 is hereby set aside and this Criminal Revision is allowed.

15.09.2025

Index: Yes/No
Speaking/non Speaking order
Neutral Case citation: yes/no

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To

1. The Inspector of Police,
District Crime Branch,
Salem
2. The I Additional Sessions Judge, Salem
3. The Judicial Magistrate – VI Salem



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T.V.THAMILSELVI, J.

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Crl.R.C.No.2047 of 2023

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