



WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 07.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

CRL MP(MD)Nos.2706 and 2783 of 2025

in

CRL A(MD)Nos.267 and 271 of 2025

1.K.Annasaraswathi

2.D.Mohanraj

... Petitioners in
CRL MP(MD)No.2706 of 2025

G.Balasubramanian

...Petitioners in
CRL MP(MD)No.2783 of 2025

Vs

The Inspector of Police,
SPE:CBI:ACB:Chennai,
RC MA1 2010 (A) 0035

... Respondent in both petitions

Prayer: Petition filed under Section 430 of BNSS to suspend the sentence imposed in CC.No.4 of 2012 dated 05.02.2025 passed by the II Additional District Court for CBI Cases, Madurai till disposal of the above appeal.



WEB COPY

For Petitioner : Mr.R.Balachanderan

in CRL MP(MD)No.2706 of 2025

: Mr.K.Samidurai

in CRL MP(MD)No.2783 of 2025

For Respondent : Mr.Karunanidhi,

Special Pubic Prosecutor

in both petitions

ORDER

The petitioners are accused Nos.1, 5 and 6 respectively in CC.No.4 of 2012 on the file of the II Additional District Court for CBI Cases, Madurai. They have been found guilty and convicted as follows:

	Section	Punishment	Fine (in Rs)	default class
A1, A5 & A6	120 B r/w 471 IPC	2 years rigorous imprisonment	20,000	6 months simple imprisonment
A1, A5 & A6	120 B r/w 420 IPC	3 years rigorous imprisonment	30,000	6 months simple imprisonment
A1, A5 & A6	120-B r/w 13(2) r/w 13(1)(d) of Prevention of corruption Act	3 years rigorous imprisonment	30,000	6 months simple imprisonment
A1, A5 & A6	471 IPC	2 years rigorous imprisonment	20,000	6 months simple imprisonment
A1, A5 & A6	420 IPC	3 years rigorous imprisonment	30,000	6 months simple imprisonment
A1	13(2) r/w 13(1)(d) of Prevention of corruption Act	3 years rigorous imprisonment	30,000	6 months simple imprisonment



WEB COPY

As against the conviction, A1 has filed an appeal in Crl A(MD)No.271 of 2025 and A5 and A6 have filed an appeal in Crl A(MD)No.267 of 2025. They have also filed these petitions to suspend the sentence pending the appeals.

2.Since both these cases are arising out of the same judgment, these petitions are taken up together and disposed of by this common order. For sake of convenience the petitioners are referred to as per their ranks before the trial Court

3.The case of the prosecution is that A6, A5 and A1 along with other accused have entered into criminal conspiracy, A6 and A5 floated fictitious partnership firm by name M/s.Sri Kannabiran Packing Industries, applied for a cash credit limit and availed cash credit of Rs.80,00,000/- without offering any security and obtained a sanction of Rs.80,00,000/-. Thereafter the funds were utilised for other purposes. Thus it has resulted wrongful loss to the bank to the tune of Rs.1,26,91,515 as on 31.05.2011.

4.The learned counsel for accused No.1 submits that when A1 was the Chief Manager and the loan sanctioning authority is PW5 and PW25 and they only sanctioned the loan. The loan was also sanctioned after scrutiny of legal opinion, valuation report, etc., Therefore, according to the learned Counsel there is no violation in granting loan and he is not the authority to grant loan. He is only the superior authority in the process of sanctioning loan and he had endorsed the loan



based on the recommendation made from the field officers.

WEB COPY

5.The learned Counsel appearing for A5 and A6 by referring to Ex.P.32 submits that though the application for loan was made on behalf of A6, at the time of sanction of the loan they were not partners in the firm. According to the learned Counsel the petitioners / A5 and A6 did not form part of the partnership firm and therefore, they cannot be held responsible for the offence. He further submits that the sister of A6 property was not accepted as security for sanctioning of the loan and the loan was not credited to their account when they were partners and only after their retirement the loan was credited in to the partnership account of the new partners.

6.The learned Special Public Prosecutor appearing for the respondent submits that A1 Chief Manager of the IOB, Palayamkottai Branch, Tirnelveli. He along with other accused have entered into criminal conspiracy, A6 and A5 floated fictitious partnership firm by name M/s.Sri Kannabiran Packing Industries, applied for a cash credit limit and availed cash credit of Rs.80,00,000/- without offering any security and obtained a sanction of Rs.80,00,000/-. A1 in pursuance of the conspiracy with A2 to A8 and other cheated the IOB, Palayamkottai Branch in the matter of sanctioning open cash credit term loan, vehicle loan by wilful violation of all bank norms, without proper credit analysis for consideration by abusing his official position and caused loss of Rs.2,42,37,431 to the bank including interest. The allegations against all the



WEB COPY

accused persons have been clearly substantiated through the investigation and A1 conspired with other accused A2 to A8 by abusing his official position and by corrupt illegal means, sanctioned Rs.80,00,000/- cash credit limit to a fictitious / non-existence firm M/s.Kannabiran Packing Industries violating the norms and guidelines of the bank thereby obtained pecuniary advantage to the accused persons A1 to A8, which was misused by them, resulting in wrongful loss to the tune of Rs.1,26,91,515/- as on 31.05.2011 to the Indian Overseas Bank and corresponding wrongful gain to the accused persons A1 to A8. The trial Court has considered all the materials and the documents and discussed in detail about the role played by the accused, found guilty and convicted the accused. Therefore, he objects to suspend the sentence pending the appeal.

