BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on	:	02.08.2024
Pronounced on	:	04.03.2025

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

CRL.A(MD).Nos.129, 111 and 164 of 2019

Crl.A.(MD).No.129 of 2019:

G.Varadarajan ... Appellant

Vs.

State By
The Deputy Superintendent of Police,
CBI:SPE:ACB, Chennai,
RC MA1 2009 A 0008 ... Respondent

PRAYER: This Criminal Appeal is filed under Section 374(2) of Cr.P.C. to call for the records and to set aside the judgment passed in C.C.No.6 of 2010 dated 15.03.2019 on the file of the II Additional District Court for CBI Cases, Madurai.

For Appellant : Mr.N.Sankar Ganesh

For Respondent : Mr.C.Muthusaravanan,
Special Public Prosecutor for CBI cases

Crl.A(MD).No.111 of 2019:

S.Karthika ... Appellant

Vs.

The Deputy Superintendent of Police,
CBI: SPE: ACB, Chennai,
RC MA1 2009 A 0008 ... Respondent

PRAYER: This Criminal Appeal is filed under Section 374(2) of Cr.P.C. to call for the records and set aside the conviction and sentence made in C.C.No.6 of 2010 on the file of the II Additional District Court for CBI Cases, Madurai by virtue of judgment dated 15.03.2019.

For Appellant : Mr.Rupert J Barnabas
for Mr.N.Tamilmani

For Respondent : Mr.C.Muthusaravanan,
Special Public Prosecutor for CBI cases

Crl.A(MD).No.164 of 2019:

S.Murugesan ... Appellant

Vs.

The Deputy Superintendent of Police,
CBI:SPA:ACB, Chennai,
RC MA1 2009 A 0008 ... Respondent

PRAYER: This Criminal Appeal is filed under Section 374 of Cr.P.C. to call for the records and set aside the conviction and sentence passed in C.C.No.6 of 2010 dated 15.03.2019 by virtue of judgment passed by the learned II Additional District Court for C.B.I. Cases, Madurai, as against the appellant.

For Appellant : Mr.R.John Sathyan, Senior Counsel for Mr.T.Balakrishnan

For Respondent : Mr.C.Muthusaravanan, Special Public Prosecutor for CBI cases

COMMON JUDGMENT

Since these criminal appeals are arising out of the same crime, these cases are taken up for hearing together and disposed of by way of this common judgment.

2.Accused No.1, 3, 4 have filed these appeals challenging the following conviction and sentence imposed by the learned II Additional District Judge for C.B.I. Cases, Madurai, in C.C.No.6 of 2010 by virtue of judgment dated 15.03.2019 against them:

Appeal No.	*Accused Name and Number*	*Convicted Offence*	*Punishment imposed by the learned Trial Judge*

129/2019	Varadarajan (A1)	u/s120-B r/w420IPC	Rigorous Imprisonment for 7 years and to pay a fine of Rs.10,000/-in default to undergo Simple Imprisonment for One Year;
		u/s120-B r/w467IPC	Rigorous Imprisonment for 10 years and to pay a fine of Rs.10,000/-in default to undergo Simple Imprisonment for One Year;
		u/s120-B r/w468IPC	Rigorous Imprisonment for 7 years and to pay a fine of Rs.10,000/-in default to undergo Simple Imprisonment for One Year;
		u/s120-B r/w471IPC	Rigorous Imprisonment for 7 years and to pay a fine of Rs.25,000/-in default to undergo Simple Imprisonment for One Year;
		u/s120-B r/w477-AIPC	Rigorous Imprisonment for 7 years and to pay a fine of Rs.10,000/-in default to undergo Simple Imprisonment for One Year;
		u/s120-B r/w 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988.	Rigorous Imprisonment for 7 years and to pay a fine of Rs.10,000/-in default to undergo Simple Imprisonment for One Year;
		u/s120-B r/w Section 66 of Information Technology Act, 2000.	Rigorous Imprisonment for 2 years and to pay a fine of Rs.1,00,000/- in default to undergo Simple Imprisonment for Six Months.
		u/s420 IPC	Rigorous Imprisonment for 7 years and to pay a fine of Rs.10,000/-in default to undergo Simple

164/2019	S.Murugesan(A3)	u/s120-B r/w420IPC	Rigorous Imprisonment for 7 years and to pay a fine of Rs.10,000/-in default to undergo Simple Imprisonment for One Year;
		u/s120-B r/w467IPC	Rigorous Imprisonment for 10 years and to pay a fine of Rs.10,000/-in default to undergo Simple Imprisonment for One Year;
		u/s120-B r/w468IPC	Rigorous Imprisonment for 7 years and to pay a fine of Rs.10,000/-in default to undergo Simple Imprisonment for One Year;
		u/s120-B r/w471IPC	Rigorous Imprisonment for 7 years and to pay a fine of Rs.25,000/-in default to undergo Simple Imprisonment for One Year;
		u/s120-B r/w477-AIPC	Rigorous Imprisonment for 7 years and to pay a fine of Rs.10,000/-in default to undergo Simple Imprisonment for One Year;
		u/s120-B r/w 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988.	Rigorous Imprisonment for 7 years and to pay a fine of Rs.10,000/-in default to undergo Simple Imprisonment for One Year;
		u/s120-B r/w Section 66 of Information Technology Act, 2000.	Rigorous Imprisonment for 2 years and to pay a fine of Rs.1,00,000/- in default to undergo Simple Imprisonment for Six Months.

		u/s420 IPC	Rigorous Imprisonment for 7 years and to pay a fine of Rs.10,000/-in default to undergo Simple Imprisonment for One Year;
		u/s467 IPC	Rigorous Imprisonment for 10 years and to pay a fine of Rs. 10,000/-in default to undergo Simple Imprisonment for One Year;
		u/s468 IPC	Rigorous Imprisonment for 7 years and to pay a fine of Rs.10,000/-in default to undergo Simple Imprisonment for One Year;
		u/s471 IPC	Rigorous Imprisonment for 7 years and to pay a fine of Rs.25,000/-in default to undergo Simple Imprisonment for One Year;
		u/s477-AIPC	Rigorous Imprisonment for 7 years and to pay a fine of Rs.10,000/-in default to undergo Simple Imprisonment for One Year;
		u/s66 of Information Technology Act, 2000.	Rigorous Imprisonment for 2 years and to pay a fine of Rs.1,00,000/-indefault to undergo Simple Imprisonment for Six Months.
		u/s.13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988.	Rigorous Imprisonment for 7 years and to pay a fine of Rs.10,000/-in default to undergo Simple Imprisonment for One Year;

		Total Fine	Rs.3,50,000/-
111/2019	S.Karthika(A4)	u/s120-B r/w420IPC	Rigorous Imprisonment for 7 years and to pay a fine of Rs.10,000/-in default to undergo Simple Imprisonment for One Year;
		u/s120-B r/w467IPC	Rigorous Imprisonment for 10 years and to pay a fine of Rs.10,000/-in default to undergo Simple Imprisonment for One Year;
		u/s120-B r/w468IPC	Rigorous Imprisonment for 7 years and to pay a fine of Rs.10,000/-in default to undergo Simple Imprisonment for One Year;
		u/s120-B r/w471IPC	Rigorous Imprisonment for 7 years and to pay a fine of Rs.25,000/-in default to undergo Simple Imprisonment for One Year;
		u/s120-B r/w477-AIPC	Rigorous Imprisonment for 7 years and to pay a fine of Rs.10,000/-in default to undergo Simple Imprisonment for One Year;
		u/s120-B r/w 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988.	Rigorous Imprisonment for 7 years and to pay a fine of Rs.10,000/-in default to undergo Simple Imprisonment for One Year;
		u/s120-B r/w Section 66 of Information Technology Act, 2000.	Rigorous Imprisonment for 2 years and to pay a fine of Rs.1,00,000/- in default to undergo Simple Imprisonment for Six Months.

		u/s420 IPC	Rigorous Imprisonment for 7 years and to pay a fine of Rs.10,000/-in default to undergo Simple Imprisonment for One Year;
		u/s467 IPC	Rigorous Imprisonment for 10 years and to pay a fine of Rs. 10,000/-in default to undergo Simple Imprisonment for One Year;
		u/s468 IPC	Rigorous Imprisonment for 7 years and to pay a fine of Rs.10,000/-in default to undergo Simple Imprisonment for One Year;
		u/s471 IPC	Rigorous Imprisonment for 7 years and to pay a fine of Rs.25,000/-in default to undergo Simple Imprisonment for One Year;
		u/s477-AIPC	Rigorous Imprisonment for 7 years and to pay a fine of Rs.10,000/-in default to undergo Simple Imprisonment for One Year;
		u/s66 of Information Technology Act, 2000.	Rigorous Imprisonment for 2 years and to pay a fine of Rs.1,00,000/-indefault to undergo Simple Imprisonment for Six Months.
		Total Fine	Rs.3,40,000/-

3.Brief facts of the Case:

Appellant in Crl.A.(MD).No.129 of 2019 was arrayed as A1 in C.C. No.6 of 2010. Appellant in Crl.A.(MD).No.164 of 2019 was arrayed as A3 in C.C.No.6 of 2010. Appellant in Crl.A.(MD).No.111 of 2019 is arrayed as A4 in the above C.C.No.6 of 2010. A1, A3 and one deceased G.Thimmaraya Perumal were the staff of Vedasandur sub Post Office, Dindigul District, Tamil Nadu. A4 was working as a postal agent of Mahila Pradhan Kshetriya Budgeti Yojana (MPKBY) in the said post office. During the months of July 2007 to November 2008, they entered into conspiracy to cheat the postal department and defraud the amount of Rs. 91,22,684/- of postal department. In furtherance of the conspiracy, they made bogus entry of deposit by showing enhanced amount in the RD Ledger in the computer server and further manipulated the entries in the passbooks of depositors to the extent of Rs.91,22,684/- and on the basis of the false entry, they submitted withdrawal slips with inflated amount and withdrew the amount of Rs.88,97,152/- out of Rs.91,22,684/- and thereby caused wrongful loss to the postal department and wrongful gain to themselves. Therefore, the CBI registered the case and conducted the investigation and filed the final Report against the appellants and the deceased accused Thimmaraya Perumal for the following various offences:

Varadarajan (A1)	u/s120-B r/w420IPC
	u/s120-B r/w467IPC
	u/s120-B r/w468IPC
	u/s120-B r/w471IPC
	u/s120-B r/w477-AIPC
	u/s120-B r/w 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988.
	u/s120-B r/w Section 66 of Information Technology Act, 2000.
	u/s420 IPC
	u/s467 IPC
	u/s468 IPC
	u/s471 IPC
	u/s477-AIPC
	u/s66 of Information Technology Act, 2000.
	u/s.13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988.
S.Murugesan(A3)	u/s120-B r/w420IPC
	u/s120-B r/w467IPC
	u/s120-B r/w468IPC
	u/s120-B r/w471IPC
	u/s120-B r/w477-AIPC
	u/s120-B r/w 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988.
	u/s120-B r/w Section 66 of Information Technology Act, 2000.
	u/s420 IPC
	u/s467 IPC

	u/s468 IPC
	u/s471 IPC
	u/s477-AIPC
	u/s66 of Information Technology Act, 2000.
	u/s.13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988.
S.Karthika(A4)	u/s120-B r/w420IPC
	u/s120-B r/w467IPC
	u/s120-B r/w468IPC
	u/s120-B r/w471IPC
	u/s120-B r/w477-AIPC
	u/s120-B r/w 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988.
	u/s120-B r/w Section 66 of Information Technology Act, 2000.
	u/s420 IPC
	u/s467 IPC
	u/s468 IPC
	u/s471 IPC
	u/s477-AIPC
	u/s66 of Information Technology Act, 2000.

3.1.A2 died during the pendency of the trial, and the learned trial Judge summoned the accused and on their appearance, copies under Section 207 Cr.PC., were served to them and proper charges were framed and explained to the accused and they pleaded not guilty and they stood for trial.

3.2.The prosecution examined P.W.1 to P.W.64 and Exhibited Ex.P. 1 to Ex.P.461 and M.O.1 was marked. The learned trial Judge questioned the accused under Section 313 Cr.P.C., by putting the incriminating material available against them. They denied as false and A4 examined herself as DW.2 and DW1 also was examined on the side of the defence and they marked Ex.D.1 to Ex.D.3. The learned trial Judge considering all all evidence, convicted the appellants under the above said offences and sentenced them to undergo the above stated sentence of imprisonment by passing the impugned judgment in C.C.No.6 of 2010 dated 15.03.2019. Challenging the same, the appellants have filed these appeals.

