BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on	:	24.07.2024
Pronounced on	:	04.03.2025

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

CRL.A(MD).Nos.30, 41, 42, 56, 57 and 76 of 2019
and
Crl.M.P.(MD).No.14193 of 2023

Crl.A(MD).No.30 of 2019:

Dr.K.Rajavelu ... Appellant/5th Accused

Vs.

State rep. by
The Inspector of Police,
CBI, ACB,
Chennai
(Crime No.RC 19/A/2008) ... Respondent/Complainant

PRAYER: This Criminal Appeal is filed under Section 374(2) of Cr.P.C. to call for records in C.C.No.3 of 2009 on the file of the learned II Additional District Court for CBI Cases, Madurai and set aside the conviction and sentence passed by judgment and order dated 24.12.2018.

For Appellant	:	Mr.A.Robinson for Mr.M.Saravanan
For Respondent	:	Mr.M.Karunanithi, Special Public Prosecutor for CBI

Crl.A(MD).No.41 of 2019:

Shanmugavel ... Appellant/8th Accused

Vs.

The State Rep. by
Inspector of Police,
CBI: ACB: Chennai
(RC 19/A/2008) ... Respondent/Complainant

PRAYER: This Criminal Appeal is filed under Section 374(2) of Cr.P.C. to set aside the judgment and order dated 24.12.2018 made in C.C.No.03 of 2009 on the file of the learned II Additional District Court for CBI Cases, Madurai and allow the above Criminal Appeal.

For Appellant : Mr.John Sathyan,
Senior Counsel
for M/s.Veera Associates

For Respondent : Mr.M.Karunanithi,
Special Public Prosecutor for CBI

Crl.A(MD).No.42 of 2019:

M.Sundararajan ... Appellant/11th Accused

Vs.

The State Rep. by
Inspector of Police,
CBI: ACB: Chennai
RC 19/A/2008 ... Respondent/Complainant

PRAYER: This Criminal Appeal is filed under Section 374(2) of Cr.P.C. to set aside the judgment and order dated 24.12.2018 made in C.C.No.03 of 2009 on the file of the learned II Additional District Court for CBI Cases, Madurai and allow the above Criminal Appeal.

For Appellant : Mr.G.Karuppasamy Pandian
for Mr.J.Vijayaraja

For Respondent : Mr.M.Karunanithi,
Special Public Prosecutor for CBI

Crl.A(MD).No.56 of 2019:

K.P.Kumar @ K.P.Veer Kumar ... Appellant/Accused No.1

Vs.

State through
The Inspector of Police,
SPE/ACB/CBI,
Chennai
(in RC No. 19/A/2008) ... Respondent/Complainant

PRAYER: This Criminal Appeal is filed under Section 374(2) of Cr.P.C. to call for the entire records connected to the judgment in C.C.No.03 of 2009 on the file of the learned II Additional Special Judge for CBI Cases, Madurai dated 24.12.2018 and set aside the conviction and sentence imposed against the appellant.

For Appellant : Mr.S.Sivakumar
for Mr.R.Alagumani

For Respondent : Mr.M.Karunanithi,
Special Public Prosecutor for CBI

Crl.A(MD).No.57 of 2019:

Jala Jawahar ... Appellant/Accused No.3

Vs.

State through Inspector,
SPE:CBI:ACB: Chennai
in RC 19/A/2008 ... Respondent/Complainant

PRAYER: This Criminal Appeal is filed under Section 374(2) of Cr.P.C. to set aside the conviction and sentence passed against the appellant by virtue of the Judgment dated 24.12.2018 made in C.C.No.3 of 2009 on the file of the learned II Additional District Judge for CBI Cases, Madurai.

For Appellant : Mr.K.K.Kannan

For Respondent : Mr.M.Karunanithi,
Special Public Prosecutor for CBI

Crl.A(MD).No.76 of 2019:

Dr.B.Banumathi ... Appellant/Accused No.10

Vs.

The State Rep. by
The Inspector of Police,
CBI: ACB: Chennai
RC No. 19/A/2008 ... Respondent/Complainant

PRAYER: This Criminal Appeal is filed under Section 374(2) of Cr.P.C. to call for the records pertaining to the conviction and sentence passed in C.C.No.3 of 2009 on the file of the learned II Additional District Judge for CBI Cases, Madurai by judgment and order dated 24.12.2018 and set aside the same as illegal and acquit the Appellant.

For Appellant : Mr.G.Karuppasamy Pandian
for Mr.J.Vijayaraja

For Respondent : Mr.M.Karunanithi,
Special Public Prosecutor for CBI

COMMON JUDGMENT

Accused Nos.1, 3, 5, 8, 10 and 11 in C.C.No.03 of 2009, on the file of the learned II Additional District Judge for CBI Cases, Madurai have filed these appeals, challenging the conviction and sentence imposed against them.

2. A1 has filed this appeal in Crl.A.(MD) No. 56 of 2019 challenging the following conviction and sentence of imprisonment:

Crl.A.(MD).No.	*Rank of the Accused and Name*	*Charges proved under sections*	*Punishment (Imprisonment and Fine)*
56 / 2019	A -1 K.P.Kumar @ K.P.Veer Kumar	u/s 120-B r/w 420, 467, 468, 471 IPC and Section 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.5000/-in default to undergo Simple Imprisonment for Three months;
		u/s 420 IPC	Rigorous Imprisonment for 7 years and to pay a fine of Rs.5000/- in default to undergo Simple Imprisonment for Three months;
		u/s 467 IPC	Rigorous Imprisonment for 10 years and to pay a fine of Rs.5000/- in default to undergo Simple Imprisonment for Three months;
		u/s 468 IPC	Rigorous Imprisonment for 7 years and to pay a fine of Rs.5000/-in default to undergo Simple Imprisonment for Three months;
		u/s 471 IPC	Rigorous Imprisonment for 10 years and to pay a fine of Rs.5000/-in default to undergo Simple Imprisonment for Three months;
		u/s 13(2) r/w 13(1)(d) of PC Act	Rigorous Imprisonment for 7 years and to pay a fine of Rs.5000/-in default to undergo Simple Imprisonment for Three months;
			Total Fine Rs. 30,000/-

2.1. <u>A3 has filed this appeal in Crl.A.(MD) No. 57 of 2019 challenging the following conviction and sentence of imprisonment:</u>

Crl.A. (MD) .No.	*Rank of the Accused and Name*	*Charges proved under sections*	*Punishment (Imprisonment and Fine)*
57 / 2019	A -3 Dr.S.Jala Jawahar	u/s 120-B r/w 420, 467, 468, 471 IPC and Section 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.5000/-in default to undergo Simple Imprisonment for Three months;
		u/s 420 IPC	Rigorous Imprisonment for 7 years and to pay a fine of Rs.5000/- in default to undergo Simple Imprisonment for Three months;
		u/s 467 IPC	Rigorous Imprisonment for 10 years and to pay a fine of Rs.5000/- in default to undergo Simple Imprisonment for Three months;
		u/s 468 IPC	Rigorous Imprisonment for 7 years and to pay a fine of Rs.5000/-in default to undergo Simple Imprisonment for Three months;
		u/s 471 IPC	Rigorous Imprisonment for 10 years and to pay a fine of Rs.5000/-in default to undergo Simple Imprisonment for Three months;
			Total Fine Rs. 25,000/-

2.2. A5 has filed this appeal in in Crl.A.(MD) No. 30 of 2019 challenging the following conviction and sentence of imprisonment:

Crl.A. (MD).No.	*Rank of the Accused and Name*	*Charges proved under sections*	*Punishment (Imprisonment and Fine)*
30 / 2019	A -5 Dr.K.Rajavelu	u/s 120-B r/w 420, 467, 468, 471 IPC and Section 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.5000/-in default to undergo Simple Imprisonment for Three months;
		u/s 420 IPC	Rigorous Imprisonment for 7 years and to pay a fine of Rs.5000/- in default to undergo Simple Imprisonment for Three months;
		u/s 467 IPC	Rigorous Imprisonment for 10 years and to pay a fine of Rs.5000/- in default to undergo Simple Imprisonment for Three months;
		u/s 468 IPC	Rigorous Imprisonment for 7 years and to pay a fine of Rs.5000/-in default to undergo Simple Imprisonment for Three months;
		u/s 471 IPC	Rigorous Imprisonment for 10 years and to pay a fine of Rs.5000/-in default to undergo Simple Imprisonment for Three months;
			Total Fine Rs. 25,000/-