7.This Court considered the rival submissions made and perused the materials placed on record.

8.The petitioner A1 was the Chief Manager of IOB. A6 Mohan Raj in his capacity as partner of the firm has signed in the loan application on 15.07.2008 even before registration of the firm under the Partnership Act. Thereafter, the firm was registered only on 16.07.2008. This petitioner being the Chief Manager of IOB through Ex.P23 has made recommendation to the Regional Office for their approval and clearance. The Regional Office has approved loan of vide Ex.P.36 and Ex.P51 and on

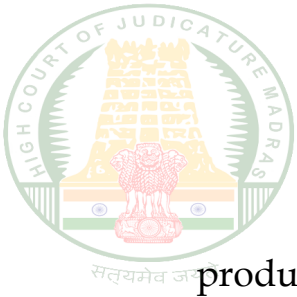


WEB COPY

21.07.2008. While so on 22.01.2008 a new partner was inducted and the petitioners / A5 and A6 had retired from the partnership firm. Though the petitioners claim that they retired from partnership firm, it was not done by following the procedures contemplated under the Partnership Act and it was not communicated to the Bank.

The trial Court has in its judgment has observed as follows:

“148.Considering the above facts and discussions, the prosecution has clearly proved that A1 has committed the offence of conspiracy, and in pursuance of the criminal conspiracy, violation of banking norms A1 has accepted the partnership of A5 to A7 entered between as partners of Sri Kannabiran Packing Industries and accepted the MOD of title deed without the original sale deed document NO.1066 of 2006 and without getting the signature of 2nd line Manager and in order to avoid of fraud of non deposit of original sale deed A1 facilitated to grant loan in the name of A5, A6, A7 and has not verified the stock statement of Kannabiran Packing Industries and has not produced the rental agreement which was not executed by the owner of the property and allowed the transfer of amount within one week from the sanction of the loan and further A1 allowed the reconstitution of the partnership firm and allowed the subsequent collateral security

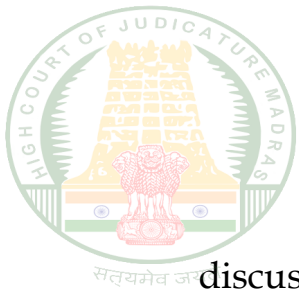


WEB COPY

produced by Sri Parvathy and permitted the release of A5, A6 from the partnership firm and accepted the collateral security document on 14.04.2009 after the sanction of loan in the name of Sri Kannabiran Packing Industries. Further A1 permitted the withdrawal of Rs.15 lakh over the cash credit limit from the Sri Kannabiran Packing Industries and thereby causing a huge loss of Rs.1,26,91,515/- as on 31.05.2011. Therefore, A1 in collusion with the borrowers and cheated the bank and causing the wrongful loss to the bank and corresponding wrongful gain to themselves.

164. Considering the above document produced by the prosecution it is clear that A1, Ad, deceased A4,A5 to A7 have conspired together and produced the documents with intention to cheat the bank and obtain a loan of Rs.80 lakh in the name of Sri Kannabiran Packing industries and wilfully dishonestly A1 has accepted the false document as genuine documents and prepared the office note for sanction of loan and permitted the withdrawal of entire loan amount within 7 days and also admitted the cash withdrawals of Rs.15 lakh exceeding the cash credit limit of Rs.80 lakh.

175.Considering the written arguments, all the facts and



WEB COPY

discussions made above, this Court is of the view that PW1 is the competent person to accord sanction in this case and the contention raised by A1 is unsustainable. Considering the evidence of Tr.Chellappa, Tr.Mohan, Tr.Selvaraj, Tr.Gopal and investigating officer Tr.Sivasankaran, this Court is of the view that A1 being the Chief Manger of IOB, Palayamkottai Branch, during 2007 to 2010, A1 has involved in the offences under Sections 120-B r/w 471, 420 IPC, 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988, 471 IPC, 420 IPC and 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988"

9.The trial Court has elaborately discussed about the role played by the accused in its judgment. Therefore, this Court is not inclined to entertain these petitions to suspend the sentence pending the appeal. Accordingly, these petitions are dismissed.

sd/-
07/03/2025

/ TRUE COPY /

/03/2025
Sub-Assistant Registrar (CS-I/II/III/IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

DSK
TO

1 THE II ADDITIONAL DISTRICT JUDGE, FOR CBI CASES, MADURAI.



2 THE INSPECTOR OF POLICE, SPE.CBI.ACB.CHENNAI.

WEB COPY

3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. C.C. to K.Samidurai, Advocate SR.No. 2437(I) dated 05/03/2025

ORDER

IN

CRL MP(MD) Nos.2706 and 2783 of 2025

Date :07/03/2025

NBF / VR /SAR- (17/03/2025) 9P/5C

Madurai Bench of Madras High Court is issuing certified copies in this format from
17/07/2023