4.**The learned counsel for the appellants, namely, ThiruN.Sankar Ganesh, Thiru.Rupert J Barnabas, Thiru.R.John Sathyan, Senior Counsel for Mr.T.Balakrishnan submitted the following common argument**:

4.1. The Substratum of the prosecution case rests on the electronic evidence, namely, the Ex.P.323, Ex.P.330, Ex.P.333, Ex.P268, Ex.P269 and they were produced without certificate under Section 65(B)(4) of the Indian Evidence Act and therefore, they are inadmissible. But, the learned trial Judge placed reliance on the said documents and hence, the conviction passed on the basis of the said inadmissible documents is liable to be set aside.

4.2. There is no legal evidence to prove the conspiracy. The prosecution has not established any circumstnaces either to infer or presume the charge of conspiracy.

4.3. It is specific case of the prosecution that a fraudulent entry was made in the post office in "*SQL server system*" and on the basis of the fraudulent entries, the amount was defrauded. The learned counsel would submit that as per the "*SQL Server System*", if any amount taken is above Rs.20,000/- the same would automatically reflect in the head office. There was no investigation in this aspect. According to the learned counsel, without active participation of the officials in the District Head Office, the huge fraud would not have happened. Therefore, to safeguard the higher officials, the investigating agency filed the final report only against the appellants with suppression of the material facts. Hence, there is no fair investigation and therefore, the appellants are entitled to acquittal.

5.**After making the above submissions in elaborate manner, the learned Senior Counsel Thiru. R.John Sathyan appearing for the appellant in Crl.A.(MD).No.164 of 2019/S.Murugesan/Accused No.3 made the additional following submissions:**

5.1.A3 joined as a Postal Assitant in Vedasandhur Post Office only on 22.05.2008 and before that there were similar transactions and hence, he followed the same procedure and hence, he has no criminal intention to cheat the postal department. He only made 14 transactions, that too on the basis of the procedure followed earlier by the postal assitant by name Thimaraya Perumal. Further, there is no material to prove his criminal intention in the above said transaction. Therefore, he seeks for acquittal.

6.**The learned counsel Thiru.N.Sankar Ganesh, appearing for the appellant in Crl.A.(MD).No.129 of 2019 made the following submissions:**

6.1.The appellant/A1 was the Sub-Post Master at the time of the occurrence and he has no knowledge about the computer operation and therefore, A4 was allowed to operate the computer. He found the misappropriation and sent the complaint to the Head Office on 22.11.2008 and hence, he was whistle blower and he was wrongly added as accused.

P.W.50 has taken a contra stand that the third accused alone was the whistle blower. He would also submit that one Arumugam, Supervisor of saving bank controller organisation originally arriagned as accused in the FIR was subsequently deleted and hence no fair investigation was conducted and the CBI wrongly filed the final report against the wrong person, namely, the appellants.

6.2.The postal department conducted audit and in the said audit, there was no reference about the alleged misappropriation and also the investigating agency did not conduct any investigation about the internal investigation committee report and started investigation on the source information.

6.3.The learned counsel would also submit that the hand writing experts opinion can not be sole basis for conviction of the accused without any other corroborative material and he also relied catena of Hon'ble Supreme Cout judgments to substantiate the said contention. The learned counsel would also further sbumit that this appellant has no knowledge about the misappropriation and the depositors are not required to meet the post master for closure of the account and withdrawal. The sanctioning authority has not applied his mind and vital documents were not placed before him and hence, the sanction is not valid. He also placed reliance on the judgment of the Hon'ble Supreme Court in the case of ***Sudhdeo Jha Utpal vs. The State of Bihar*** reported in AIR 1957 SC 466 and submitted that there was no evidence adduced to show that he derived the pecuniary advantages out of the conspiracy and also submitted that mere lapse of the procedure will not attract offence under Section 120 B of IPC. He also submitted that the appellant gave a detailed written explanation during the course of the questioning under Section 313 of Cr.P.C., and the same was not properly considered and finally he submitted that he is retired army man and joined the post office and he strictly adhered to the rules and he has not committed any offence. Therefore, he seeks for acquittal and return of the fine amount and the deposited amount. He relied the following precedents:

(i)In the case of ***Kanchansingh Dholaksingh Thakur Vs. State of Gujarat*** reported in ***1979 4 SCC 599***

(ii)In the case of ***Habeeb Mohammad vs State of Hyderabad*** reported in ***1954 AIR SC51***

(iii)In the case of ***C.Chenga Reddy and others vs State of Andhra Pradesh*** reported in ***1996 SCC (Cri) 1205*** (iv)In the case of ***Anvar P.V. vs. P.K.Basheer*** reported in ***2014 10 SCC 73***

(v)In the case of ***Magan Bihari Lal vs. The State of Punjab*** reported in ***1977 2 SCC 10***

(vi)In the case of ***Anil Kumar Bose vs. State of Bihar*** reported in ***1974 4 SCC 616***

(vii)In the case of ***Arjun Panditrao Khotkar vs. Kailash Kushanrao Gorantyal and others*** reported in ***2020 AIR SC 4908***

7.**Thiru.Rupert J Barnabas learned counsel appearing of the appellant/A4 in Crl.A.(MD).No.111 of 2019 made the following submissions:**

7.1.The charge of conspiracy without date and time is not in consonance with Section 216 of Cr.P.C., and hence, without time and the place of conspiracy, the conviction under Section 120-B of IPC is not legally maintainable. The prosecution has failed to prove the offence under Section 477 (A) of IPC against the appellant. Section 477 (A) of IPC is applicable only to the employee of the postal department and it is not applicable to the appellant. He also submitted that the offence under

Section 468 of IPC relating to the use of the password of Seetha is not proved by the prosecution and hence, the offence under Section 468 of IPC is also not made out. There was no evidence adduced to prove that this appellant either fraudulently or dishonestly used the forged documents. Some of the witnesses, namely, the independent depositors admitted that they received the major part of the amount. In the said circumstances, the charge of misappropriation is not made out against the appellant. The prosecution has not come up with clear number of the defrauded account of RD. In one place, it is stated 40 RDs and in another place they reduced the number to 29, without the specific numbers of the forgery of RD, the offence is not duly proved against the appellant. The learned counsel also would submit that some of the witnesses are tutored witnesses and hence, they are liable to be disbelieved. In the postal department, there is a rule that if the maturity account is more than a sum of Rs.20,000/-, the due permission ought to be obtained from the head office, when the huge maturity amount was mentioned in the credit of A4 account, the duty of the first accused is to reject the claim of the appellant. Therefore, the investigation was not properly done by impleading the officials from the head office. Hence, he seeks acquittal.

7.2.The learned counsel would also submit that the conviction on the basis of the hand writing expert opinion alone is not legally sustainable without any corroborative evidence. He also relied the evidence of D.W.2 ie, A4 and the same was not properly considered by the learned trial Judge. She was aged about 20 years at the time of joining as postal agent and she was not the servant of the postal department and she only acted as agent for the recovery of RD amount and re-deposit the same in the post office. In the said circumstances, she handed over the withdrawal slips to the remaining accused and they without utilized the same withdrew the amount from her account. Therefore, he seeks for acquittal. To substantiate his contention, he placed the following precedents:

(i)In the case of ***Gangadhar Janardan Mhatre vs. State of Maharashtra and others*** reported in ***2004 7 SCC 768***

(ii)In the case of ***State of Kerala vs. P.Sigathannd another*** reported in ***2001 1 LW (Crl) 243***

(iii)In the case of ***Ram Sharan Chaturvedi vs. State of Madhya Pradesh*** reported in ***2022 (4) SCC 96***

8.Submission of the Learned Special Public Prosecutor:

The learned Special Public Prosecutor would submit that in the charge there is a clear mentioning about the period of the conspiracy. The investigating agency collected the materials relating to the said period of conspiracy mentioned in the charge. When the misappropriation runs from the date mentioned in the final report, it is immaterial to mention about the date of the conspiracy and place of conspiracy. When the evidence adduced by the prosecution clearly proved the falsification of the documents and withdrawal amount on the basis of the false records and consequently cheating, the plea of the learned counsel that there was no mentioning of the place of the conspiracy is not legally correct.

9. Whether it is 40 forged RD or 29 forged RD, the same is not material, when there is a misappropriation of the huge amount of Rs. 88,97,152/-. Among the fourty fraudulent credits, thirty three credits were made in A4's account and remaining 7 credits were made in the name of family members of A4 and one Balasubramaniam. But the said amount was withdrawn by A4. But, A4 took a stand that the said amount was withdrawn by the other accused and she handed over the blank withdrawal

slips to the remaining accused. To prove the same, no evidence was adduced on the side of A4/Karthiga. The said plea was false one. The handwriting Expert's Opinion clearly proved that the writing of the words in the withdrawal slips also the handwriting of A4. Therefore, the appellant took a false plea before this Court. It is not the case of the appellant, that she never used the computer of the post office. It is the specific case of number of accused and number of the prosecution witnesses, she only handled the computer. In the said circumstances, there is no necessity to prove the pass word used by A4. She has not denied the said operation of the computer and even in her evidence she did not dispute the same. Therefore, the submission that the prosecution has not proved the charge against appellant/A4 is not correct.

10.The contention of the learned counsel for the appellant that the prosecution has not adduced evidence to prove the forgery and the cheating by the appellant is not correct. The prosecution adduced both oral and documentary evidence to prove that the appellant committed forgery of the document and also misappropriate the amount of the postal department. RD Book was in the custody of A4. In the said circumstances, she must explain alteration in the RD books and the amount of withdrawal on the basis of the altered amount. But she has not given any explanation in this aspect, either during questioning under Section 313 of Cr.P.C., or in her evidence while she was examined as DW2. Some of the witnesses deposed that they received the maturity amount. According to the said witnesses they received the maturity amount, but, they have not received the actual defrauded amount. According to the learned Special Public Prosecutor, they admitted only the receipt of their maturity amount. They have no knowledge about the looting of the amount through the withdrawal slips. Therefore, the offences punishable under Sections 468 and 471 are clearly proved. The submission of the learned counsel that Section 477-A of IPC is not attracted against the appellant can not be accepted since she was acting as a postal agent and the specific word employed under Section 477-A of IPC is concerned, she was acting as postal agent and she received the commission for the deposit made under the RD. Therefore, she comes under any of the category of the officer stated under Section 477-A of IPC. The contradiction brought by the learned counsel for the appellant is immaterial when the case of the prosecution was proved through the documentary evidence apart from that the contradiction has not materially affected the evidence of the witnesses.

11.The conspiracy charge was proved against all the accused beyond reasonable doubt. As per the larger bench decision of the Hon'ble supreme Court in the case of Arjun Panditrao Vs. Kailash Kushan Rao Gorantyal and others reported in 2020 (7) SCC 1. when the CBI seized the original hard disk, the compliance of Section 65 B of the Indian Evidence Act is not necessary. The case of the accused that there is a possibility of high level officer would have been involved on the ground that whenever there is a withdrawal of amount more than a sum of Rs.20,000/- the same would reflect in the head office system is not correct. As per the evidence of prosecution, the head office was not connected to the computerised system on the date of the occurrence. In all aspect, the prosecution proved the case beyond reasonable doubt.

11.1. The question which araises in this appeal is whether the learned trial judge is correct in convicting the appellants for the charged offences holding that prosecution proved the case beyond reasonable doubt?