2.3. <u>A8 has filed this appeal in in Crl.A.(MD) No. 41 of 2019 challenging the following conviction and sentence of imprisonment:</u>

Crl.A. (MD).No.	***Rank of the Accused and Name***	***Charges proved under sections***	***Punishment (Imprisonment and Fine)***
41 / 2019	A -8 S.Shanmugavel	u/s 120-B r/w 420, 467, 468, 471 IPC and Section 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.5000/-in default to undergo Simple Imprisonment for Three months;
		u/s 420 IPC	Rigorous Imprisonment for 7 years and to pay a fine of Rs.5000/- in default to undergo Simple Imprisonment for Three months;
		u/s 467 IPC	Rigorous Imprisonment for 10 years and to pay a fine of Rs.5000/- in default to undergo Simple Imprisonment for Three months;
		u/s 468 IPC	Rigorous Imprisonment for 7 years and to pay a fine of Rs.5000/-in default to undergo Simple Imprisonment for Three months;
		u/s 471 IPC	Rigorous Imprisonment for 10 years and to pay a fine of Rs.5000/-in default to undergo Simple Imprisonment for Three months;
			Total Fine Rs. 25,000/-

2.4. A10 has filed this appeal in in Crl.A.(MD) No. 76 of 2019 challenging the following conviction and sentence of imprisonment:

Crl.A.(MD).No.	*Rank of the Accused and Name*	*Charges proved under sections*	*Punishment (Imprisonment and Fine)*
76 / 2019	A -10 Dr.B.Banumathi	u/s 120-B r/w 420, 467, 468, 471 IPC and Section 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.5000/-in default to undergo Simple Imprisonment for Three months;
		u/s 420 IPC	Rigorous Imprisonment for 7 years and to pay a fine of Rs.5000/- in default to undergo Simple Imprisonment for Three months;
		u/s 467 IPC	Rigorous Imprisonment for 10 years and to pay a fine of Rs.5000/- in default to undergo Simple Imprisonment for Three months;
		u/s 468 IPC	Rigorous Imprisonment for 7 years and to pay a fine of Rs.5000/-in default to undergo Simple Imprisonment for Three months;
		u/s 471 IPC	Rigorous Imprisonment for 10 years and to pay a fine of Rs.5000/-in default to undergo Simple Imprisonment for Three months;
			Total Fine Rs. 25,000/-

2.5. <u>A11 has filed this appeal in Crl.A.(MD) No. 42 of 2019 challenging the following conviction and sentence of imprisonment:</u>

Crl.A. (MD).	*Rank of the Accused and Name*	*Charges proved under sections*	*Punishment(Imprisonment and Fine)*
42 / 2019	A -11 Dr.M.Sundarrajan	u/s 120-B r/w 420, 467, 468, 471 IPC and Section 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.5000/-in default to undergo Simple Imprisonment for Three months;
		u/s 420 IPC	Rigorous Imprisonment for 7 years and to pay a fine of Rs.5000/- in default to undergo Simple Imprisonment for Three months;
		u/s 467 IPC	Rigorous Imprisonment for 10 years and to pay a fine of Rs.5000/- in default to undergo Simple Imprisonment for Three months;
		u/s 468 IPC	Rigorous Imprisonment for 7 years and to pay a fine of Rs.5000/-in default to undergo Simple Imprisonment for Three months;
		u/s 471 IPC	Rigorous Imprisonment for 10 years and to pay a fine of Rs.5000/-in default to undergo Simple Imprisonment for Three months;
			Total Fine Rs. 25,000/-

3. A1 was working as Manager of the Corporation Bank, West Masi Street, Madurai. The Government had introduced loan under the scheme of Corp Medical Tech loan. To obtain the said loan, A1 and other appellants herein conspired to cheat and defraud the bank amount by submitting the loan application with false documents and obtained the loan and misappropriated the loan amount without purchasing the medical equipment as mentioned in the loan application. As a result of fraudulent act, there was huge loss to the bank and hence, CBI registered the case on source information for the alleged offences under Sections 120-B r/w 420, 467, 468, 471 of IPC and 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988 and Sections 420, 467, 468 and 471 of IPC. Thereafter, the investigation was conducted and the final report was filed against all the appellants under Sections 120-B r/w 420, 467, 468, 471 of IPC and 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988 and Sections 420, 467, 468 and 471 of IPC and the same was taken on file in C.C.No.3 of 2009 by the Learned II Additional District Court for CBI cases, Madurai.

3.1. The Trial Court summoned the appellant and furnished the copies under Section 207 Cr.P.C., and framed necessary charges and questioned the accused. They denied the charges and stood for trial. The prosecution, in order to prove the charges, examined PW-1 to PW-25 and exhibited Ex-P1 to Ex-P144.

3.2. The learned Trial Judge, questioned the appellants under Section 313 Cr.P.C., by putting the incriminating materials available against them and all the accused denied the same as false and each gave different explanations. The accused neither examined any witness nor marked any documents. After considering the explanation and evidence on record the learned trial Judge convicted all the accused for the above said offenses. Challenging the same, the above appeals are filed before this Court.

4. Submissions:

4.1. Thiru.K.K.Kannan, the learned counsel for the appellant in Crl.A.(MD)No.57 of 2019 made the following submissions:

The prosecution has not established the charge of criminal conspiracy between the convicted accused. No incriminating circumstances were proved to presume the existence of conspiracy between the appellants. Totally three types of officers are involved in this occurrence, namely, Bank Officers, Medical Practitioners and Medical Equipment suppliers. Neither oral evidence nor circumstantial evidence were adduced by the prosecution to infer existence of criminal conspiracy between three group of persons to defraud the bank amount. The learned trial Judge has committed error in recording a finding that the prosecution has proved the charge of criminal conspiracy. It is the case of the prosecution that none of the medical practitioners had utilized the loan to purchase the medical equipments and without purchasing the medical equipments they defrauded the amount. The CBI has not investigated any fact relating to the non-supply of the medical equipments. The CBI Officers never collected any materials either from the Customs Department or Sales Tax Department to prove the non-supply of the materials. Without adequate materials, the learned trial Judge erroneously convicted the appellants under Sections 120-B of IPC coupled with the other charged offences. The conviction is based on surmise and conjecture. Therefore, the conviction under Section 120-B of IPC, is not legally valid.

4.2. It is the case of the prosecution that P.W.4 succeeded A1 as a Manager in the Corporation Bank and found that there was some irregularity. But, audit report was not filed and auditor also not examined. Therefore, the learned trial Judge failed to draw adverse inference. The Investigating Officer also deposed that he did not examine any person from the office of customs department and from the bank audit department. He has also not collected any documents from both departments. The Investigating Officer has not even visited the office of the accused No.3, Dr.Jala Jawahar the appellant in Crl.A.(MD).No.57 of 2019. The investigating officer also not collected four sanction registers from the Corporation Bank. He has also not collected any particulars about the missing of the medical equipment. Therefore, the case of the prosecution that they obtained the loan with the false invoices procured from the equipment suppliers, namely, appellant in Crl.A.(MD). No.41 of 2019 is not sustainable. The case rests on circumstantial evidence. Therefore, the pancha Sheel principle laid down in the case of the Sharad Birdhichand Sarda vs State of Maharastra reported in 1984 AIR 1622 has not been proved by the prosecution. The prosecution failed to prove the wrongful loss caused to the bank. Without taking recourse of recovery proceedings, the investigating agency, filed the final report by giving the criminal colour to the civil dispute. The DD amount was directly sent to the equipment supplier. In the said circumstances, the diversion of the fund is not proved.

