



Crl.RC.Nos.2222 of 2023 & 130 and 134 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.08.2025

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THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Crl.RC.Nos.2222 of 2023 & 130 and 134 of 2024

S.Nagaraj	...Petitioner in Crl.R.C.No.2222 of 2023
A.D.Kanagaraj	...Petitioner in Crl.R.C.No.130 of 2024
N.Ramachandran	...Petitioner in Crl.R.C.No.134 of 2024

Vs.

State by Inspector of Police,
C.C.I.W.CID,
Coimbatore Rural,
Coimbatore.
(Crime No.1 of 2006)

...Respondents in Crl.R.C.Nos.2222 of
2023 & 130 of 2024

State rep. by,
Public Prosecutore,
Coimbatore.
(Cr.No.01 of 2006 of CCIW CID,
Coimbatore)

...Respondents in Crl.R.C.Nos.134 of
of 2024

Prayer in Crl.R.C.No.2222 of 2023: This Criminal Revision is filed under Section 397 and 401 of Cr.P.C to set aside the conviction and sentence imposed by judgment made in Crl.A.No.322 of 2017 on the file of the 1st Additional District and Sessions Judge at Coimbatore, dated 03.11.2023 confirming the judgment and sentence passed in C.C.No.9 of 2006 on the file of the Judicial Magistrate No.IV, Coimbatore, dated 20.09.2017.

Prayer in Crl.R.C.No.130 & 143 of 2024: These Criminal Revisions are



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filed under Section 397 and 401 of Cr.P.C to set aside the order dated 03.11.2023 passed in Crl.A.No.314 of 2017 on the file of learned I Additional District and Sessions Judge, Coimbatore, which confirmed the order passed in C.C.No.9 of 2006 on the file of learned Judicial Magistrate No.IV Court, Coimbatore.

In Crl.R.C.No.2222 of 2023

For Petitioner : M/s.B.Kumarasamy

For Respondent : Mr.J.Subbiah, GA (Crl. Side)

In Crl.R.C.Nos.130 & 134 of 2024

For Petitioners : M/s.R.Vinayaga Vishnu

For Respondent : Mr.J.Subbiah, GA (Crl. Side)

COMMON ORDER

These Revisions are filed against the judgement of the Additional District and Sessions Judge, Coimbatore dated 03.11.2023 made in Crl.A.No.322 of 2017, Crl.A.No.314 of 2017 and Crl.A.No.331 of 2017. By these separate judgments, the conviction and sentence imposed on all the three accused who were tried in CC.No.9 of 2006 by the trial Court - the learned Judicial Magistrate No.IV Coimbatore by judgement dated 20.09.2017 were confirmed. By the said judgement, the accused No.1 A.D.Kanagaraj, the petitioner in Crl.RC.No.130 of 2024 was found guilty for an offence under Section 406 of Indian Penal Code, 1860 and was sentenced to undergo simple imprisonment for a period of two years. The



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accused No.2, S.Nagaraj, the petitioner in Crl.R.C.No.2222 of 2023 was

found guilty of an offence under Section 406 of Indian Penal Code, 1860

and sentenced to undergo simple imprisonment for period of two years

and the accused No.3, N.Ramachandran, the petitioner in Crl.R.C.No.134

of 2024 was found guilty of an offence under Section 408 of Indian Penal

Code, 1860 and sentenced to undergo simple imprisonment for a period

of two years and to pay a fine of Rs.1000/-, in default to undergo one

month simple imprisonment.

2. The case of the prosecution is that, A1 was the President of Sri Ranganathar Handloom Weavers and Cooperative Society, A2 the Vice President and A3 the Salesman of the Society. They were entrusted with the stock of finished 1115 sarees worth about Rs.4,54,201.15/- during the period from 01.04.2001 to 31.03.2002. When the Special Officer took charge of the Society, on verification, he found the stock deficit of 855 sarees. The responsibility was fixed on A1 and A2 with reference to 777 sarees and A3 with reference to the remaining 72 sarees. A1 also released the amount of Rs.50,000/- in excess from the suspense account and thus all the three accused appropriated the amount.



3. During the trial, on the side of the prosecution, PW.1 to PW.11

WEB COPY were examined and exhibits P1 to P.23 were marked. On the side of the defence A1 examined himself as DW.1 and marked exhibit D.1. On conclusion of the trial, the trial Court based on the evidence of the witnesses and the material produced, convicted all the three accused and sentenced as above. The Appellate Court also after re-appreciation of evidence confirmed the conviction and sentence.