A4 was the postal agent of Vedasandur Sub Post office. A1 was the sub post master of the said post office. A2 was postal assistant of the said post office and he died during the trial. A3 was also postal assistant of the said post office. A4 was appointed as agent of Mahila Pradhan Kshetriya Budgeti Yojaja (MPKBY) vide certificate No.88/2002-2003, dated: 11.07.2002 issued by the PA to collector, Dindigul for 5 years. Thereafter, the same was extended to a further period. After the extension, A1, A2, A3, A4 conspired together to cheat the postal department and fraudulent altered the monthly denomination of the 40 RD ledger accounts in the computer server of Vedasandur Post Office and caused wrongful loss to the department and cheated the department of post by dishonestly inducing to deliver a sum of Rs.88,97,152/- during the period between 11.07.2007 and 22.10.2008. 40 persons have opened recurring deposits in Vedasandur Sub Post Office. As per the terms, they have to deposit some amount every month. A4 and other postal agents collected the said amount and deposited with post office account. Upto to the year 2006, the same was made manually. Thereafter the manual process changed into computerization. In the said process, fraudulent denomination was made in the computer ledger. Corresponding fraudulent entries were made in the individual pass book. All the disputed individual pass books were in the custody of A4. At the time of the opening the recurring deposit, A4 had the habit of obtaining the signature in the withdrawal slips also. After the maturity period, on the basis of the above forged entry, A4 submitted various withdrawal slips with inflated amount by writing a different amount and other particulars. She also subscribed her signature as a messanger. The said withdrawal slips were accepted and acted by A1, A2, A3. On the basis of their approval, the corresponding amount was transferred to the savings accounts of A4 and her brother, sister and mother. A4 received the said amount and disbursed the eligible amount to the individuals and misappropriated the balance amount and thereby caused wrongful loss to the department of Rs.88,97,152/-. The details of amount misappropriation as follows :

Sl. No.	RDA/c No.	Name	Amount misappropriated
1	500725	A. Kokilam	92,114
2	500726	M.Vijayakumar	93,804
3	500728	S. Sivaramaprasad	1,00,210
4	500746	T.Indumathi	1,50,073
5	502346	R. Krishnan	1,65,239
6	261751	C. Jeyanthi	80,472
7	500861	P. Revathi	1,35,227
8	500872	R. Kanchana	94,378
9	500910	N. Mohan	67,614
10	500920	P.Sivasubramanian	90,941
11	501292	S. Shanmugam	3,76,615
12	501293	S. Shanmugam	3,78,722
13	262295	Palaniammal	1,98,472

14	501476	I. Lourduraj	3,82,311
15	501615	R.Amutha	3,80,382
16	502568	A.R. Perumal	2,95,188
17	502948	K. Mallika	2,86,503
18	262679	S. Manavalan	1,93,918
19	502710	M. Sakkubai	3,14,992
20	502386	A. Kohilam	3,20,411
21	502923	G.Tharsius	3,08,391
22	503149	S. Chinnaiyan	2,96,169
23	501981	G. Mahalingam	3,66,101
24	502032	P. Pazhaniammal	3,64,633
25	502033	M. Eswari	3,64,511
26	502034	A. Perumalsamy	3,64,572
27	502038	M. Saraswathi	3,64,450
28	502039	C.Vijayasankar	3,65,706
29	502040	Seerangayee	3,64,572
30	502041	A. Kaliammal	3,64,693
31	262956	K.Angammal	1,75,903
32	263073	K. Jothimani	45,196
33	262479	R. Manomani	1,22,576
34	262869	A.Suseela	1,77,200
35	263565	P. Indirani	1,86,187
36	262680	A.Angamuthu	2,06,784
37	260574	Sasikumari	1,30,477
38	502893	M. Porgia	1,31,445
		Total	88,97,152/-

11.2. During the process, all the accused made unauthorized withdrawals from RD A/cs dishonestly. They forged the A/C holders withdrawal forms with inflated amount more than the eligible amount. To suit the same they dishonestly enhanced the denomination in the SB-3 (application for opening an A/c) and dishonestly prepared revised SB-3 (new application for opening an A/c). To match the same, they also made manipulations in the RD ledger in the computer server and made bogus entries of deposit in the server of the Vedasandur post office and inflated the denominations of RD A/cs. Finally, they used the said forged entry as genuine and transferred the amount through forged withdrawal form to the account of A4. In the account of A4, 33 such fraudulent payments had been made and 7 fraudulent payments made in the account of A4's sister, brother, mother and one Balasubramanian and remaining two instances were paid in cash. The prosecution proved the same through examination of the depositors, handwriting experts, postal officials and through the electronic evidence, the forged records.

11.3. The accused were dealing with public money and each of them is required to take necessary steps to protect and safeguard public money with utmost integrity, honesty, devotion and diligence. They have to exercise high standards of honesty and integrity. Post office saving scheme aims to encourage the saving habit of downtrodden people. In this type of cases, conduct of accused in swindling huge amount demoralizes the mind of depositor and would create mistrust in them to believe the postal agent, postal department officials. Greed of the appellants had been continued till the stage of swindling more than amount of Rs.88,97,152/-. According to Supreme Court in the case 1994 (1) SCC 1 "S.P.Chengalvaraya Naidu"

> *"A fraud is an act of deliberate deception with the design of feuding something by taking unfair advantage of another. It is a deception in order to gain by another's loss. It is cheating intended to set an advantage".*

11.4. The said fraudulent act of white colour criminals are executed in calculated manner. The conspiracy in this type of white collar crime is proved through established circumstance on evidence. i.e. in this type of organized crime, prosecution is not expected to prove the case through the oral evidence pointing out each overt act. The conspiracy between the above accused is proved through collective activity and individual activity. When the prosecution evidence has clearly established the material circumstances against each accused and all the material circumstances completed the chain of circumstances, all the accused are collectively liable for conviction for all the offences. It is settled principle that it is not necessary that all the accused are to be involved in each of the circumstances. In this aspect it is relevant to note the following judgments of the Hon'ble Supreme Court:

11.5. In the case of State of Maharashtra v. Som Nath Thapa, reported in (1996) 4 SCC 659 :

"24. .... In some cases, intent of unlawful use being made of the goods or services in question may be inferred from the knowledge itself. This apart, the prosecution has not to establish that a particular unlawful use was intended, so long as the goods or service in question could not be put to any lawful use. Finally, when the ultimate offence consists of a chain of actions, it would not be necessary for the prosecution to establish, to bring home the charge of conspiracy, that each of the conspirators had the knowledge of what the collaborator would do, so long as it is known that the collaborator would put the goods or service to an unlawful use."

11.6. The Hon'ble Supreme Court in the case of Ram Narayan Popli vs. Central Bureau of Investigation reported in 2003 3 SCC 6341 has held as follows:

"The essence of a criminal conspiracy is the unlawful combination and ordinarily the offence is complete when the

combination is framed. Law making conspiracy a crime is designed to curb immoderate power to do mischief which is gained by a combination of the means. The encouragement and support which coconspirators give to one another rendering enterprises possible which, if left to individual effort, would have been impossible, furnish the ground for visiting conspirators and abettors with condign punishment".

11.7. In the case of Aravind Singh Vs. State of Maharashtra reported in 2021 (11) SCC 1, the Hon'ble Three Judges Bench considered the entire gamut of conspiracy and has held that

> "It is not necessary that all conspirators should participate from the inception to the end of the conspiracy. Some may joint that conspiracy after the time when such intention was first entertained by any one of them".

11.8. In the case of Harihar Prasad, Etc, vs. State of Bihar reported in 1972 3 SCC 89 it is held:

> "Secrecy, it was said, is the badge of conspiracy. Openness destroys the evidence as to the conspiracy. All the

transactions, it was stated, were opened. That this submission is not correct is evidence from the efforts which had to be made and the mass of evidence which had to be called to disprove one document only, ie., the proceedings of April 9, 1957. The accused persons tried to keep the veil of secrecy. This continued until the very weight of the wrongful acts the veil was split and the conspiracy was out".

11.9. From the above it is clear that the prosecution clearly proved the conspiracy among the accused to defalcate the amount of postal department in fraudulent manner by creating forged entries in the RD Book of each individual and also in the computer of the post office and fraudulently taken the amount by making false description about the amount and shipponed off of the amount by making credit in A4's account from the account of the each individuals RD holder. Therefore the role of the all accused is clearly proved through documents and oral evidence.

11.10. In the case of larger conspiracy, if the involvement of the conspirator in any one of the events of the chain is proved they are liable to be convicted. The said principle has been reiterated in catena of cases of

Hon'ble Supreme Court, Ram Narayan Popli Vs. CBI 2003 (3) SCC 634 2021 (11) SCC 1 Aravind Singh Vs. State of Maharashtra 1996 (4) SCC 659 – "Yash Pal Mittal Vs. State of Punjab reported in 1977 (4) SCC 450 "Ajay Aggarval case reported in 1993 (3) SCC 609 Nalini Case, Somnath Thappa Case, 1996 (4) SCC 659, 2021 (11) SCC 1, 2003 (3) SCC 634, 2009 (11) SCC 737, the following principles are made clear.

(i) Criminal Conspiracy is an independent offence

(ii) Criminal conspiracy can be proved on the basis of circumstantial evidence

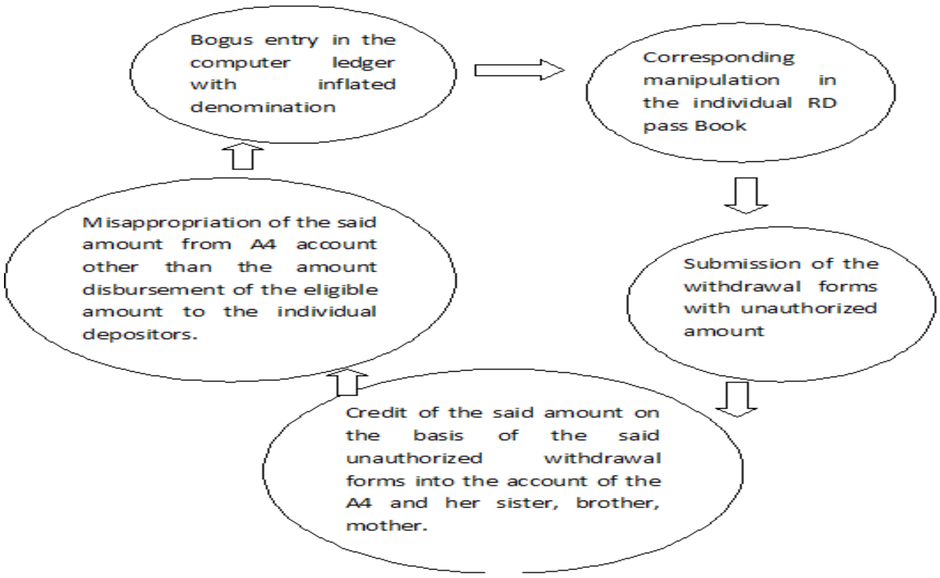
(iii) It can be also presumed by necessary implication

11.11. What is relevant is that all means adopted and illegal acts done must be and purported to be in achieving the object of the conspiracy.

11.12. It is not necessary for the prosecutor to establish, to bring home the charge of conspiracy that the each of conspirators had knowledge of what the collaborator would do, so long as it is known that the act is unlawful.

11.13. In this case, prosecution clearly proved the following chain of circumstances through evidence of the depositors, handwriting expert and the postal department officials:

12. Chain of circumstances:-



12.1. All the accused have acted in calculated manner in deceiving the postal department by making fraudulent representation in the withdrawl slip and cheated the amount of Rs.88,97,152/- approximately as stated in the charge. In this aspect it is relevant to recapitulate the words of the Hon'ble Justice Subba Rao(As he then was) stated in the case of State Vs. K.M.Vedantham reported in AIR 1952 Mad 183:

Deceiving generally is to lead into error by causing to believe what is false or to disbelieve what is true. If A makes a *representation to B intending to deceive B and B acts upon that representation, B may be said to be deceived by A. If A makes that representation which induces B to lend money to him who has no intention of repaying it to A, the offence of cheating is complete....*

12.2. The deception will not be in express term and both fraudulent and dishonest intention at the inception is usually drawn from entire circumstances of the case. Therefore, both fraudulent and dishonest intention from the inception is clearly made out from the entire circumstances of the case. The Hon'ble Supreme Court in the case of Bashirbhai Mohamedbhai vs. State of Bombay reported in AIR 1960 SC 979 has held that making of false representation is one of the ingredients for an offence of cheating and also the Hon'ble Three Judges Bench of the Supreme Court in the case of Shivanarayan Kabra vs. The State of Madras reported in AIR 1967 SC 986 has held as follows:

"The appellant knew fully well that he had no right to do forward business and that he was not a member of any recognized association and that he could not lawfully advertise to P.W.2 for

investment in forward contracts. It is not necessary that a false pretence should be made in express words by the appellant. It may be inferred from all the circumstances including the conduct of the appellant in obtaining the property and in Ex.P34 (a) the appellant stated something which was not true and concealed from P.W.2 the fact that he was not a member of any recognised association and that he was not entitled to carry on the forward contract business, it is clear that P.W.2 could not have parted with the sum of Rs.12,000/- but for the inducement contained in Ex.P34 and the representation of the appellant that he could lawfully carry on forward contract business."

12.3. In the case of Ram narayan Popli vs. Central Bureau of Investigation reported in 2003 3 SCC 641 it is observed:

Section 420 deals with cheating and dishonestly inducing delivery of property. The offence of cheating is made of two ingredients: deception of any person and fraudulently or dishonestly inducing that person to deliver any property to any person or to consent that any person shall retain any property.