4.3. The prosecution failed to prove either forgery or falsification of the documents. In support of his contention the learned counsel for the appellant relied the following precedents:

(i) In the case of Ram Sharan Chaturvedi vs, State of Madhya Pradesh reported in 2022 (4) Crimes 96 (SC)

(ii) In the case of Sharad Birdhichand Sarda vs State of Maharashtra reported in 1984 (4) SCC 116

(iii) In the case of Sheila Sebastian vs R.Jawaharaj and another ete reported in 2018 (3) MLJ (Crl) 39 (SC)

(iv) In the case of Ramesh Bhai & Anr vs. State of Rajasthan in Crl.A.Nos.868 and 869 of 2004

(v) In the case of Satishchandra Ratanlal shah vs, State of Gujarat and another in Crl.A.No.9 of 2019

(vi)In the case of Prof R K Vijayasarathy & anr vs. Sudha Seetharam & Anr in Crl.A.No.238 of 2019

(vii) In the case of Nikhil Merchant vs. Central Bureau of Investigation & aur in S.L.P.(Crl.). No.6355 of 2005

(viii) In the case of T.b.Shankar Rao and others vs. The C.B.I State of Andhra Pradesh in Criminal Petition No.4190 of 2013

(ix) In the case of Kothari Polymers Ltd & ors vs. CBI in Crl.A.No. 239 of 2015

4.4. The learned counsel finally submitted that the learned trial Judge without any reason and without considering the mitigating circumstances awarded maximum sentence of imprisonment. The learned counsel produced number of documents to show the ailments of the appellant. Even he specifically submitted that his leg was amputated and he is still suffering from several ailments and life has become a misery and therefore, he seeks for acquittal.

5. **Submission of Mr.Robinson learned Counsel for the Appellant Crl.A.(MD) No. 30 of 2019:-**

5.1. Mr.Robinson learned counsel for the appellant in Crl.A.(MD).No.30 of 2019 reiterated the above submission of learned counsel for the appellant in Crl.A.(MD). No.57 of 2019 and specifically submitted that nothing was produced to prove that the appellant who was a practicing doctor had not purchased the machineries. All are imported machineries and to prove the non-supply of the said imported machineries, the investigating agency, namely, the investigating officer has not collected the customs duty records and sale tax records to substantiate the non-supply of the medical equipment. Without proving non supply of medical equipment, charge against the appellants like the medical practitioner that they cheated the bank and defrauded the bank amount by producing false invoices obtained from the medical equipment supplier, namely, the appellant in Crl.A.(MD) No.41 of 2019 cannot stand. The learned counsel further submitted that to prove the charge of forgery and cheating none of the essential ingredients has been proved. Therefore, he seeks for acquittal.

5.2. The learned counsel also submitted that the appellant in Crl.A.(MD) No.30 of 2019, namely, Dr.K.Rajavelu is suffering from age related llness and he seeks for acquittal.

5.3. The learned counsel for the remaining doctors and also reiterated the said submission of both the learned counsel for the appellants in Crl.A.(MD). Nos.57 of 2019 and 30 of 2019 and specifically submitted that when there is no material adduced to prove the non-supply of the medical equipment, the conviction for the offence of forgery and cheating is not proper.

5.4. The Learned counsel Thiru.Karuppusamy Pandian submitted that no evidence was adduced by the prosecution to prove the conspiracy and also not established the circumstances to presume the conspiracy. The conviction is based only on surmise. The additional submission made was that he settled the entire loan amount. The investigating agency deleted the similarly placed doctors/medical practitioners, who had obtained the loan and paid the entire loan amount and they were deleted from the array of accused. Therefore, he seeks for same benefit. He relied the 2018 (3) MLJ (Crl) 39 SC Sheila Sebastian Vs R.Jawaharaj and another and 2022 (4) Crimes 96 (SC) Ram Sharan Chaturvedi Vs State of Madhya Pradesh.

5.5. Mr.John sathayan learned Senior counsel appearing for the equipment supplier, namely, Shanmugavel appellant in Crl.A. (MD).No.49 of 2019 submitted that the company has supplied the equipment and without arraying the company as accused the case has been filed. The case against the representative of the managing director of the company is not legally maintainable.

5.6. He further submitted that as per the documents produced by the prosecution the medical equipment were supplied and the same were installed. The failure of the prosecution to prove the post inspection report and non collection of the installation report clearly shows that the equipments were supplied by the appellant. The allegation of the diversion of fund to the account of the individual doctors is not correct. All are imported equipments. As per the agreement between the supplier and the medical practitioner a portion of the amount has to be deposited before applying the loan. All the medical practitioners received the said amount after sanctioning of the loan amount. Therefore, there was no illegal conversion of the amount. In the said circumstances, he seeks acquittal. The learned Senior counsel also submitted in length about the health condition of the appellant. The learned counsel relied catena of precedents to support his contention.

5.7. Mr. Sivakumar, Learned Counsel appearing for Appellant in Crl.A.(MD) No. 56 of 2019 reiterated all the submission and going through evidence and record, would specifically submit that appellant/Bank officer has granted loans as per norms the entire prosecution evidence are not even sufficient to raise grave suspicion and hence conviction and sentence against all the appellants through common judgments is liable to be set aside.

6. The learned Additional Public Prosecutor countered the said detailed submission made on behalf of all the counsel with the following submissions:

6.1. When the evidence of the approver is cogent and trustworthy relating to the planned conspiracy to defraud the bank amount and when the same was corroborated by the material documents collected by the prosecution, the conviction passed by the Court below is not liable to be set aside.

6.2. He would further submit that non-examination of the witnesses, namely from auditing department is not a ground to disbelieve the available evidence which were basis to convict the appellants and so also any lapse on the part of the investigating agency is not a ground to acquit the accused. When sufficient evidence is available on record to convict the appellants for the charged offences, it is not necessary to go into minute details of facts. He further submitted that payment of the amount during the pendency of the criminal case is not a ground to reduce the sentence. The plea of all the counsel to reduce the sentence on the ground of ill-health is misconceived one, in view of the un-professional act committed by the doctors who belong to a noble profession. Doctors have social responsibility and the medical equipment supplier also has more responsibility apart from the bank manager. All have their respective responsibility and hence, the said plea for the reduction of the sentence on the ground of ill-health cannot be acceded.

6.3 This Court has perused the entire records and impugned judgment and considered the detailed submission made by the Learned Counsel for the appellants and the Learned Special Public Prosecutor and the various precedents relied upon by them.

6.4. Whether the conviction and sentence of imprisonment imposed against the appellants in C.C.No. 3 of 2009 on the file of the II Additional District Court for CBI Cases, Madurai is liable to be set aside?

6.5. For better appreciation of this case, the same rank of the accused mentioned in the records of court below in C.C.No.3 of 2009 on the file of the II Additional District Court for CBI Cases, Madurai is being referred herein for the convenience of discussion.

Appeal No.	Accused No.
Crl.A.(MD).No.56 of 2019	A1

Crl.A.(MD).No.29 of 2019	A2
Crl.A.(MD).No.57 of 2019	A3
Crl.A.(MD).No.30 of 2019	A5
Crl.A.(MD).No.41 of 2019	A8
Crl.A.(MD).No.76 of 2019	A10
Crl.A.(MD).No.42 of 2019	A11

6.6. The corporation bank had introduced a new scheme of medical loan in the name of "*Corp Medical Tech loan*" with the noble object of granting loan to the registered medical practitioner to purchase electro medical equipments etc., to run medical clinic. The machineries are treated as the prime security. As per the scheme, the bank would provide 90% of the machinery cost. Each applicant is required to deposit 10% of the margin money of the said machinery. 90% of the amount is the loan amount. Each applicant is expected to give the quotation, invoice of the equipments and the 10% margin money. The manager after verifying the installation of the said equipments mentioned in the loan application, is to disburse the loan after preparing the installation report and taking the machineries as primary security.