4. Mr.R.Vinayaga Vishnu, the learned counsel for the accused Nos.1 and 3 though started his arguments with reference to the merits of the case, would submit that at the time of suspension, this Court directed and they also deposited the amount of loss that is alleged as against the Society. The entire amount now stands paid. The accused No.3 has also paid the fine amount and the accused Nos.1 and 3 have undergone incarceration for a period of fifteen days. Therefore, he would argue that apart from merits, this Court should also consider with reference the quantum of sentence.

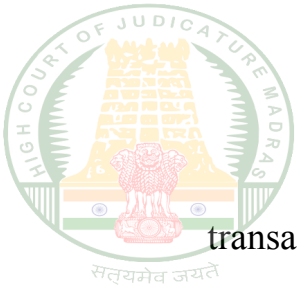
5. The learned counsel appearing on behalf of the accused No.2 would submit that in this case, the accused No.2 has been roped in, only



on the ground of overall responsibility. Initially, he was not a named accused in the First Information Report. Even in the 81 enquiry conducted based on the surcharge proceedings are initiated, the entire responsibility was fixed only on A1 and A3 and they have also paid the entire amount. There is no clinching evidence that is let in by the prosecution to demonstrate that the petitioners are also indulged in any misappropriation. The dishonesty is not proved by the prosecution.

6. I have considered the rival submissions made on either said perused the material records in case.

7. As regards A1 and A3, though certain contentions regarding the adequacy of evidence etc., were raised, I am of the view that when the trial court as well as the Appellate Court after appreciation of evidence found A1 and A3 guilty and no clinching ground is argued so as to exercise the revisionary jurisdiction as far as the accused No.2 is concerned. As rightly pointed out by the learned counsel for the petitioner, it can be seen that the accused No.2 was not also named in the F.I.R and only during the course of the trial, when it was found that after A1, when A2 was incharge of the society during which also some



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transaction is found to have been taken place, on that basis he was implicated and prosecuted. It can be seen that, even in the departmental enquiry, no amount was earmarked with reference to the loss as against the A2.

8. Though it is true that the prosecution has let in credible evidence that A2 has also the responsibility and was also in office during the relevant period, with reference to offence u/s.406 of IPC, the element of dishonesty has to be proved. To that extent, the same is lacking. On a cogent and complete reading of the evidence it can be seen that, the entire episode is alleged as against A1 and A3. They have also paid the entire amount of loss to the society now.

9. Considering all the above, I am of the view that accused No.2 will be entitled to the benefit of doubt. In view thereof, Crl.RC.No.2222 of 2023 stands allowed. The conviction and sentence imposed against the petitioner Nagaraj by the judgement of trial Court dated 20.09.2017 and the Appellate Court 03.11.2023 shall stand set aside.

10. Crl.RC.Nos.130 and 134 of 2024 shall partly allowed on the



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following terms.

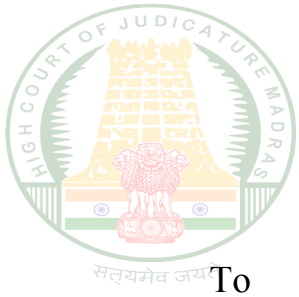
WEB COPY (i) The conviction of the petitioner for the offences under Sections 406 and 408 of the Indian Penal Code, 1860 respectively by the judgement of the appellate Court dated 03.11.2023 and the trial Court dated 20.09.2017 shall stand confirmed.

(ii) The fine amount imposed on the petitioner Ramachandran in Crl.RC.No.134 of 2024 shall also stand confirmed and the fact that it is already paid is recorded.

(iii) With reference to sentence of imprisonment on both the petitioners A.D.Kanagaraj and A.Ramachandran are concerned, the same shall stand modified as period already undergone.

22.08.2025

rap
NCC : Yes / No



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To

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1. The 1st Additional District and Sessions Judge at Coimbatore
2. The Judicial Magistrate No.IV, Coimbatore
3. The Inspector of Police,
C.C.I.W.CID,
Coimbatore Rural,
Coimbatore.
4. The Public Prosecutor,
High Court of Madras.



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D.BHARATHA CHAKRAVARTHY.J.,

RAP

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