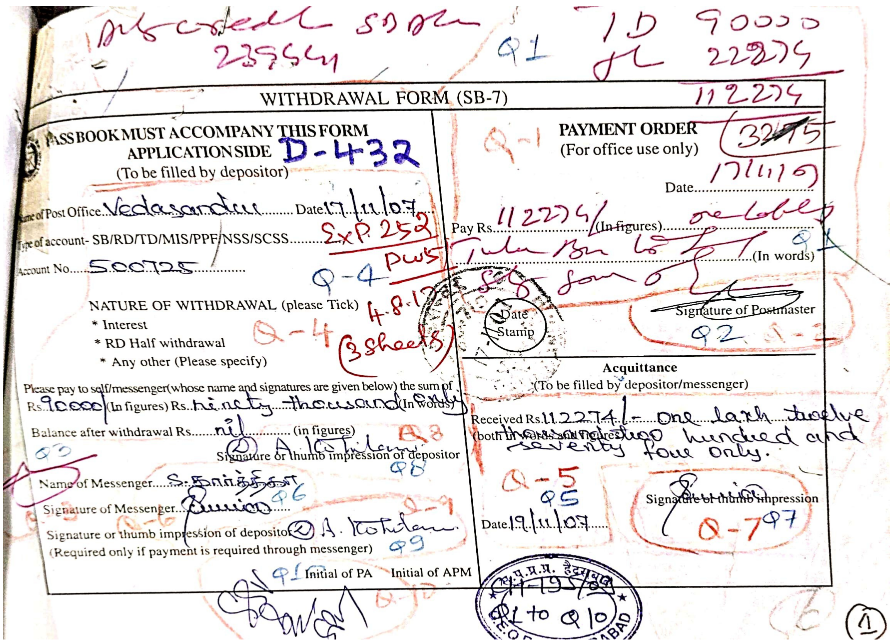
To put it differently, the ingredients of the offence are that the person deceived delivers to someone a valuable security or property, that the person so deceived was induced to do so, that such person acted on such inducement in consequence of his having been deceived by the accused and that the accused acted fraudulently or dishonestly when so inducing the person. To constitute the offence of cheating, it is not necessary that the deception should be by express words, but it may be by conduct or implied in the nature of the transaction itself.

12.4. To constitute offence of cheating it is not necessary that the deception should be by express words, but it may be by conduct or implied in the nature of transaction itself.

12.5. In this case A4 was not a “messanger” but she has signed as “messanger” in the SB-7 form and the said withdrawl form was accepted by A1 to A3. Further the amount mentioned in the withdrawl form is “false figure” is also within the knowledge of all the accused and therefore the deception is clearly proved and hence the offence of cheating is clearly established by prosecution. The Hon'ble Supreme Court in the case of ***Ram Narayan Popli v. CBI*, (2003) 3 SCC 641** has held that to constitute the offence under section 471 of IPC a false description is enough and relevant paragraph is as follows:

> ***376.*** *A false description makes a document of forgery when it is found that the accused by giving such false description intended to make out or wanted it to believe that it was not he that was executing the document but another person.*

12.6. To discuss offence under section 471 of IPC, 477 of IPC and for better appreciation, this court extracted SB7A form and withdrawal slip of A4.


WITHDRAWAL FORM (SB-7)

PASSBOOK MUST ACCOMPANY THIS FORM
APPLICATION SIDE D-432
(To be filled by depositor)

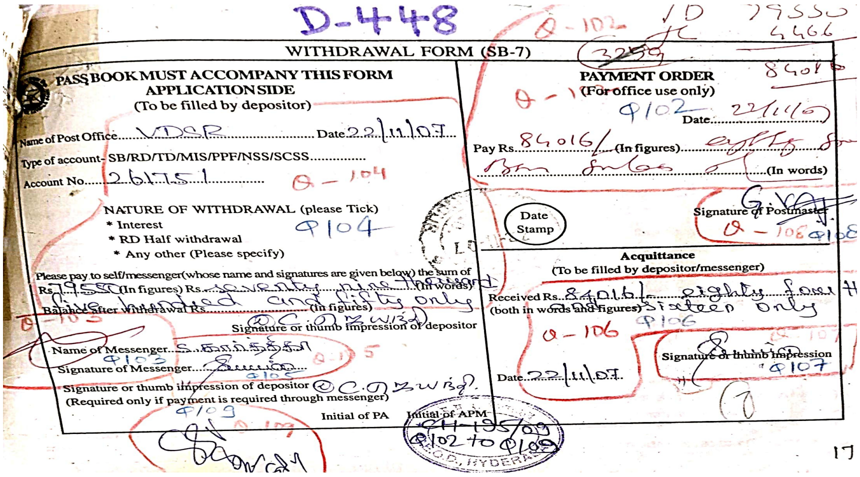
Name of Post Office Vedasandur Date 17/11/07
Type of account- SB/RD/TD/MIS/PPF/NSS/SCSS Ex.P. 252
Account No. 500725

NATURE OF WITHDRAWAL (please Tick)
* Interest
* RD Half withdrawal
* Any other (Please specify)

Please pay to self/messenger(whose name and signatures are given below) the sum of Rs. 90000 (In figures) Rs. ninety thousand only (In words)
Balance after withdrawal Rs. nil (in figures)
Signature or thumb impression of depositor
Name of Messenger
Signature of Messenger
Signature or thumb impression of depositor
(Required only if payment is required through messenger)
Initial of PA Initial of APM

PAYMENT ORDER
(For office use only)
Date 17/11/10
Pay Rs. 112274/- (In figures)
(In words)
Date Stamp
Signature of Postmaster

Acquittance
(To be filled by depositor/messenger)
Received Rs. 112274/- one lakh twelve (both in words and figures) two hundred and seventy four only.
Date 19/11/07
Signature or thumb impression



D-448

WITHDRAWAL FORM (SB-7)

PASS BOOK MUST ACCOMPANY THIS FORM
APPLICATION SIDE
(To be filled by depositor)

Name of Post Office VDSR Date 22/11/07
Type of account- SB/RD/TD/MIS/PPF/NSS/SCSS
Account No. 261751

NATURE OF WITHDRAWAL (please Tick)
* Interest
* RD Half withdrawal
* Any other (Please specify)

Please pay to self/messenger(whose name and signatures are given below) the sum of Rs. 79550 (In figures) Rs. seventy nine thousand five hundred and fifty only (In words)
Balance after withdrawal Rs. (In figures)
Signature or thumb impression of depositor
Name of Messenger
Signature of Messenger
Signature or thumb impression of depositor
(Required only if payment is required through messenger)
Initial of PA
Initial of APM

PAYMENT ORDER
(For office use only)
Date 22/11/07
Pay Rs. 84016/- (In figures) eighty four thousand sixteen (In words)
Date Stamp
Signature of Postmaster

Acquittance
(To be filled by depositor/messenger)
Received Rs. 84016/- eighty four thousand sixteen only
(both in words and figures)
Signature or thumb impression
Date 22/11/07

From the above, it is clear that A1 to A3 jointly acted on the SB 7(A) form submitted by the A4 without any authority and with description of amount more than the legal amount due to each RD holder. Therefore the prosecution clearly proved the charge under section 471 of IPC.

12.7. The said forged document was used as genuine document and on the basis of the same, the amount was credited in A4's account and withdrawl was effected. Therefore the offence under section 468, 477A are clearly proved. In all aspects the prosecution is found to have clearly proved the case beyond reasonable doubt against the appellants and this court finds no merits in the submission of the learned counsel for the appellants and concurs with the finding of learned Trial Judge.

13. The primary contention of the learned counsel for A4 Mr.Rupert J Barnabas is that after completion of her +2 examination, A4 registered herself as a postal agent and submitted blank withdrawal slip i.e., pay in slip to A1 and said blank pay in slip was utilized by A1, A2,A3 and the same was illegally withdrawn by somebody. There was no investigation who had withdrawn the same. The young girl under duress and due to subordination, gave the said pay in slip with her signature alone and the same had been misused and false accusation has been made against her. The said argument cannot be accepted. The contention of the above said documents namely writing of the amount *"Rs.371739/- (Three lakhs Seventy one Thousand and Seven hundred and third nine only) and other writings"* were submitted to the handwriting expert and the hand writing expert gave the opinion that the said writing was that of the handwriting of A4. Therefore, she gave the blank pay in slip and SB7A form of the particular individual is false. The hand writing expert gave the specific finding relating to the above writing. Even though he was subjected to detailed cross examination, nothing was elicited to disbelieve his opinion. Apart from that when she pleaded contrary to the documents, she is duty bound to disprove the non-receipt of the said amount mentioned in the pay

in slip by preponderance of probability. Except pleadings, no other evidence was adduced. It is settled principle that mere pleadings is not evidence. Pleadings are to be supported by acceptable evidence.

14.The Learned counsel appearing for A1 and A4 have relied the judgment of the Hon'ble Supreme Court reported in ***1977 (2) SCC 210*** and ***1979 (4) SCC 599*** to discard the opinion of the hand writing. In the judgment reported in ***1979 (4) SCC 599***, the expert had opined on facts that even admitted signatures were found forged. But in this case, the hand writing expert gave two opinions. Except the fact of insertions of numbers in the individual pass books, he gave a positive opinion relating to the hand writing of the A4 and the deceased Accused No.2. In the case of the insertions of the number of the individual pass books, he gave opinion that there is insertion in the pass book but he was unable to match the said insertions with the sample signatures. But he firmly opined that there were insertions in the pass book. For better understanding this court extracts the the passbook with the fraudelent insertions:

Sl. No.	RDA/c No.	Name	Denomination	
			Actual (Rs.)	Fraudulent (Rs.)
1	500725	A. Kokilam	500	**1**500
2	500726	M.Vijayakumar	135	135**0**
3	500727	S. Poornima	500	**1**500
4	500728	S. Sivaramaprasad	600	**1**600
5	500746	T.Indumathi	100	**2**100
6	502346	R. Krishnan	200	**3000**
7	261751	C. Jeyanthi	150	**2**150
8	500861	P. Revathi	200	200**0**
9	500872	R. Kanchana	135	135**0**
10	500910	N. Mohan	100	100**0**
11	500920	P. Sivasubramanian	135	135**0**
12	501292	S. Shanmugam	100	**3100** **5100**
13	501293	S. Shanmugam	100	**2100** **5100**
14	261461	R. Muneesbari	300	300**0**
15	262295	Palaniammal	300	**5**300
16	501476	I. Lourduraj	135	**5**135
17	501615	R.Amutha	250	**5**250
18	502568	A.R. Perumal	100	**3100** **5100**
19	502948	K. Mallika	150	5150
20	262679	S. Manavalan	150	**5**150
21	502710	M. Sakkubai	200	**5**200
22	502386	A. Kohilam	200	**4**200
23	502923	G.Tharsius	200	**5**200
24	503149	S. Chinnaiyan	200	**5**200
25	501981	G. Mahalingam	100	**5**100
26	502032	P. Pazhaniammal	50	50**50**

27	502033	M. Eswari	50	50**50**
28	502034	A. Perumalsamy	50	50**50**
29	502038	M. Saraswathi	100	**5**100
30	502039	C.Vijayasankar	135	**5**135
31	502040	Seerangayee	50	50**50**
32	502041	A. Kaliammal	50	50**50**
33	262956	K.Angammal	200	**5**200
34	263073	K. Jothimani	200	200**0**
35	262479	R. Manomani	300	300**0**
36	262869	A.Suseela	500	500**0**
37	263565	P. Indirani	250	250**0** **5500**
38	262680	A.Angamuthu	100	100**0** **3100** **5100**
39	260574	Sasikumari	250	250**0**
40	502893	M. Porgia	200	200**0**

(fraudulent insertions are noted as black)

15. As rightly argued by the learned special public prosecutor Mr.Muthusaravanan, the said passbooks were in the custody of A4 and other accused. In the said circumstances, they are duty bound to explain the said insertions as per section 106 of the Evidence Act. But, they failed to explain and therefore adverse inference can be drawn against them.

16.The learned counsel for A4 Mr.Rupert J Barnabas further submitted that number of witnesses had specifically deposed that they have not entrusted the RD amount with A4 and they did not know A4. Therefore, the prosecution failed to prove the case against the A4. It is true that PW21, PW22 and PW23 deposed that they did not know A4. But, other witnesses namely PW19, PW24, PW35, PW36 etc., specifically deposed that they entrusted the amount with Karthiga (A4) and they received only small amount and they disputed the receipt of the huge amount mentioned in the pay in slips. The particulars of the same are as follows :

Rank of the witnesses	Amount credited in the account of A4	Amount received by the witness	Withdrew and Misappropriated amount
P.W.19	1,93,800/-	1,320/-	1,92,480/-
P.W.24	1,85,000/-	20,000/-	1,65,000/-

17. Similar amount was also misappropriated in the others' account. From the above it is clear that A4 Karthiga misappropriated the amount other than the amount handed over to the above individuals in furtherance of conspiracy.