6.7. During the year 2004 – 2006, A1 was working as Branch Manager of Corporation Bank, Madurai. The accused Nos. 2, 3,5,10 & 11 are medical practitioners and they approached A1 to avail the loan under the scheme called "*Corp Meditech loan*" for purchasing of electro medical equipment and other medical instruments. The accused Nos. 8 and 9 are the suppliers of the said medical equipments. All conspired together to cheat the bank by doing illegal act of preparing forged documents regarding manufacturing and supply of equipments and installation of them in the above said medical practitioner clinic without actually supplying the machineries and installing the machineries and thereby they defrauded the bank amount of Rs.1.04 crores (Rs one crore and four lakhs). The medical practitioners obtained the loan to purchase the medical equipments but diverted the said fund without purchasing the proper machinery with the active connivance of the suppliers A8 and A9 and A1 the Bank Manager. The supplier produced the fake receipts and bills and false installation reports. A1 without verifying the installation and doing subsequent inspection of the working of the said medical equipment had granted loan to the medical practitioners by transferring the said loan amount to the account of A8 and A9 company. A8 and A9' company re-transferred the major part of the said loan amount without supplying the proper equipment mentioned in the loan form and in some cases without supplying the equipment. In some cases instead of supplying the new machines, second hand machines had been supplied. To prove the said allegation, the prosecution examined officials from the bank and company and produced documents evidencing transfer of the loan amount from the account of the company to the account of the individual medical practitioner. The individual medical practitioner also appropriated the said transferred amount. This court perused the following loan file of the accused and found that loans were granted without following any of above procedure and loan guidelines i.e .not even conducting pre and post loan verification which is evident clearly from the following date of application and date of sanction :

Accused	***Loan file***	***Date of the application***	***Date of the sanction***
A3, Jalal Jawahar	Ex.P.14, P15, P16.	11.12.2004 15.07.2005 23.01.2006	11.12.2004 15.07.2005 23.01.2006
A10, Banumathi	Ex.P17	02.08.2004	03.08.2004
A11, Sundararajan	Ex.P20	22.09.2004	23.09.2004
A5, Rajavel	Ex.P22, P23	05.02.2005 29.04.2005	08.02.2005 29.04.2005
A2, C.R.Subramaniam	Ex.P24	11.08.2004	12.08.2004

6.8. The further fraudulent act of misappropriation and diversion of loan is evident from the particulars of the re-transfer of amount in the name of the accused Nos.2,3, 5and 10.

Rank of the accused	***Amount transferred from the A8 and A9 account to the individual medical practitioners.***
A3 – Dr.S.Jala Jawahar (appellant in Crl.A.(MD).No. 57 of 2019).	Rs.3,00,000/-
A5 – Dr.K.Rajavelu (appellant in Crl.A.(MD).No. 30 of 2019).	Rs.5,50,000/-
A2 – Dr.C.R.Subramanian (appellant in Crl.A.(MD).No. 29 of 2019).	Rs.9,00,000/-
A10 – Dr.B.Banumathi (appellant in Crl.A.(MD).No. 76of 2019).	Rs.8,71,000/-

6.9. Thiru. N.K.Manoharan had conducted audit and grew suspicious over the non payment of the said loan amount and the irregular payment in the said loan account. Therefore, he and PW4 regional senior manager visited the place of the each applicant clinic. A8 C.R.Subramaniam had left the place of the clinic 6 months prior to the inspection. A11 Sundarrajan, A5 Rajavelu also were not available in the address mentioned in the loan application. In the clinics of other doctors, even though doctors were available, the machineries were not found. Thereafter CBI registered case on source information and conducted a search in the Cape Medical Pvt Ltd., run by A8 and collected the materials relating to the above transaction. The annual turn over of A8, the director of the said Cape Medical Pvt Ltd., was also collected and there was no description of the above sale of the various equipments. The credit / debit vouchers, pay in slips and cheques also were collected to prove that the above said amount was utilized for some other purpose. The individual search was made in the above said doctors clinics and no medical equipment was found. The said doctors also not informed about the said purchase in the form of returns to the commercial tax department in the relevant year. For the above incriminating circumstances, the doctors have not furnished any explanation during their questioning under section 313 of Cr.P.C. They have not also adduced any evidence. Hence the prosecution clearly proved the charged offence beyond reasonable doubt.

7. <u>From the above general discussion this court delves into discussion on the individual cases.</u>

<u>7.1.The discussion on the merits of the appeal in Crl.A.(MD).No. 57 of 2019</u>:

The appellant in the above appeal is A3 in C.C.No. 3 of 2009. He had obtained three loans. As per the finding of the learned trial judge, the prosecution failed to prove the allegation relating to the two loans (loan No.19 of 2004 and loan No.2 of 2006). But, the prosecution clearly proved the case against the said appellant in respect of one loan namely Loan No.

15/2005. The prosecution marked the loan file Ex.P.16. The said file contains total purchase cost of the machinery as Rs.5,75,000/-. As per the loan terms, he should make an advance amount of Rs.1,50,000/- directly to the company and as such he also paid. The balance loan amount of Rs. 4,25,000/- was sanctioned in favour of the cape medicals and disbursed through DD on 18.07.2005 under Ex.P86. On 19.07.2005, Rs.3,00,000/- was retransferred from the cape medicals company account to A3's account under Ex.P93. A3 deposited the said amount in the joint account in Indian Bank in the name of J.Kalaivani and himself. Therefore, the loan amount was not utilized for the purpose of supplying the medical equipment. Hence, this court has no reason to differ with the finding of the learned trial judge in this aspect.

7.2.The discussion on the merits of the appeal in Crl.A.(MD).No. 29 of 2019:

The appellant in the above appeal is A2 in C.C.No. 3 of 2009. He obtained various loans from A1's bank and said amount was credited in the account of cape Medicals Pvt Ltd., and the said amount was also retransmitted to his account and he appropriated the said amount by issuing the cheques to various persons. Totally Rs.10,59,570/- was credited in the name of Cape Medical Pvt Ltd., on 12.08.2004 and out of Rs.

10,59,570/-, Rs.9,00,000/- was re-transferred to the said A2's account. The above said transactions are evident from the Ex.P30, P39. Therefore, the loan amount was not utilized for the purpose of supplying the medical equipment. Hence, this court has no reason to differ with the finding of the learned trial judge in this aspect.

7.3.The discussion on the merits of the appeal in Crl.A.(MD).No. 76 of 2019:

The appellant in the above appeal is A10 in C.C.No. 3 of 2009. She had obtained three loans. First loan number is13/2004. Under Ex.P17 she applied on 03.08.2004 and it was sanctioned on 04.08.2004 for a sum of Rs. 7,68,000/and the amount was transferred to the Cape Medical Pvt Ltd. on 05.08.2004 and in turn Rs.5,00,000/- was re-transferred to A10' account under Ex.P99 and the said amount also appropriated by the A10 by depositing the said amount in the account under Ex.P111. Similarly, she also obtained second loan under number 8 of 2005 under Ex.P.19 on 25.02.2005 and loan amount of Rs.6,50,000/- was sanctioned and the amount was transferred to Cape Medical Pvt Ltd., on 25.02.2005 and out of which Rs.3,71,800/- was re-transferred on 28.02.2005 under Ex.P63 to A10's accused. *Third loan was applied in loan application number*

21/2005 under Ex.P18 and loan amount of Rs.1,98,000/- was granted on 16.11.2005 in favour of Pioneer Marketing Agencies represented by A9 and the same was not proved and no material was produced by the prosecution that the said "Pioneer Marketing Agencies" had not supplied the equipment and hence A9 was rightly acquitted. But the charge against A10 stands proved.

7.4. The discussion on the merits of the appeal in Crl.A.(MD).No. 30 of 2019:

The appellant in the above appeal is A5 in C.C.No. 3 of 2009. He applied for loan on 08.02.2005. The loan file is marked as Ex.P22. The loan amount of Rs.10,44,000/- was sanctioned and credited and the total amount of Rs.12,30,000/- in favour of the Cape Medicals Pvt Ltd., was credited under Ex.P22 and in turn Rs.3,50,000/- was retransferred to the said Rajavelu's account. Similarly, another loan was obtained for the value of Rs.4,50,000/- on 29.04.2005 and the same was sanctioned on the same day and amount was transferred on 30.04.2005 and on the same day Rs. 2,00,000/- was retransferred to the A5. The amount was appropriated by the A5 under ExP73 and under Ex.P.99.

7.5. Discussion on the merits in the Crl.A.(MD) No. 56 of 2019:

Appellant in Crl.A.(MD) No. 56 of 2019, A1/Bank Manager floated all norms and granted loan without compliance of preloan and post loan procedure. He has not visited the clinic of each doctor. He acted against scheme of the loan. There was diversion of funds. He acted on the basis of false invoices fake receipt and false installation report.