18. Apart from that as rightly argued by the learned special public prosecutor Mr.Muthusaravanan, the signature and writing of A4 were found in other witnesses's (SB 7A) form who denied acquaintance with A4. There was no explanation on the side of A4. Therefore this court cannot accept the submission of the Learned counsel for A4 that Karthiga was falsely implicated in the above case with intention to shield a particular postal agent and the other officers.

19. The Learned counsel for A4 Mr.Rupert J Barnabas and the learned counsel for A1 Thiru.N.Sankar Ganesh made detailed submission about the admissibility and reliability of the electronic evidence without certificate under section 65 (B) (4) of Evidence Act. According to the counsel, under Ex.P323 there are three pages containing the particulars of computer server and back up CD's are marked. Ex.P330 containing the conversion from CPMG to MS Office Excel format under 23 series were also produced. Ex.P333 also there is a reference of computer server, 23 and 10 CD's containing 2 pockets with 3 sealed covers. Similar, CD's under Ex.P268, 269 were also produced. Volumes of computerized print out ledger of various SB's account also were produced. Therefore, their

specific objection is that they can not be marked without certificate as required under section 65 (B) (4) of the Evidence Act. The Learned special public prosecutor submitted that in this case, a huge fraud has taken place and hence, the entire computer with the accounts were taken by the Head Office, Dindigul. From the head office, the "original server" was recovered and the same was sent to the expert and the said expert had taken print out of the accounts containing inflated amounts and the same was marked without objection. Therefore, the learned Special Public Prosecutor appearing for CBI Mr.Muthusaravanan submitted that there is no requirement to obtain certificate under section 65 (B) (4) of the Evidence Act. He also submitted that as per the procedure, after the computerization in Vedasandur Sub Postal office, as per the procedure, every month, the CD containing the account particulars of the various RD's account were sent to the head office. The head office had received the same only for the purpose of proper custody intending to use the same in the event of any virus in the computers system of Vedasandur Sub Postal office. It is not the requirement of the head office to verify the said contents of the CD. The said CD was recovered by CBI during investigation and the same was marked with the print out. Some of the CDs did not contain any particulars. The said CD particulars also form part of the print out taken from the original server marked before the court under M.O.1. In the said circumstances, when the CBI produced the "original server" and the print out and proved their case on the basis of the said print out, the requirement of the said Section 65 (B) (4) of the Evidence Act is not necessary. Both counsel relied the following paragraph 72 of the Hon'ble three Judges bench of the Supreme Court in the case of ***Arjun Panditrao Khotkar Vs Kailash Kushanrao Gorantyal and others*** reported in ***2020 (7) SCC 1.***

> *"72. The reference is thus answered by stating that:*
> *(a) Anvar P.V. (supra), as clarified by us hereinabove, is the law declared by this Court on Section 65B of the Evidence Act. The judgment in Tomaso Bruno (supra), being per incuriam, does not lay down the law correctly. Also, the judgment in SLP (Crl.) No. 9431 of 2011 reported as Shafhi Mohammad (supra) and the judgment dated 03.04.2018 reported as (2018) 5 SCC 311, do not lay down the law correctly and are therefore overruled.*
> *(b) The clarification referred to above is that the required certificate under Section 65B(4) is unnecessary if the original document itself is produced. This can be done by the owner of a laptop computer, computer tablet or even a mobile phone, by stepping into the witness box and proving that the concerned device, on which the original information is first stored, is owned and/or operated by him. In cases where the "computer" happens to be a part of*

a "computer system" or "computer network" and it becomes impossible to physically bring such system or network to the Court, then the only means of providing information contained in such electronic record can be in accordance with Section 65B(1), together with the requisite certificate under Section 65B(4). The last sentence in Anvar P.V. (supra) which reads as "...if an electronic record as such is used as primary evidence under Section 62 of the Evidence Act..." is thus clarified; it is to be read without the words "under Section 62 of the Evidence Act,..." With this clarification, the law stated in paragraph 24 of Anvar P.V. (supra) does not need to be revisited.

(c) The general directions issued in paragraph 62 (supra) shall hereafter be followed by courts that deal with electronic evidence, to ensure their preservation, and production of certificate at the appropriate stage. These directions shall apply in all proceedings, till rules and directions under Section 67C of the Information Technology Act and data retention conditions are formulated for compliance by telecom and internet service providers.

(d) Appropriate rules and directions should be framed in exercise of the Information Technology Act, by exercising powers such as in Section 67C, and also framing suitable rules for the retention of data involved in trial of offences, their segregation, rules of chain of custody, stamping and record maintenance, for the entire duration of trials and

appeals, and also in regard to preservation of the meta data to avoid corruption. Likewise, appropriate rules for preservation, retrieval and production of electronic record, should be framed as indicated earlier, after considering the report of the Committee constituted by the Chief Justice's Conference in April, 2016".

20.The learned counsel for the accused would submit that on the basis of the above reference in paragraph 72 (b) the computer was seized by the CBI and the computer server was seized and the same was marked through the investigating officer. But the requirement is that it should be marked through the owner of the said computer. As per the section 65 (B) (4) of the Evidence Act the computer server to be marked through a person occupying responsible official position relating to the operation of the relevant device. Here the same was not marked through Vijayalakshmi in whose custody the said computer was entrusted after the dispute arose at Vedasandur Post office. Therefore, the marking of the computer server is not in accordance with law. This court is unable to accept the said argument. According to the prosecution, the computer was in the custody of A1. After the problem, the entire computer was taken from the custody of A1 and kept in the head post office. During the investigation, the CBI seized the said computer and taken the server with the hard disk. The investigating officer produced the same. The counsel for the accused emphasized the marking of the said computer server through the *"Owner"*. According to the prosecutor, owner is the postal department. From the postal department the computer server was seized and original was produced. Therefore, there is compliance of the 65 (B) of the Evidence Act. This court accepts the argument of the learned special public prosecutor that the computer server was seized by the CBI and the same was produced and marked through the Investigating officer. In that process this Court finds no illegality in marking the computer server through the Investigating officer. Once computer server is marked, it becomes the primary evidence. Print out relating to the accounts were taken from the said computer server by the expert and the same were marked through the expert and the contents of the said print out corroborated with the other documentary evidence. Therefore, this court is unable to reject the electronic evidence adduced by the CBI.

21.The Learned counsel for all the accused submitted that whenever there is a withdrawal of amount of more than Rs.20,000/-, the same would automatically reflect in the central server kept in the head office. Without the knowledge of the head office, huge misappropriation could not have taken place. To counter the same, the Learned Special public prosecutor for CBI submitted that there was no centralization on the date of the occurrence. In the Sub post office, the computerization was made earlier and after 1 ½ years, the centralization of the said programme was implemented. The officer of the head office has no access to supervise the day to day entry of the RD accounts of the sub post office vedasandur. P.W. 50 cearly deposed about the above facts. Therefore, the evidence adduced by the postal department officers relating to the said procedure is not relating to the date of occurrence. Therefore, he seeks to reject the said contention.

22.The learned Senior counsel appearing for A3 would submit that the entire system is operated through the "SQL server system". The same was managed by a separate officer namely "Deputy System Manager". The said department is called "Saving Bank Central Organization (SBCO)". Therefore, any amount withdrawn above Rs.20,000/- would automatically be seen in the said head office. There was no investigation in this regard. The said submission is not accepted for the above said reason. Apart from that it is the specific evidence of PW50 that data entry was completed only upto November in the sub post office and no entry was made relating to the fraudulent period mentioned in this case. Therefore, this court declines to accept the same.

23. From the above, this court holds that A1 was the sub post master on the date of the conversion of the manual entry into the data entry through the computerization. He pleaded ignorance of the computer knowledge and hence, he furnished the password to A4. Therefore, official from the head office involved in the occurrence cannot be accepted.

24.The learned counsel for A4 submitted that there is a procedure of auto credit in the account of the individual RD holder. Hence, she has no knowledge about the entry of inflated amount. The said submission is not accepted for the reason that in the various (SB 7A) forms the signature and hand writing of the particulars of the amount made by A4 find place. Apart from that as rightly argued by the Learned Special Public prosecutor, she was not a messanger and she was only postal agent. She has no *locus standi* to act as a messenger in the (SB 7A) form. But she acted as a messenger and this fact is enough to show her intention to cheat the post office and the accumulation of huge misappropriated amount in her account prove her role of execution of fraudulent act engineered by the remaining accused. This is a case of fraud as a result of machinations of the conspirators to defraud the huge amount of postal department.

25.The Learned counsel for the A1 would submit that he had no adequate knowledge about the computer. His only duty is to counter sign the said form (SB 7A) and withdrawal slips and pay in slip. The same should be prepared by the postal assistant A2 and A3 and he was not aware of the said manipulation. On suspecting the huge transfer of amount, he only sent the complaint to the head office. But, unfortunately he was made as a prime accused in this case. The said submission of the learned counsel for A1 cannot be accepted for the reasons that the following mandatory procedure in the postal department should be known to A1 like sub post master:

> *a.After the opening of the RD account, the corresponding savings bank account in the said post office should have opened in the case of the amount exceeding Rs.20,000/-.*
>
> *b. If the amount exceeds Rs.20,000/- the same cannot be allowed to be withdrawn using the pay in slip.*
>
> *c. The said withdrawal should be allowed only through the messengers and not the postal agent.*

26.But in this case A1 acted against the said mandatory procedure which clearly proves his intention to cheat the postal department with active connivance with the other accused. He failed to check manipulation fraudulent entries in the '*RDpassbook' and allowed the withdrawl of amount on basis of 'form SB 7A*' by flouting all above procedure, thereby caused wrongful loss to the postal department and made wrongful gain to the accused. Hence, the involvement of A1 is clearly proved.

27.The Learned Senior counsel appearing for A3 would submit that he had suspected the fraudulent entry in the pass book and other accounts and made complaint to the head office. He joined the office only after the transfer of the deceased 2nd accused on 19.01.2008 and he passed only 14 transactions and he suspected the same and duly informed to the head office. Therefore, he has no intention to commit the misappropriation of the postal department fund in collusion with the other accused. The said submission cannot be accepted for the reason that he also participated in the 14 fraudulent transactions. Both A1 and A3 pleaded that they are the whistle blowers but there is no truth in the said plea. From the records it is seen that only after the huge misappropriation, both A1 and A3 made the complaint. He also allowed A4 to transfer the amount of more than Rs. 20,000/- to her account on the basis of the withdrawal slip submitted by A4 without insisting the cheque from the individual account holder. From that act of omission alone, this court can easily presume that he also joined in the chain of the fraudulent transactions started before his date of joining in the office as a postal assistant on 19.01.2008.

28.The learned counsel appearing for A4 would submit that the proceedings initiated against A4 by the Enforcement authorities ended into acquittal and hence, the conviction and sentence passed in this case is not legally maintainable. This Court expresses its difficulty in accepting the said argument of thelearned counsel for the reason that an accused is liable to be prosecuted under various Acts. The CBI filed the final report for the above stated offence and produced the relevant materials to prove the charges. The learned trial Judge also perused the materials and this Court also reappreciated the entire evidence and finds that there is no infirmity in the trial Court judgment in convicting A4. Therefore, this Court declines to accept the argument of the learned counsel appearing for A4 to acquit her under the charged offence in the above C.C.No.6 of 2010, on the basis of the acquittal in the criminal case registered by the Enforcement Authorities. The said proceeding is different one.

29.D.W.2 deposed before the Court that she has not misappropriated any amount and that remaining accused alone misappropriated the fund by using her subordination. She also deposed that she gave the blank account closure form with her signature and the remaining accused misappropriated the fund by filling the said withdrawal slips. As discussed above, the said defence is false on the basis of the abundent evidence produced by the prosecution apart from the opinion of hand writing expert that her handwriting was found in the withdrawal slips. Therefore, her case of non filling of the withdrawal slip is false one. Further, she is duty bound to explain the credit of the huge amount in her account and her family member's account. She also has not explained the fraudulent insertions in the passbook of the various depositors. The above circumstances, clearly showed that the prosecution has proved the offence against A4 beyond reasonable doubt.

30.In view of the above discussions, this Court holds that the prosecution has has clearly proved the case beyond reasonable doubt against all the appellants and the omissions and lapses pointed out against the prosecution by the learned counsel for the accused is not material while abundant material is available to sustain the conviction passed against the appellants. Therefore, this court concurs with the conviction passed against the appellants in the C.C.No. 6 of 2010 dated 15.03.2013. Accordingly, the conviction passed by the learned trial Judge against all the appellants for the charged offences is in accordance with law and the same is hereby confirmed.

31. <u>Discussion on Sentence of imprisonment of A1 appeallant in Crl.A.(MD).No.129 of 2019</u>:-

The learned counsel for A1 submits that appellant is 80 years old. He is a retired military man and he had already paid the fine amount of Rs. 3,50,000/- and also complied the condition of depositing Rs.15,00,000/- as a condition to suspend the sentence and hence, he seeks reduction of sentence to the period already undergone by him. This court considers the above said mitigating circumstances and inclines to modify the sentence of imprisonment imposed by the learned trial Judge substantially by taking the said deposit amount as compensation under section 357 of Cr.P.C. as stated below.

Charges proved under sections	***Punishment imposed by the Learned Trial Judge***	***Modified punishment imposes by this court.***

u/s120-B r/w 420 IPC	Rigorous Imprisonment for 7yearsand to pay a fine of Rs.10,000/-in default to undergo Simple Imprisonment for One Year;	Rigorous Imprisonment for 1 year and to pay a fine of Rs. 10,000/- is confirmed in default to undergo Simple Imprisonment for 3 months;
u/s120-B r/w 467 IPC	Rigorous Imprisonment for 10 years and to pay a fine of Rs.10,000/-in default to undergo Simple Imprisonment for One Year;	Rigorous Imprisonment for 1 year and to pay a fine of Rs. 10,000/- is confirmed in default to undergo Simple Imprisonment for 3 months;
u/s120-B r/w 468 IPC	Rigorous Imprisonment for 7 years and to pay a fine of Rs.10,000/-in default to undergo Simple Imprisonment for One Year;	Rigorous Imprisonment for 1 year andtopayafineof Rs. 10,000/- is confirmed in default to undergo Simple Imprisonment for 3 months;
u/s120-B r/w 471 IPC	Rigorous Imprisonment for 7 years and to pay a fine of Rs.25,000/-in default to undergo Simple Imprisonment for One Year;	Rigorous Imprisonment for 1 year and to pay a fine of Rs. 25,000/- is confirmed in default to undergo Simple Imprisonment for 3 months;
u/s120-B r/w 477-A IPC	Rigorous Imprisonment for 7 years and to pay a fine of Rs.10,000/-in default to undergo Simple Imprisonment for One Year;	Rigorous Imprisonment for 1 year and to pay a fine of Rs. 10,000/- is confirmed in default to undergo Simple Imprisonment for 3 months;
u/s120-B r/w 13(2) r/w 13(1) (d) of Prevention of Corruption Act, 1988.	Rigorous Imprisonment for 7 years and to pay a fine of Rs.10,000/-in default to undergo Simple Imprisonment for One Year;	Rigorous Imprisonment for 1 year and to pay a fine of Rs. 10,000/- is confirmed in default to undergo Simple Imprisonment for 3 months;

u/s120-B r/w Section 66 of Information Technology Act, 2000.	Rigorous Imprisonment for 2 years and to pay a fine of Rs.1,00,000/- indefault to undergo Simple Imprisonment for Six Months.	Rigorous Imprisonment for 1 year and to pay a fine of Rs.1,00,000/- is confirmed indefault to undergo Simple Imprisonment for Six Months.
u/s420 IPC	Rigorous Imprisonment for 7yearsand to pay a fine of Rs.10,000/-in default to undergo Simple Imprisonment for One Year;	Rigorous Imprisonment for 1 year and to pay a fine of Rs. 10,000/- is confirmed in default to undergo Simple Imprisonment for 3 months.
u/s 467 IPC	Rigorous Imprisonment for 10 years and to pay a fine of Rs.10 ,000/-in default to undergo Simple Imprisonment for One Year;	Rigorous Imprisonment for 1 year and to pay a fine of Rs. 10,000/- is confirmed in default to undergo Simple Imprisonment for 3 months.
u/s 468 IPC	RigorousImprisonmentfor7 yearsandtopayafineof Rs. 10,000/-in default to undergo Simple Imprisonment for One Year;	Rigorous Imprisonment for 1 year and to pay a fine of Rs. 10,000/- is confirmed in default to undergo Simple Imprisonment for 3 months;
u/s 471 IPC	Rigorous Imprisonment for 7 years and to pay a fine of Rs.25,000/-in default to undergo Simple Imprisonment for One Year;	RigorousImprisonmentfor 1 year and to pay a fine of Rs. 25,000/- is confirmed in default to undergo Simple Imprisonment for 3 months;
u/s 477-AIPC	Rigorous Imprisonment for 7 years and to pay a fine of Rs.10,000/-in default to undergo Simple Imprisonment for One Year;	Rigorous Imprisonment for 1 year and to pay a fine of Rs. 10,000/-is confirmed in default to undergo Simple Imprisonment for 3 months;

u/s 13(2) r/w 13(1) (d) of Prevention of Corruption Act, 1988.	Rigorous Imprisonment for 7 years and to pay a fine of Rs.10,000/-in default to undergo Simple Imprisonment for One Year;	Rigorous Imprisonment for 1 year and to pay a fine of Rs. 10,000/- is confirmed in default to undergo Simple Imprisonment for 3 months.
u/s 66 of Information Technology Act, 2000.	Rigorous Imprisonment for 2 years and to pay a fine of Rs.1,00,000/-in default to undergo Simple Imprisonment for Six Months.	Rigorous Imprisonment for 1 year and to pay a fine of Rs.1,00,000/-is confirmed in default to undergo Simple Imprisonment for Six Months.
Total Fine	***Rs.3,50,000/-***	***All sentence shall run concurrently***

31.1.This Court has already directed the learned Trial Judge to transfer the said amount to the credit of Post Master, Vedasandur post office and no further order is required to pay the said amount as a compensation. In view of the deposit made, this court reduces the sentence of imprisonment as stated above.

31.2.Accordingly, the Criminal Appeal filed by A1 appeallant in Crl.A.(MD).No.129 of 2019 is partly allowed on the following terms:

31.2.1.The conviction and sentence passed against him in C.C.No.6 of 2010, on the file of the II Additional District Court for CBI Cases, Madurai dated 15.03.2019 is hereby confirmed.

31.2.2.Sentence imposed against the appellant in C.C.No.6 of 2010, on the file of the II Additional District Court for CBI Cases, Madurai dated 15.03.2019 is hereby reduced by treating the deposited amount of Rs. 15,00,000/- (Fifteen Lakhs only) as compensation under Section 357 of Cr.P.C., in the following terms:

31.2.3.The sentence of imprisonment to undergo ***7 years Rigorous Imprisonment*** for the offence ***under Section 120-B r/w 420 of IPC*** is hereby reduced to ***undergo 1 year Rigorous Imprisonment*** and the direction to pay a fine of Rs.10,000/- is confirmed and the default sentence of imprisonment to undergo 1 year is also reduced to undergo Simple Imprisonment for 3 months.

31.2.4.The sentence of imprisonment to undergo ***10 years Rigorous Imprisonment*** for the offence ***under Section 120-B r/w 467 of IPC*** is hereby reduced to ***undergo 1 year Rigorous Imprisonment*** and the direction to pay a fine of Rs.10,000/-is confirmed and the default sentence of imprisonment to undergo 1 year is also reduced to undergo Simple Imprisonment for 3 months.

31.2.5.The sentence of imprisonment to undergo ***7 years Rigorous Imprisonment*** for the offence ***under Section 120-B r/w 468 of IPC*** is hereby reduced to ***undergo 1 year Rigorous Imprisonment*** and the direction to pay a fine of Rs.10,000/-is confirmed and the default sentence of imprisonment to undergo 1 year is also reduced to undergo Simple Imprisonment for 3 months.

31.2.6.The sentence of imprisonment to undergo ***7 years Rigorous Imprisonment*** for the offence ***under Section 120-B r/w 471 of IPC*** is hereby reduced to undergo ***1 year Rigorous Imprisonment*** and the direction to pay a fine of Rs.25,000/-is confirmed and the default sentence of imprisonment to undergo 1 year is also reduced to undergo Simple Imprisonment for 3 months.

31.2.7.The sentence of imprisonment to undergo ***7 years Rigorous Imprisonment*** for the offence ***under Section 120-B r/w 477-A of IPC*** is hereby reduced to undergo ***1 year Rigorous Imprisonment*** and the direction to pay a fine of Rs.10,000/-is confirmed and the default sentence of imprisonment to undergo 1 year is also reduced to undergo Simple Imprisonment for 3 months.

31.2.8.The sentence of imprisonment to undergo ***7 years Rigorous Imprisonment*** for the offence ***under Section 120-B r/w 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988***, is hereby reduced to undergo ***1 year Rigorous Imprisonment*** and the Direction to pay a fine of Rs. 10,000/-is confirmed and the default sentence of imprisonment to undergo

1 year is also reduced to undergo Simple Imprisonment for 3 months.

31.2.9.The sentence of imprisonment to undergo ***2 years Rigorous Imprisonment*** for the offence ***under Section 120-B r/w Section 66 of the Information Technology Act, 2000*** is hereby reduced to undergo ***1 year Rigorous Imprisonment*** and the direction to pay a fine of Rs.1,00,000/-is confirmed and the default sentence of imprisonment to undergo 6 months is also reduced to undergo Simple Imprisonment for 3 months.

31.2.10.The sentence of imprisonment to undergo ***7 years Rigorous Imprisonment*** for the offence ***under Section 420 of IPC*** is hereby reduced to undergo ***1 year Rigorous Imprisonment*** and the Direction to pay a fine of Rs.10,000/- is confirmed and the default sentence of imprisonment to undergo 1 year is also reduced to undergo Simple Imprisonment for 3 months.

31.2.11.The sentence of imprisonment to undergo ***10 years Rigorous Imprisonment*** for the offence ***under Section 467 of IPC*** is hereby reduced to undergo ***1 year Rigorous Imprisonment*** and the direction to pay a fine of Rs.10,000/-is confirmed and the default sentence of imprisonment to undergo 1 year is also reduced to undergo Simple Imprisonment for 3 months.

31.2.12.The sentence of imprisonment to undergo ***7 years Rigorous Imprisonment*** for the offence ***under Section 468 of IPC*** is hereby reduced to undergo ***1 year Rigorous Imprisonment*** and the direction to pay a fine of Rs.10,000/-is confirmed and the default sentence of imprisonment to undergo 1 year is also reduced to undergo Simple Imprisonment for 3 months.

31.2.13.The sentence of imprisonment to undergo ***7 years Rigorous Imprisonment*** for the offence ***under Section 471 of IPC*** is hereby reduced to undergo ***1 year Rigorous Imprisonment*** and the direction to pay a fine of Rs.25,000/-is confirmed and the default sentence of imprisonment to undergo 1 year is also reduced to undergo Simple Imprisonment for 3 months.

31.2.14.The sentence of imprisonment to undergo ***7 years Rigorous Imprisonment*** for the offence ***under Section 477-A of IPC*** is hereby reduced to undergo ***1 year Rigorous Imprisonment*** and the Direction to pay a fine of Rs.10,000/-is confirmed and the default sentence of imprisonment to undergo 1 year is also reduced to undergo Simple Imprisonment for 3 months.

31.2.15.The sentence of imprisonment to undergo ***7 years Rigorous Imprisonment*** for the offence ***under Section 13(2) r/w 13(1)(d) of Prevention of Corruption Act,1988,*** is hereby reduced to undergo ***1 year Rigorous Imprisonment*** and the direction to pay a fine of Rs.10,000/-is confirmed and the default sentence of imprisonment to undergo 1 year is also reduced to undergo Simple Imprisonment for 3 months.

31.2.16.The sentence of imprisonment to undergo ***2 years Rigorous Imprisonment*** for the offence ***under Section 66 of the Information Technology Act, 2000***, is hereby reduced to undergo ***1 year Rigorous Imprisonment*** and the direction to pay a fine of Rs.1,00,000/-is confirmed and the default sentence of imprisonment to undergo 6 months is also reduced to undergo Simple Imprisonment for 3 months.