8. Conspiracy

8.1. To prove the conspiracy it is not necessary to prove participation of every accused in each and every event. 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 co-conspirators 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.*

8.2. 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 reiterated the principle laid down in the Para 662 of "Nalini case"

> *"662. ... It is not necessary that all the conspirators should participate from the inception to the end of the conspiracy; some may join the conspiracy after the time when such intention was first entertained by any one of them and some others may quit from the conspiracy.*

8.3. In this case, the loan amount was disbursed on the basis of the false documents. The false document was jointly furnished by the supplier and individual medical practitioner. The same was accepted by the bank manager with knowledge that they are fraudulent documents. Here triangular conspiracy had taken place between the medical practitioner, bank manager and the medical equipment supplier to defraud the bank by committing the illegal act of submitting forged invoices, forged receipt, forged installation report. A8 submitted the forged invoices and receipt. Therefore, the conspiracy is clearly proved.

.4. From the sequence of the events of this case, it is clear that A1 manager of the bank and the each medical practitioner and director of the

Cape Medical Pvt Ltd., conspired together to defraud the bank and all acted against the purpose of scheme of the loan and without obtaining the machineries mentioned in the loan application, created false invoices, fake receipts, false installation report and obtained the loan amount in the name of the Cape Medical Pvt Ltd., and major part of the loan amount were retransferred to the each individual accounts within few days from the date of the sanctioning of the loan in the name of the said Cape Medical Pvt Ltd., Apart from that, in some cases, the retransfer was effected on the same day. The officers attached with the bank concerned found that there was no machineries in the above appellants clinics. The accused medical practitioners have not submitted any explanation about the non-installation of the machineries. The turn over details of the Cape Medical system was recovered and produced and marked under Ex.P24. It is relevant to the period of October 2004 to March 2006. It is seen from these documents that there was no major sales during the said period but turn over for Rs. 4,70,000/- only is seen to have taken place. The said fact was disclosed by the PW19. She was Assistant Commissioner of the commercial tax department. She disclosed that she sent a communication dated 24.02.2009 as per the request made by the CBI. The said evidence was objected by the Learned Counsel for the appellant on the ground that her statement recorded under section 161 of Cr.P.C. was not served upon them. The learned judge recorded the said objection and examined. She was not a private witness. She as a Public Servant produced the documents containing the particulars of the annual turnover of the Cape Medical Pvt Ltd., submitted by A8 Shanmugavel director of the Cape Medical Pvt Ltd., Therefore there was no prejudice as alleged was caused. Apart from that she was not cross examined by any of the appellant. Further, A8 has not produced any contra materials to show that he had supplied all machineries mentioned in the loan application to each applicant.

9. <u>Discussion on the Approver Evidence</u>

9.1. PW21 - The learned judicial Magistrate has recorded the statement of the approvers PW1, PW2 under section 164 of Cr.P.C. by following the procedure. This Court also perused the record of the proceedings and finds no infirmities. The learned Counsel have also not disputed the said compliance. Now, the learned counsel for the appellants submitted that the requirement of law is that the approver's evidence needs to be corroborated on material particulars. To consider the said submission, this court deduces the following principle laid down by the Hon'ble Supreme Court to base the conviction on the basis of the approver's evidence:

9.2.The Hon'ble Supreme Court in the case of ***K. Hashim v. State of T.N. [K. Hashim v. State of T.N.,*** reported in ***(2005) 1 SCC 237*** has held as follows:

"38. First, it is not necessary that there should be independent confirmation of every material circumstance in the sense that the independent evidence in the case, apart from the testimony of the complainant or the accomplice, should in itself be sufficient to sustain conviction. As Lord Reading says:

'Indeed, if it were required that the accomplice should be confirmed in every detail of the crime, his evidence would not be essential to the case; it would be merely confirmatory of other and independent testimony.' (Baskerville case [R. v. Baskerville, (1916) 2 KB 658 : (1916-17) All ER Rep 38 (CCA)] , KB p. 664 : All ER p. 42 B-C)

39. All that is required is that there must be some additional evidence rendering it probable that the story of the accomplice (or complainant) is true and that it is reasonably safe to act upon it.

40. Secondly, the independent evidence must not only make it safe to believe that the crime was committed but must in some way reasonably connect or tend to connect the accused with it by confirming in some material particular the testimony of the accomplice or complainant that the accused committed the crime. This does not mean that the *corroboration as to identification must extend to all the circumstances necessary to identify the accused with the offence. Again, all that is necessary is that there should be independent evidence which will make it reasonably safe to believe the witness's story that the accused was the one, or among those, who committed the offence. The reason for this part of the rule is that:*

'A man who has been guilty of a crime himself will always be able to relate the facts of the case, and if the confirmation be only on the truth of that history, without identifying the persons, that is really no corroboration at all…. It would not at all tend to show that the party accused participated in it.'

41. Thirdly, the corroboration must come from independent sources and thus ordinarily the testimony of one accomplice would not be sufficient to corroborate that of another. But of course the circumstances may be such as to make it safe to dispense with the necessity of corroboration and in those special circumstances a conviction so based would not be illegal. I say this because it was contended that the mother in this case was not an independent source.

42. Fourthly, the corroboration need not be direct evidence that the accused committed the crime. It is sufficient if it is merely circumstantial evidence of his connection with the crime. Were it otherwise, 'many crimes *which are usually committed between accomplices in secret, such as incest, offences with females' (or unnatural offences) 'could never be brought to justice'. (See M.O. Shamsudhin v. State of Kerala [M.O. Shamsudhin v. State of Kerala, (1995) 3 SCC 351 : 1995 SCC (Cri) 509] .)"*

(emphasis supplied)

9.3.The Hon'ble Three Judges Bench of the Supreme Court in the case of ***Somasundaram v. State,*** **reported in *2020 (7) SCC 722*** after considering the said 'K.Hashim case' and Swaran Singh v. State of Punjab reported in AIR 1957 SC 637 and ***Haroon Haji Abdulla Vs. State of Maharastra*** reported in AIR 1968 SC 832 has held as follows:

78. *As laid down by this Court, every material circumstance against the accused need not be independently confirmed. Corroboration must be such that it renders the testimony of the approver believable in the facts and circumstances of each case. The testimony of one accomplice cannot be, ordinarily, be supported by the testimony of another approver. We have used the word "ordinarily" inspired by the statement of the law in para 4 in K. Hashim [K. Hashim v. State of T.N., (2005) 1 SCC 237 : 2005 SCC (Cri) 292] wherein this Court did contemplate special and extraordinary cases where the principle embedded in Section 133 would literally apply. In other words, in the common run of cases, the rule of prudence which has evolved into a principle of law is that an accomplice, to be believed, he must be corroborated in material* *particulars of his testimony. The evidence which is used to corroborate an accomplice need not be a direct evidence and can be in the form of circumstantial evidence.*

9.4. The CBI also examined approvers PW1 and PW2 to show the modus operandi of the entire scam involved in this case. Their evidence show that in some cases the original euiipments were not supplied and in some cases old equipments were supplied and loan was granted on that basis. The said evidence corroborated with the remaining documentary evidence collected by the CBI and proved through the prosecution witnesses. Therefore, the loan was granted to the medical practitioners who are arrayed as accused in this appeal without installing of the machineries mentioned in the loan application by preparing the false installation report, false invoices, false receipts with active convenience of each accused. In the said circumstances, argument of the one of the counsel that no scientific evidence was collected to prove the forgery cannot be accepted. When there was no machineries available, the said fact itself is sufficient to hold that the case of the installation of the machineries is false and also the connected documents are all forged one. Therefore, the prosecution has clearly proved the charged offence 420, 467, 468, 471 of I.P.C. beyond reasonable doubt.

10. Discussion on maintainability of the prosecution

10.1. The learned counsel for the A8 namely director of the Cape Medical Pvt Ltd., submitted that the prosecution against A8 is not maintainable without arraying Cape Medical Pvt Ltd., as an accused. The specific case of the prosecution is that Shanmugavel committed all the misdeeds in the name of the said Cape Medical Pvt Ltd.,. Therefore, the non array of the Cape Medical Pvt Ltd., has no significance in this case. The said principle is applicable to section 142 of Negotiable Instrument Act and is not applicable to the present case of fraudulent transaction and intentional defrauding of bank amount. Further no contention was raised before the trial court. The said question is mixed question of fact and law. Therefore, the same should have been raised before the learned trial judge. Not even a single question was asked regarding this aspect during trial. The Hon'ble Supreme Court in the Judgment reported in 2024 SCC online SC 3833 (Bijoykumar Mani Vs. Paresh Manna and another) clarified the position of non applicability of the principle applicable 142 of Negotiable Instrument Act to the IPC offences.