31.2.17.Therefore, the Learned Trial Judge is directed to secure the accused and make him to undergo the remaining period of sentence. All the substantive sentence of imprisonment are to ***run concurrently***. The period if already undergone by the accused is ordered to be set off under Section 428 of Cr.P.C.,

32.<u>Discussion on Sentence of imprisonment of A3 appeallant in Crl.A.(MD).No.164 of 2019 :</u>

The learned Senior counsel for A3 submitted that he is aged about 58 years and he joined the office at the fag end of the misappropriation period and during the period commencing from 22.05.2008 to 22.10.2008, he was part of only 14 transactions and he already deposited fine amount of Rs.2,00,000/- and Rs.5,50,000/- at the time of the suspension of sentence and hence, he seeks for reduction of sentence to the period already undergone by him. This Court is unable to accept the said submission but, inclines to reduce the sentence on payment of the further compensation of Rs.5,00,000/-(Rupees Five Lakhs Only) to the credit of the Post Master Vedasandur within a period of one month from the date of receipt of the copy of this order, in addition to the amount of Rs.2,00,000/- already deposited as per order of this court at the time of the suspention of sentence otherwise the sentence imposed by the Court below would automatically be restored.

Charges proved under sections	**Punishment imposed by the Learned Trial Judge**	**Modified punishment imposes by this court.**
u/s120-B r/w 420 IPC	Rigorous Imprisonment for 7yearsand to pay a fine of Rs.10,000/-in default to undergo Simple Imprisonment for One Year;	Rigorous Imprisonment for 1 year and to pay a fine of Rs. 10,000/-is confirmed in default to undergo Simple Imprisonment for 3 months;
u/s120-B r/w 467 IPC	Rigorous Imprisonment for 10 years and to pay a fine of Rs.10,000/-in default to undergo Simple Imprisonment for One Year;	Rigorous Imprisonment for 1 year and to pay a fine of Rs. 10,000/-is confirmed in default to undergo Simple Imprisonment for 3 months;
u/s120-B r/w 468 IPC	Rigorous Imprisonment for 7 years and to pay a fine of Rs.10,000/-in default to undergo Simple Imprisonment for One Year;	Rigorous Imprisonment for 1 year andtopayafineof Rs. 10,000/-is confirmed in default to undergo Simple Imprisonment for 3 months;
u/s120-B r/w 471 IPC	Rigorous Imprisonment for 7 years and to pay a fine of Rs.25,000/-in default to undergo Simple Imprisonment for One Year;	Rigorous Imprisonment for 1 year and to pay a fine of Rs. 25,000/-is confirmed in default to undergo Simple Imprisonment for 3 months;
u/s120-B r/w 477-A IPC	Rigorous Imprisonment for 7 years and to pay a fine of Rs.10,000/-in default to undergo Simple Imprisonment for One Year;	Rigorous Imprisonment for 1 year and to pay a fine of Rs. 10,000/-is confirmed in default to undergo Simple Imprisonment for 3 months;
u/s120-B r/w 13(2) r/w 13(1) (d) of Prevention of Corruption Act, 1988.	Rigorous Imprisonment for 7 years and to pay a fine of Rs.10,000/-in default to undergo Simple Imprisonment for One Year;	Rigorous Imprisonment for 1 year and to pay a fine of Rs. 10,000/-is confirmed in default to undergo Simple Imprisonment for 3 months;

u/s120-B r/w Section 66 of Information Technology Act, 2000.	Rigorous Imprisonment for 2 years and to pay a fine of Rs.1,00,000/- indefault to undergo Simple Imprisonment for Six Months.	Rigorous Imprisonment for 1 year and to pay a fine of Rs.1,00,000/-is confirmed in default to undergo Simple Imprisonment for three months.
u/s420 IPC	Rigorous Imprisonment for 7yearsand to pay a fine of Rs.10,000/-in default to undergo Simple Imprisonment for One Year;	Rigorous Imprisonment for 1 year and to pay a fine of Rs. 10,000/- is confirmed in default to undergo Simple Imprisonment for 3 months;
u/s 467 IPC	Rigorous Imprisonment for 10 years and to pay a fine of Rs.10 ,000/-in default to undergo Simple Imprisonment for One Year;	Rigorous Imprisonment for 1 year and to pay a fine of Rs. 10,000/- is confirmed in default to undergo Simple Imprisonment for 3 months;
u/s 468 IPC	RigorousImprisonmentfor7 yearsandtopayafineof Rs. 10,000/-in default to undergo Simple Imprisonment for One Year;	Rigorous Imprisonment for 1 year and to pay a fine of Rs. 10,000/-is confirmed in default to undergo Simple Imprisonment for 3 months;
u/s 471 IPC	Rigorous Imprisonment for 7 years and to pay a fine of Rs.25,000/-in default to undergo Simple Imprisonment for One Year;	RigorousImprisonmentfor 1 year and to pay a fine of Rs. 25,000/-is confirmed in default to undergo Simple Imprisonment for 3 months;
u/s 477-AIPC	Rigorous Imprisonment for 7 years and to pay a fine of Rs.10,000/-in default to undergo Simple Imprisonment for One Year;	Rigorous Imprisonment for 1 year and to pay a fine of Rs. 10,000/- is confirmed in default to undergo Simple Imprisonment for 3 months;

u/s 13(2) r/w 13(1) (d) of Prevention of Corruption Act, 1988.	Rigorous Imprisonment for 7 years and to pay a fine of Rs.10,000/-in default to undergo Simple Imprisonment for One Year;	Rigorous Imprisonment for 1 year and to pay a fine of Rs. 10,000/- is confirmed in default to undergo Simple Imprisonment for 3 months;
u/s 66 of Information Technology Act, 2000.	Rigorous Imprisonment for 2 years and to pay a fine of Rs.1,00,000/-in default to undergo Simple Imprisonment for Six Months.	Rigorous Imprisonment for 1 year and to pay a fine of Rs.1,00,000/- is confirmed in default to undergo Simple Imprisonment for three months.
Total Fine	Rs.3,50,000/-	All sentence shall run concurrently

32.1.This Court has already directed the learned Trial Judge to transfer the said amount to the credit of Post Master, Vedasandur post office and no further order is required to pay the said amount as a compensation. In view of the deposit made, this court reduces the sentence of imprisonment as stated above.

32.2.Accordingly, the Criminal Appeal filed by A3 appellant in Crl.A.(MD).No.164 of 2019 is partly allowed on the following terms:

32.2.1.The conviction and sentence passed against him in C.C.No.6 of 2010, on the file of the II Additional District Court for CBI Cases, Madurai dated 15.03.2019 is hereby confirmed.

32.2.2.Sentence imposed against the appellant in C.C.No.6 of 2010, on the file of the II Additional District Court for CBI Cases, Madurai dated 15.03.2019 is hereby reduced on following terms on condition to pay Rs. 5,00,000/- (Five Lakhs Only) in addition to Rs.2,00,000/- (Two Lakhs) already deposited as compensation under section 357 of Cr.P.C.

32.2.3. The sentence of imprisonment to undergo ***7 years Rigorous Imprisonment*** for the offence ***under Section 120-B r/w 420 of IPC*** is hereby reduced to ***undergo 1 year Rigorous Imprisonment*** and the direction to pay a fine of Rs.10,000/-is confirmed and the default sentence of imprisonment to undergo 1 year is also reduced to undergo Simple Imprisonment for 3 months.

32.2.4.The sentence of imprisonment to undergo ***10 years Rigorous Imprisonment*** for the offence ***under Section 120-B r/w 467 of IPC*** is hereby reduced to ***undergo 1 year Rigorous Imprisonment*** and the direction to pay a fine of Rs.10,000/-is confirmed and the default sentence of imprisonment to undergo 1 year is also reduced to undergo Simple Imprisonment for 3 months.

32.2.5.The sentence of imprisonment to undergo *7 years Rigorous Imprisonment* for the offence ***under Section 120-B r/w 468 of IPC*** is hereby reduced to ***undergo 1 year Rigorous Imprisonment*** and the direction to pay a fine of Rs.10,000/-is confirmed and the default sentence of imprisonment to undergo 1 year is also reduced to undergo Simple Imprisonment for 3 months.

32.2.6.The sentence of imprisonment to undergo *7 years Rigorous Imprisonment* for the offence ***under Section 120-B r/w 471 of IPC*** is hereby reduced to undergo ***1 year Rigorous Imprisonment*** and the direction to pay a fine of Rs.25,000/-is confirmed and the default sentence of imprisonment to undergo 1 year is also reduced to undergo Simple Imprisonment for 3 months.

32.2.7.The sentence of imprisonment to undergo *7 years Rigorous Imprisonment* for the offence ***under Section 120-B r/w 477-A of IPC*** is hereby reduced to undergo ***1 year Rigorous Imprisonment*** and the direction to pay a fine of Rs.10,000/-is confirmed and the default sentence of imprisonment to undergo 1 year is also reduced to undergo Simple Imprisonment for 3 months.

32.2.8.The sentence of imprisonment to undergo ***7 years Rigorous Imprisonment*** for the offence ***under Section 120-B r/w 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988***, is hereby reduced to undergo ***1 year Rigorous Imprisonment*** and the direction to pay a fine of Rs.10,000/- is confirmed and the default sentence of imprisonment to undergo 1 year is also reduced to undergo Simple Imprisonment for 3 months.

32.2.9.The sentence of imprisonment to undergo ***2 years Rigorous Imprisonment*** for the offence ***under Section 120-B r/w Section 66 of the Information Technology Act, 2000*** is hereby reduced to undergo ***1 year Rigorous Imprisonment*** and the direction to pay a fine of Rs.1,00,000/-is confirmed and the default sentence of imprisonment to undergo 6 months is also reduced to undergo Simple Imprisonment for 3 months.

32.2.10.The sentence of imprisonment to undergo ***7 years Rigorous Imprisonment*** for the offence ***under Section 420 of IPC*** is hereby reduced to undergo ***1 year Rigorous Imprisonment*** and the Direction to pay a fine of Rs.10,000/-is confirmed and the default sentence of imprisonment to undergo 1 year is also reduced to undergo Simple Imprisonment for 3 months.

32.2.11.The sentence of imprisonment to undergo ***10 years Rigorous Imprisonment*** for the offence ***under Section 467 of IPC*** is hereby reduced to undergo ***1 year Rigorous Imprisonment*** and the direction to pay a fine of Rs.10,000/-is confirmed and the default sentence of imprisonment to undergo 1 year is also reduced to undergo Simple Imprisonment for 3 months.

32.2.12.The sentence of imprisonment to undergo ***7 years Rigorous Imprisonment*** for the offence ***under Section 468 of IPC*** is hereby reduced to undergo ***1 year Rigorous Imprisonment*** and the direction to pay a fine of Rs.10,000/-is confirmed and the default sentence of imprisonment to undergo 1 year is also reduced to undergo Simple Imprisonment for 3 months.

32.2.13.The sentence of imprisonment to undergo ***7 years Rigorous Imprisonment*** for the offence ***under Section 471 of IPC*** is hereby reduced to undergo ***1 year Rigorous Imprisonment*** and the direction to pay a fine of Rs.25,000/-is confirmed and the default sentence of imprisonment to undergo 1 year is also reduced to undergo Simple Imprisonment for 3 months.

32.2.14.The sentence of imprisonment to undergo ***7 years Rigorous Imprisonment*** for the offence ***under Section 477-A of IPC*** is hereby reduced to undergo ***1 year Rigorous Imprisonment*** and the Direction to pay a fine of Rs.10,000/-is confirmed and the default sentence of imprisonment to undergo 1 year is also reduced to undergo Simple Imprisonment for 3 months.

32.2.15.The sentence of imprisonment to undergo ***7 years Rigorous Imprisonment*** for the offence ***under Section 13(2) r/w 13(1)(d) of Prevention of Corruption Act,1988,*** is hereby reduced to undergo ***1 year Rigorous Imprisonment*** and the direction to pay a fine of Rs.10,000/-is confirmed and the default sentence of imprisonment to undergo 1 year is also reduced to undergo Simple Imprisonment for 3 months.

32.2.16.The sentence of imprisonment to undergo ***2 years Rigorous Imprisonment*** for the offence ***under Section 66 of the Information Technology Act, 2000***, is hereby reduced to undergo ***1 year Rigorous Imprisonment*** and the direction to pay a fine of Rs.1,00,000/-is confirmed and the default sentence of imprisonment to undergo 6 months is also reduced to undergo Simple Imprisonment for 3 months.