10.2. In view of the above discussion, this court finds no merit in the Crl.A.Nos.30, 41, 42, 56, 57 and 76 of 2019 and conviction passed by the

Learned Trial Judge in C.C.No. 3 of 2009 dated 24.12.2018 is hereby confirmed.

11.Discussion on the sentencing Crl.A.(MD) No. 42 of 2019/A11/M.Sundarajan:

11.1. The Learned Counsel Thiru. Karuppasamypandiyan submitted that one Dr.Thangavalli and the appellant M.Sundararajan (A11) paid the entire loan amount on 31.03.2008. The investigating agency had deleted the said accused Dr. Thangavalli but filed the final report against A11 alone. This shows arbitrary exercise of power of the investigation by the CBI. This court has considered the said submission upon perusing the entire material and evidence of the investigating officer. The learned Special Public Prosecutor has not disputed the settlement of the entire loan amount on 31.03.2008. But, no material was adduced to compare the case of Dr.Thangavalli and the appellant Sundarajan (A11) as to whether Dr.Thangavalli had submitted the forged invoices and receipts in the process of obtaining loan. Therefore, the principle of parity has no application. But, considering the illness of A11 and in view of the settlement of loan amount on 31.03.2008 itself, this Court to meet the ends of justice reduces the sentence imposed against A11 to the period already undergone by him.

11.1. Accordingly the Crl.A.(MD) No. 42 of 2019 is partly allowed in the following terms:

11.1.1. Conviction passed against the appellant in C.C.No. 3 of 2009 on the file of the Learned II Additional District Judge, for CBI Cases, Madurai dated 24.12.2018 is confirmed.

11.1.2. The sentence of imprisonment passed against the appellant is reduced to the period already undergone by him.

12. Discussion on sentence in the Crl.A.(MD) No. 57 of 2019/A3 Jala Jawahar:

He is aged about 74 years. He is suffering from acute coronary artery disease. He had a surgery of Laryngeal Carcinoma and he also is suffering from acute diabetes and consequential complication on the left leg and the same was amputated and also he has renal problem. Considering the above mitigating circumstances this court inclines to reduce the sentence of imprisonment on payment of Rs-4,00,000(four lakhs only) as a compensation payable to the Branch Manager, Bank of Corporation, West Masi Street Branch, Madurai within one month from date of receipt of the copy of this order in the following terms:

Trial Court Charges	***Sentenced passed by the Trial Court***	***Sentence passed by this Court***
u/s 120-B r/w 420, 467, 468, 471 IPC and Section 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.5000/-in default to undergo Simple Imprisonment for Three months;	Rigorous Imprisonment for 1 years and to pay a fine of Rs.5000/-in default to undergo Simple Imprisonment for Three months;
u/s 420 IPC	Rigorous Imprisonment for 7 years and to pay a fine of Rs.5000/- in default to undergo Simple Imprisonment for Three months;	Rigorous Imprisonment for 1 year and to pay a fine of Rs.5000/- in default to undergo Simple Imprisonment for Three months;
u/s 467 IPC	Rigorous Imprisonment for 7 years and to pay a fine of Rs.5000/- in default to undergo Simple Imprisonment for Three months;	Rigorous Imprisonment for 1 year and to pay a fine of Rs.5000/- in default to undergo Simple Imprisonment for Three months;
u/s 468 IPC	Rigorous Imprisonment for 7 years and to pay a fine of Rs.5000/-in default to undergo Simple Imprisonment for Three months;	Rigorous Imprisonment for 1 year and to pay a fine of Rs.5000/-in default to undergo Simple Imprisonment for Three months;
u/s 471 IPC	Rigorous Imprisonment for 10 years and to pay a fine of Rs.5000/-in default to undergo Simple Imprisonment for Three months;	Rigorous Imprisonment for 1year and to pay a fine of Rs.5000/- in default to undergo Simple Imprisonment for Three months;
	Total Fine Rs. 25,000/-	

13. Conclusion in Crl.A.(MD) No. 57 of 2019/A3 Jala Jawahar:

Accordingly the Crl.A.(MD) No.57 of 2019 is partly allowed in the following terms:

13.1. Conviction passed against the appellant in C.C.No. 3 of 2009 on the file of the Learned II Additional District Judge, for CBI Cases, Madurai dated 24.12.2018 is confirmed.

13.2. The sentence of imprisonment passed against the appellant is reduced on condition to pay Rs.4,00,000/- as a compensation payable to the Branch Manager, Bank of Corporation, West Masi Street Branch, Madurai within 30 days from date of receipt of copy of the order on the following terms, otherwise the sentence of imprisonment imposed by the Trial Court shall automatically be restored:

> 13.2 (i) Sentence of imprisonment to undergo 7 years rigorous imprisonment for the offence under section 120-B r/w 420, 467, 468, 471 IPC and Section 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988.is reduced to undergo 1 year Rigorous Imprisonment Direction to pay the fine of Rs.5,000/- with default to undergo Simple Imprisonment for 3 months is confirmed.
>
> 13.2(ii) Sentence of Rigorous Imprisonment to undergo 7 years for the offence under section 420 IPC is reduced into 1 year Rigorous Imprisonment and direction to pay a fine of Rs.5,000/- in default to undergo Simple Imprisonment for 3months is confirmed.

13.2(iii) Sentence of Rigorous Imprisonment to undergo 10 years for the offence under section 467 IPC is reduced into 1 year Rigorous Imprisonment and direction to pay a fine of Rs.5,000/- in default to undergo Simple Imprisonment for 3months is confirmed.

2(iv) Sentence of Rigorous Imprisonment to undergo 7 years for the offence under section 468 IPC is reduced into 1 year Rigorous Imprisonment and direction to pay a fine of Rs.5,000/- in default to undergo simple Imprisonment for 3months is confirmed.

2(v) Sentence of Rigorous Imprisonment to undergo 10 years for the offence under section 471 IPC is reduced into 1 year Rigorous Imprisonment and direction to pay a fine of Rs.5,000/- in default to undergo simple Imprisonment for 3months is confirmed.

2(vi)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.

14. Discussion on sentence in the Crl.A.(MD) No. 56 of 2019/A1/K.B.Kumar :

He is aged about 64 years. He was the manager of the bank and he was terminated from service and he is suffering from various illnesses and medical record also was produced. Considering the above mitigating circumstances this court inclines to reduce the sentence of imprisonment on payment of Rs.7,00,000/- as compensation payable to the Branch Manager, Bank of Corporation, West Masi Street Branch, Madurai within 30 days from date of receipt of copy of order, otherwise the sentence of imprisonment imposed by the Trial Court shall automatically be restored.

	Trial Court Charges	***Sentenced passed by the Trial Court***	***Sentence passed by this Court***
	u/s 120-B r/w 420, 467, 468, 471 IPC and Section 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.5000/-in default to undergo Simple Imprisonment for Three months;	Rigorous Imprisonment for one year and to pay a fine of Rs. 5000/-in default to undergo Simple Imprisonment for Three months;
	u/s 420 IPC	Rigorous Imprisonment for 7 years and to pay a fine of Rs.5000/- in default to undergo Simple Imprisonment for Three months;	Rigorous Imprisonment for one year and to pay a fine of Rs. 5000/- in default to undergo Simple Imprisonment for Three months;

	u/s 467 IPC	Rigorous Imprisonment for 10 years and to pay a fine of Rs.5000/- in default to undergo Simple Imprisonment for Three months;	Rigorous Imprisonment for 1 year and to pay a fine of Rs. 5000/- in default to undergo Simple Imprisonment for Three months;
	u/s 468 IPC	Rigorous Imprisonment for 7 years and to pay a fine of Rs.5000/-in default to undergo Simple Imprisonment for Three months;	Rigorous Imprisonment for 1 year and to pay a fine of Rs. 5000/-in default to undergo Simple Imprisonment for Three months;
	u/s 471 IPC	Rigorous Imprisonment for 10 years and to pay a fine of Rs.5000/-in default to undergo Simple Imprisonment for Three months;	Rigorous Imprisonment for 1 year and to pay a fine of Rs. 5000/-in default to undergo Simple Imprisonment for Three months;
	u/s 13(2) r/w 13(1)(d) of PC Act	Rigorous Imprisonment for 7 years and to pay a fine of Rs.5000/-in default to undergo Simple Imprisonment for Three months;	Rigorous Imprisonment for 1 year and to pay a fine of Rs. 5000/-in default to undergo Simple Imprisonment for Three months;

15. Conclusion in Crl.A.(MD) No. 56 of 2019/A1 K.P.Kumar:

Accordingly the Crl.A.(MD) No.56 of 2019 is partly allowed in the following terms:

15.1. Conviction passed against the appellant in C.C.No. 3 of 2009 on the file of the Learned II Additional District Judge, for CBI Cases, Madurai dated 24.12.2018 is confirmed.