32.2.17.Therefore, the Learned Trial Judge is directed to secure the accused to make him undergo the remaining period of sentence. All the substantive sentence of imprisonment are to ***run concurrently***. The period if already undergone by the accused is ordered to be set off under Section 428 of Cr.P.C.,

33.Discussion on Sentence of imprisonment of A4 appeallant in Crl.A.(MD).No.111 of 2019:

The learned counsel for A4 would submit that she is aged about 40 years and she is having 8 year old female child and she had already deposited Rs.7,00,000/- apart from the payment of fine of Rs.3,40,000/- and hence she seeks for reduction of sentence to the period already undergone by her. The learned Special Public Prosecutor would submit that major part of the defrauded amount is credited in her account and her family members' account. Therefore, he seeks to confirm the sentence. This court considering the mitigating circumstances pleaded by the learned counsel appearing for the appellant, inclines to reduce the sentence on payment of further compensation of Rs.40,40,000/- to the credit of the Post Master Vedasandur within period of 1 month from the date of receipt of the copy of this order, in addition to the amount already deposited, namely, Rs. 10,40,000/-on the following terms, otherwise the sentence imposed by the court below would automatically be restored.

Charges proved under sections	Punishment imposed by the Learned Trial Judge	Modified punishment imposes by this court.
u/s120-B r/w 420 IPC	Rigorous Imprisonment for 7yearsand to pay a fine of Rs.10,000/-in default to undergo Simple Imprisonment for One Year;	Rigorous Imprisonment for 1 year and to pay a fine of Rs. 10,000/-is confirmed in default to undergo Simple Imprisonment for 3 months;
u/s 120-B r/w 467 IPC	Rigorous Imprisonment for 10 years and to pay a fine of Rs.10,000/-in default to undergo Simple Imprisonment for One Year;	Rigorous Imprisonment for 1 year and to pay a fine of Rs. 10,000/-is confirmed in default to undergo Simple Imprisonment for 3 months;
u/s 120-B r/w 468 IPC	Rigorous Imprisonment for 7 years and to pay a fine of Rs.10,000/-in default to undergo Simple Imprisonment for One Year;	Rigorous Imprisonment for 1 year andtopayafineof Rs. 10,000/-is confirmed in default to undergo Simple Imprisonment for 3 months;
u/s 120-B r/w 471 IPC	Rigorous Imprisonment for 7 years and to pay a fine of Rs.25,000/-in default to undergo Simple Imprisonment for One Year;	Rigorous Imprisonment for 1 year and to pay a fine of Rs. 25,000/-is confirmed in default to undergo Simple Imprisonment for 3 months;
u/s120-B r/w 477-A IPC	Rigorous Imprisonment for 7 years and to pay a fine of Rs.10,000/-in default to undergo Simple Imprisonment for One Year;	Rigorous Imprisonment for 1 year and to pay a fine of Rs. 10,000/-is confirmed in default to undergo Simple Imprisonment for 3 months;

u/s120-B r/w 13(2) r/w 13(1) (d) of Prevention of Corruption Act, 1988.	Rigorous Imprisonment for 7 years and to pay a fine of Rs.10,000/-in default to undergo Simple Imprisonment for One Year;	Rigorous Imprisonment for 1 year and to pay a fine of Rs. 10,000/-is confirmed in default to undergo Simple Imprisonment for 3 months;
u/s120-B r/w Section 66 of Information Technology Act, 2000.	Rigorous Imprisonment for 2 years and to pay a fine of Rs.1,00,000/-indefault to undergo Simple Imprisonment for Six Months.	Rigorous Imprisonment for 1 year and to pay a fine of Rs.1,00,000/-is confirmed in default to undergo Simple Imprisonment for three months.
u/s 420 IPC	Rigorous Imprisonment for 7yearsand to pay a fine of Rs.10,000/-in default to undergo Simple Imprisonment for One Year;	Rigorous Imprisonment for 1 year and to pay a fine of Rs. 10,000/-is confirmed in default to undergo Simple Imprisonment for 3 months;
u/s 467 IPC	Rigorous Imprisonment for 10 years and to pay a fine of Rs.10 ,000/-in default to undergo Simple Imprisonment for One Year;	Rigorous Imprisonment for 1 year and to pay a fine of Rs. 10,000/-is confirmed in default to undergo Simple Imprisonment for 3 months;
u/s 468 IPC	RigorousImprisonmentfor7 yearsandtopayafineof Rs. 10,000/-in default to undergo Simple Imprisonment for One Year;	Rigorous Imprisonment for 1 year and to pay a fine of Rs. 10,000/-is confirmed in default to undergo Simple Imprisonment for 3 months;

u/s 471 IPC	Rigorous Imprisonment for 7 years and to pay a fine of Rs.25,000/-in default to undergo Simple Imprisonment for One Year;	RigorousImprisonmentfor 1 year and to pay a fine of Rs. 25,000/-is confirmed in default to undergo Simple Imprisonment for 3 months;
u/s 477-AIPC	Rigorous Imprisonment for 7 years and to pay a fine of Rs.10,000/-in default to undergo Simple Imprisonment for One Year;	Rigorous Imprisonment for 1 year and to pay a fine of Rs. 10,000/-is confirmed in default to undergo Simple Imprisonment for 3 months;
u/s 66 of Informatio n Technolog y Act, 2000	Rigorous Imprisonment for 2 years and to pay a fine of Rs.1,00,000/-in default to undergo Simple Imprisonment for Six Months.	Rigorous Imprisonment for 1 year and to pay a fine of Rs.1,00,000/- is confirmed in default to undergo Simple Imprisonment for three months.
Total Fine	Rs.3,40,000/-	All sentence shall run concurrently

33.1.This Court has already directed the learned Trial Judge to transfer the said amount to the credit of Post Master, Vedasandur post office and no further order is required to pay the said amount as a compensation. In view of the deposit made, this court reduces the sentence of imprisonment as stated above.

33.2.Accordingly, the Criminal Appeal filed by A4 appellant in Crl.A.(MD).No.111 of 2019 is partly allowed on the following terms:

33.2.1.The conviction and sentence passed against him in C.C.No. 6of 2010, on the file of the II Additional District Court for CBI Cases, Madurai dated 15.03.2019 is hereby confirmed.

33.2.2.Sentence imposed against the appellant in C.C.No.of 6 of 2010, on the file of the II Additional District Court for CBI Cases, Madurai dated 15.03.2019 is hereby reduced in the following terms on condition to pay sum of Rs.50,80,000/-as a compensation to the credit of the post Master Vedasandur under Section 357 of Cr.P.C., excluding the amount of Rs.10,40,000/- already deposited within a period of one month from the date of receipt of a copy of this order on the following terms, otherwise the sentence of imprisonment imposed by the trial Court shall automatically be restored:

33.The sentence of imprisonment to undergo ***7 years Rigorous Imprisonment*** for the offence under Section 120-B r/w 420 of IPC is hereby reduced to undergo ***1 year Rigorous Imprisonment*** and the direction to ***pay a fine of Rs.10,000/-***is confirmed and the default sentence of imprisonment to undergo 1 year is also reduced to undergo Simple Imprisonment for 3 months.

34.

33.2.5.The sentence of imprisonment to undergo ***10 years Rigorous Imprisonment*** for the offence ***under Section 120-B r/w 467 of IPC*** is hereby reduced to undergo ***1 year Rigorous Imprisonment*** and the direction to ***pay a fine of Rs.10,000/-***is confirmed and the default sentence of imprisonment to undergo 1 year is also reduced to undergo Simple Imprisonment for 3 months.

33.2.6.The sentence of imprisonment to undergo *7* ***years Rigorous Imprisonment*** for the offence under Section ***120-B r/w 468 of IPC*** is hereby reduced to undergo ***1 year Rigorous Imprisonment*** and the direction to pay a fine of ***Rs.10,000/-***is confirmed and the default sentence of imprisonment to undergo 1 year is also reduced to undergo Simple Imprisonment for 3 months.

33.2.7.The sentence of imprisonment to undergo *7* ***years Rigorous Imprisonment*** for the offence ***under Section 120-B r/w 471 of IPC*** is hereby reduced to ***undergo 1 year Rigorous Imprisonment*** and the direction to pay a fine of ***Rs.25,000/-***is confirmed and the default sentence of imprisonment to undergo 1 year is also reduced to undergo Simple Imprisonment for 3 months.

33.2.8.The sentence of imprisonment to undergo ***7 years Rigorous Imprisonment*** for the offence under Section ***120-B r/w 477-A of IPC*** is hereby reduced to ***undergo 1 year Rigorous Imprisonment*** and the direction to pay a fine of ***Rs.10,000/-***is confirmed and the default sentence of imprisonment to undergo 1 year is also reduced to undergo Simple Imprisonment for 3 months.

33.2.9.The sentence of imprisonment to undergo ***2 years Rigorous Imprisonment*** for the offence under Section ***120-B r/w Section 66 of the Information Technology Act, 2000*** is hereby reduced to ***undergo 1 year Rigorous Imprisonment*** and the direction to pay a fine of ***Rs.1,00,000/-***is confirmed and the default sentence of imprisonment to undergo 6 months is also reduced to undergo Simple Imprisonment for 3 months.

33.2.10.The sentence of imprisonment to undergo ***7 years Rigorous Imprisonment*** for the offence ***under Section 420 of IPC*** is hereby reduced to undergo 1 year Rigorous Imprisonments and the direction to pay a fine of ***Rs.10,000/-***is confirmed and the default sentence of imprisonment to undergo 1 year is also reduced to undergo Simple Imprisonment for 3 months.

33.2.11.The sentence of imprisonment to undergo ***10 years Rigorous Imprisonment*** for the offence ***under Section 467 of IPC*** is hereby ***reduced to undergo 1 year Rigorous Imprisonment*** and the direction to pay a fine of ***Rs.10,000/-*** is confirmed and the default sentence of imprisonment to undergo 1 year is also reduced to undergo Simple Imprisonment for 3 months.

33.2.12.The sentence of imprisonment to undergo ***7 years Rigorous Imprisonment*** for the offence ***under Section 468 of IPC*** is hereby reduced to undergo ***1 year Rigorous Imprisonment*** and the direction to pay a fine of ***Rs.10,000/-*** is confirmed and the default sentence of imprisonment to undergo 1 year is also reduced to undergo Simple Imprisonment for 3 months.

33.2.13.The sentence of imprisonment to undergo ***7 years Rigorous Imprisonment*** for the offence ***under Section 471 of IPC*** is hereby reduced to undergo ***1 year Rigorous Imprisonment*** and the Direction to pay a fine of ***Rs.25,000/-*** is confirmed and the default sentence of imprisonment to undergo 1 year is also reduced to undergo Simple Imprisonment for 3 months.

33.2.14.The sentence of imprisonment to undergo ***7 years Rigorous Imprisonment*** for the offence ***under Section 477 of IPC*** is hereby reduced to undergo ***1 year Rigorous Imprisonment*** and the direction to pay a fine of ***Rs.10,000/-***is confirmed and the default sentence of imprisonment to undergo 1 year is also reduced to undergo Simple Imprisonment for 3 months.

33.2.15.The sentence of imprisonment to undergo ***7 years Rigorous Imprisonment*** for the offence ***under Section 13(2) r/w 13(1)(d) of Prevention of Corruption Act,1988*** is hereby reduced to undergo ***1 year Rigorous Imprisonment*** and the direction to pay a fine of ***Rs.10,000/-***is confirmed and the default sentence of imprisonment to undergo 1 year is also reduced to undergo Simple Imprisonment for 3 months.

33.2.16.The sentence of imprisonment to undergo ***2 years Rigorous Imprisonment*** for the offence ***under Section 66 of the Information Technology Act, 2000***, is hereby reduced to undergo ***1 year Rigorous Imprisonment*** and the direction to pay a fine of ***Rs.10,000/-***is confirmed and the default sentence of imprisonment to undergo 6 months is also reduced to undergo Simple Imprisonment for 3 months.

All substantive sentences shall run concurrently.

34. The period of judicial custody, if any, already undergone by each accused shall be set off against the term of imprisonment awarded to each accused herein u/s 428 Cr.P.C. The leanred trial Judge is hereby directed to take steps to secure the accused to serve their remaining period of sentence.

04.03.2025

NCC : Yes/No
Index : Yes / No
Internet : Yes / No

To

1. The II Additional District Judge for CBI Cases,
   Madurai District.

2. The Deputy Superintendent of Police,
   CBI:SPE:ACB, Chennai.

3. The Special Public Prosecutor for CBI Cases,
   Madurai Bench of Madras High Court, Madurai.

4. The Section Officer,
   Criminal Section(Records),
   Madurai Bench of Madras High Court, Madurai.

K.K.RAMAKRISHNAN,J.

sbn

Pre-delivery common judgment made in
CRL.A(MD).Nos.129, 111 and164 of 2019

04.03.2025