15.2. The sentence of imprisonment passed against the appellant is reduced on condition to pay Rs.7,00,000/- (Seven Lakhs) as a compensation payable to Branch Manager, Bank of Corporation, West Masi Street Branch, Madurai within 30 days from date of receipt of copy of the order on the following terms, otherwise the sentence of imprisonment imposed by the Trial Court shall automatically be restored:

15.2 (i) Sentence of imprisonment to undergo 7 years rigorous imprisonment for the offence under section 120-B r/w 420, 467, 468, 471 IPC and Section 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988.is reduced to undergo 1 year Rigorous Imprisonment and direction to pay the fine of Rs.5,000/- with default to undergo Simple Imprisonment for 3 months is confirmed.

15.2(ii) Sentence of Rigorous Imprisonment to undergo 7 years for the offence under section 420 IPC is reduced into 1 years Rigorous Imprisonment and direction to pay a fine of Rs.5,000/- in default to undergo Simple Imprisonment for 3months is confirmed.

15.2(iii) Sentence of Rigorous Imprisonment to undergo 10 years for the offence under section 467 IPC is reduced into 1 year Rigorous Imprisonment and direction to pay a fine of Rs.5,000/- in default to undergo Simple Imprisonment for 3months is confirmed.

15.2(iv) Sentence of Rigorous Imprisonment to undergo 7 years for the offence under section 468 IPC is reduced into 1 year Rigorous Imprisonment and direction to pay a fine of Rs.5,000/- in default to undergo Simple Imprisonment for 3months is confirmed.

15.2(vi) Sentence of Rigorous Imprisonment to undergo 10 years for the offence under section 471 IPC is reduced into 1 year Rigorous Imprisonment and direction to pay a fine of Rs.5,000/- in default to undergo Simple Imprisonment for 3months is confirmed.

15.2(v) Sentence of Rigorous Imprisonment to undergo 7 years for the offence under section 13(2) r/w 13(1)(d) of PC Act is reduced into 1 year Rigorous Imprisonment and direction to pay a fine of Rs.5,000/- in default to undergo Simple Imprisonment for 3 months is confirmed.

2(vii)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.

16. Discussion on sentence Crl.A.(MD) No. 41 of 2019/ A8/Shanmugavel

He is aged about 62 years. He is suffering from various ailments. Considering the above mitigating circumstances this court inclines to reduce the sentence of imprisonment on payment of Rs.10,00,000/- (Ten Lakhs) as compensation payable to the Branch Manager, Bank of Corporation, West Masi Street Branch, Madurai within 30 days from date of receipt of copy of order, otherwise the sentence of imprisonment imposed by the Trial Court shall automatically be restored.

S.No.	***Charges passed by this Trial Court***	***Sentence passed by Trial Court***	***Sentence passed by this court***
	u/s 120-B r/w 420, 467, 468, 471 IPC and Section 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. 5000/-in default to undergo Simple Imprisonment for Three months;	Rigorous Imprisonment for 1 year and to pay a fine of Rs. 5000/-in default to undergo Simple Imprisonment for Three months;

	u/s 420 IPC	Rigorous Imprisonment for 7 years and to pay a fine of Rs. 5000/- in default to undergo Simple Imprisonment for Three months;	Rigorous Imprisonment for 1 year and to pay a fine of Rs. 5000/- in default to undergo Simple Imprisonment for Three months;
	u/s 467 IPC	Rigorous Imprisonment for 10 years and to pay a fine of Rs. 5000/- in default to undergo Simple Imprisonment for Three months;	Rigorous Imprisonment for 1 year and to pay a fine of Rs. 5000/- in default to undergo Simple Imprisonment for Three months;
	u/s 468 IPC	Rigorous Imprisonment for 7 years and to pay a fine of Rs. 5000/-in default to undergo Simple Imprisonment for Three months;	Rigorous Imprisonment for 1 year and to pay a fine of Rs. 5000/-in default to undergo Simple Imprisonment for Three months;
	u/s 471 IPC	Rigorous Imprisonment for 10 years and to pay a fine of Rs. 5000/-in default to undergo Simple Imprisonment for Three months;	Rigorous Imprisonment for 1 year and to pay a fine of Rs. 5000/-in default to undergo Simple Imprisonment for Three months;
		Total Fine Rs. 25,000/-	

17. Conclusion in Crl.A.(MD) No. 41 of 2019/ A8/Shanmugavel

Accordingly the Crl.A.(MD) NO.41 of 2019 is partly allowed on the following terms:

17.1. Conviction passed against the appellant in C.C.No. 3 of 2009 on the file of the Learned II Additional District Judge, for CBI Cases, Madurai dated 24.12.2018 is confirmed.

17.2. The sentence of imprisonment passed against the appellant is reduced on condition to pay Rs.10,00,000/- (Ten Lakhs) as compensation payable to Branch Manager, Bank of Corporation, West Masi Street Branch, Madurai within 30 days from date of receipt of copy of the order on the following terms, otherwise the sentence of imprisonment imposed by the Trial Court shall automatically be restored:

> 17.2 (i) Sentence of imprisonment to undergo 7 years rigorous imprisonment for the offence under section 120-B r/w 420, 467, 468, 471 IPC and Section 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988.is reduced to undergo 1 year Rigorous Imprisonment and direction to pay the fine of Rs.5,000/- with default to undergo Simple Imprisonment for 3 months is confirmed.
>
> 17.2(ii) Sentence of Rigorous Imprisonment to undergo 7 years

for the offence under section 420 IPC is reduced into 1 year Rigorous Imprisonment and direction to pay a fine of Rs.5,000/- in default to undergo Simple Imprisonment for 3months is confirmed.

17.2(iii) Sentence of Rigorous Imprisonment to undergo 10 years for the offence under section 467 IPC is reduced into 1 year Rigorous Imprisonment and direction to pay a fine of Rs.5,000/- in default to undergo Simple Imprisonment for 3months is confirmed.

17.2(iv) Sentence of Rigorous Imprisonment to undergo 7 years for the offence under section 468 IPC is reduced into 1 year Rigorous Imprisonment and direction to pay a fine of Rs.5,000/- in default to undergo simple Imprisonment for 3months is confirmed.

17.2(vi) Sentence of Rigorous Imprisonment to undergo 10 years for the offence under section 471 IPC is reduced into 1 year Rigorous Imprisonment and direction to pay a fine of Rs.5,000/- in default to undergo Simple Imprisonment for 3months is confirmed.

17.2(vii)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.

18. Discussion on Crl.A.(MD) No.76 of 2019/ A10/Banumathi

He is aged about 65 years. He is suffering from the various ailments. Considering the above mitigating circumstances this court inclines to reduce the sentence of imprisonment on payment of Rs.7,00,000/- (Seven Lakhs) as a compensation payable to the Branch Manager, Bank of Corporation, West Masi Street Branch, Madurai within 30 days from date of receipt of copy of order, otherwise the sentence of imprisonment imposed by the Trial Court shall automatically be restored.

S.No.	***Charges passed by trial court***	***Sentence passed by trial court***	***Sentence passed by this court***
	u/s 120-B r/w 420, 467, 468, 471 IPC and Section 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. 5000/-in default to undergo Simple Imprisonment for Three months;	Rigorous Imprisonment for 1 year and to pay a fine of Rs. 5000/-in default to undergo Simple Imprisonment for Three months;

	u/s 420 IPC	Rigorous Imprisonment for 7 years and to pay a fine of Rs. 5000/- in default to undergo Simple Imprisonment for Three months;	Rigorous Imprisonment for 1 year and to pay a fine of Rs. 5000/- in default to undergo Simple Imprisonment for Three months;
	u/s 467 IPC	Rigorous Imprisonment for 10 years and to pay a fine of Rs. 5000/- in default to undergo Simple Imprisonment for Three months;	Rigorous Imprisonment for 1 year and to pay a fine of Rs. 5000/- in default to undergo Simple Imprisonment for Three months;
	u/s 468 IPC	Rigorous Imprisonment for 7 years and to pay a fine of Rs. 5000/-in default to undergo Simple Imprisonment for Three months;	Rigorous Imprisonment for 1 year and to pay a fine of Rs. 5000/-in default to undergo Simple Imprisonment for Three months;
	u/s 471 IPC	Rigorous Imprisonment for 10 years and to pay a fine of Rs. 5000/-in default to undergo Simple Imprisonment for Three months;	Rigorous Imprisonment for 1 year and to pay a fine of Rs. 5000/-in default to undergo Simple Imprisonment for Three months;
		Total Fine Rs. 25,000/-	

19. Conclusion in Crl.A.(MD) No. 76 of 2019/ A10/Banumathi

Accordingly the Crl.A.(MD) NO.76 of 2019 is partly allowed on the following terms:

18.1. Conviction passed against the appellant in C.C.No. 3 of 2009 on the file of the Learned II Additional District Judge, for CBI Cases, Madurai dated 24.12.2018 is confirmed.

18.2. The sentence of imprisonment passed against the appellant is reduced on condition to pay Rs.7,00,000/- (Seven Lakhs) as a compensation payable to Branch Manager, Bank of Corporation, West Masi Street Branch, Madurai within 30 days from date of receipt of copy of the order the following terms, otherwise the sentence of imprisonment imposed by the Trial Court shall automatically be restored:

18.2 (i) Sentence of imprisonment to undergo 7 years rigorous imprisonment for the offence under section 120-B r/w 420, 467, 468, 471 IPC and Section 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988.is reduced to undergo 1 year Rigorous Imprisonment and direction to pay the fine of Rs.5,000/- with default to undergo simple Imprisonment for 3 months is confirmed.

18.2(ii) Sentence of Rigorous Imprisonment to undergo 7 years for the offence under section 420 IPC is reduced into 1 year Rigorous Imprisonment and direction to pay a fine of Rs.5,000/- in default to undergo Simple Imprisonment for 3months is confirmed.

18.2(iii) Sentence of Rigorous Imprisonment to undergo 10 years for the offence under section 467 IPC is reduced into 1 year Rigorous Imprisonment and direction to pay a fine of Rs.5,000/- in default to undergo Simple Imprisonment for 3months is confirmed.

18.2(iv) Sentence of Rigorous Imprisonment to undergo 7 years for the offence under section 468 IPC is reduced into 1 year Rigorous Imprisonment and direction to pay a fine of Rs.5,000/- in default to undergo Simple Imprisonment for 3months is confirmed.

18.2(vi) Sentence of Rigorous Imprisonment to undergo 10 years for the offence under section 471 IPC is reduced into 1 year Rigorous Imprisonment and direction to pay a fine of Rs.5,000/- in default to undergo Simple Imprisonment for 3months is confirmed.

18.2(vii)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.

20. Discussion on Crl.A.(MD) No.30 of 2019/ A5/Dr.K.Rajavelu

He is aged about 54 years. He is suffering from the various ailments. Considering the above mitigating circumstances this court inclines to reduce the sentence of imprisonment on payment of Rs.7,00,000/- (Seven Lakhs) as compensation payable to the Branch Manager, Bank of Corporation, West Masi Street Branch, Madurai within 30 days from date of receipt of copy of order, otherwise the sentence of imprisonment imposed by the Trial Court shall automatically be restored:

S.No.	***Charges passed by trial court***	***Sentence passed by trial court***	***Sentence passed by this court***
	u/s 120-B r/w 420, 467, 468, 471 IPC and Section 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.5000/-in default to undergo Simple Imprisonment for Three months;	Rigorous Imprisonment for 1 year and to pay a fine of Rs. 5000/-in default to undergo Simple Imprisonment for Three months;
	u/s 420 IPC	Rigorous Imprisonment for 7 years and to pay a fine of Rs.5000/- in default to undergo Simple Imprisonment for Three months;	Rigorous Imprisonment for 1 year and to pay a fine of Rs. 5000/- in default to undergo Simple Imprisonment for Three months;

	u/s 467 IPC	Rigorous Imprisonment for 10 years and to pay a fine of Rs.5000/- in default to undergo Simple Imprisonment for Three months;	Rigorous Imprisonment for 1 year and to pay a fine of Rs. 5000/- in default to undergo Simple Imprisonment for Three months;
	u/s 468 IPC	Rigorous Imprisonment for 7 years and to pay a fine of Rs.5000/-in default to undergo Simple Imprisonment for Three months;	Rigorous Imprisonment for 1 year and to pay a fine of Rs. 5000/-in default to undergo Simple Imprisonment for Three months;
	u/s 471 IPC	Rigorous Imprisonment for 10 years and to pay a fine of Rs.5000/-in default to undergo Simple Imprisonment for Three months;	Rigorous Imprisonment for 10 years and to pay a fine of Rs. 5000/-in default to undergo Simple Imprisonment for Three months;
		Total Fine Rs. 25,000/-	

21. Conclusion in Crl.A.(MD) No. 30 of 2019/ A5/Dr.K.Rajavelu

Accordingly the Crl.A.(MD) No.30 of 2019 is partly allowed on the following terms:

21.1.Conviction passed against the appellant in C.C.No. 3 of 2009 on the file of the Learned II Additional District Judge, for CBI Cases, Madurai dated 24.12.2018 is confirmed.

21.2. The sentence of imprisonment passed against the appellant is reduced on condition to pay Rs.7,00,000/- (Seven Lakhs) as compensation payable to Branch Manager, Bank of Corporation, West Masi Street Branch, Madurai within 30 days from date of receipt of copy of the order the following terms, otherwise the sentence of imprisonment imposed by the Trial Court shall automatically be restored:

21.2 (i) Sentence of imprisonment to undergo 7 years rigorous imprisonment for the offence under section 120-B r/w 420, 467, 468, 471 IPC and Section 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988.is reduced to undergo 1 year Rigorous Imprisonment and direction to pay the fine of Rs.5,000/- with default to undergo Simple Imprisonment for 3 months is confirmed.

21.2(ii) Sentence of Rigorous Imprisonment to undergo 7 years for the offence under section 420 IPC is reduced into1 year

Rigorous Imprisonment and direction to pay a fine of Rs.5,000/- in default to undergo Simple Imprisonment for 3months is confirmed.

21.2(iii) Sentence of Rigorous Imprisonment to undergo 10 years for the offence under section 467 IPC is reduced into 1 year Rigorous Imprisonment and direction to pay a fine of Rs.5,000/- in default to undergo Simple Imprisonment for 3months is confirmed.

21.2(iv) Sentence of Rigorous Imprisonment to undergo 7 years for the offence under section 468 IPC is reduced into 1 year Rigorous Imprisonment and direction to pay a fine of Rs.5,000/- in default to undergo Simple Imprisonment for 3months is confirmed.

21.2(v) Sentence of Rigorous Imprisonment to undergo 10 years for the offence under section 471 IPC is reduced into 1 year Rigorous Imprisonment and direction to pay a fine of Rs.5,000/- in default to undergo Simple Imprisonment for 3 months is confirmed.

21.2(vi)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.

22. The bail bond executed by the appellants in Crl.A(MD).Nos.30, 41, 56, 57 and 76 of 2019 ,are hereby cancelled and the learned trial judge is directed to secure the appellants in Crl.A(MD).Nos.30, 41, 56, 57 and 76 of 2019 to undergo the remaining part of sentence of imprisonment.

Consequently, connected Criminal Miscellaneous Petition is also closed.

04.03.2025

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

sbn

To

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

2. The Inspector of Police,
   SPE/ACB/CBI,
   Chennai.

3.The Superintendent,
   Central Prison, Madurai.

4. The Superintendent,
   Central Prison for Women,
   Madurai.

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

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

K.K.RAMAKRISHNAN, J.

Pre-delivery judgment made in
CRL.A(MD).Nos.30, 41, 42, 56, 57
and 76 of 2019

04.03.2025