BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on	:	22.07.2024
Pronounced on	:	04.03.2025

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

CRL.A(MD).Nos.493, 506, 521, 562, 563,
570, 744, 751 and 830 of 2023
and
Crl.M.P(MD).No.5859 of 2024

Crl.A(MD).No.493 of 2023:

Gunaseelan ... Appellant

Vs.

The State Rep.by,
The Deputy Superintendent of Police,
CBI:SCB, Chennai.
(RC 9 (S) /2010) ... Respondent

PRAYER: This Criminal Appeal is filed under Section 374 (2) of Cr.P.C. to call for the records relating to the Judgment dated 12.06.2023 made in C.C.No.7 of 2012 on the file of the II Additional District Court(CBI Cases), Madurai and set aside the conviction and sentence imposed against the appellant/accused No.6 and allow the above appeal by acquitting the appellant/accused No.6.

For Appellant : Mr.P.Thirumahilmaran

For Respondent : Mr.N.Mohideen Basha,
Special Public Prosecutor for CBI

Crl.A(MD).No.506 of 2023:

A.Kumaresan ... Appellant

Vs.

The Deputy Superintendent of Police,
CBI:SCB, Chennai.
(in RC 9 (S) /2010/CBI/SCB/Chn) ... Respondent

PRAYER: This Criminal Appeal is filed under Section 374 (2) of Cr.P.C. to call for the records relating to the Judgment passed in C.C.No.7 of 2012, dated 12.06.2023, on the file of the II Additional District Court (CBI Cases), Madurai and set aside the same and acquit the appellant/accused No.3 from the charge leveled against him.

For Appellant : Mr.R.Gowrishankar

For Respondent : Mr.N.Mohideen Basha,
Special Public Prosecutor for CBI

Crl.A(MD).No.521 of 2023:

1. Paul Johnson

2. Jesuvin Febi ... Appellants

Vs.

The State Rep.by
The Deputy Superintendent of Police,
CBI:SCB, Chennai.
(RC 9 (S) of 2010) ... Respondent

PRAYER: This Criminal Appeal is filed under Section 374 (2) of Cr.P.C. to call for the records relating to the Judgment dated 12.06.2023, made in C.C.No.7 of 2012, on the file of the II Additional District Court (CBI Cases), Madurai and set aside the conviction and sentence imposed against the appellants and allow above appeal by acquitting the appellants.

For Appellants : Ms.Benazir Begum

For Respondent : Mr.N.Mohideen Basha,
Special Public Prosecutor for CBI

Crl.A(MD).No.562 of 2023:

S.Sundaresan ... Appellant

Vs.

The Deputy Superintendent of Police,
CBI:SCB, Chennai.
(RC 9 (S) /2010) ... Respondent

PRAYER: This Criminal Appeal is filed under Section 374 of Cr.P.C. to call for the entire records pertaining to the judgment delivered by the II Additional District Court (CBI cases), Madurai, in C.C.No.7 of 2012 vide judgment dated 12.06.2023 and set aside the same and consequently acquit the appellant honorably.

For Appellant : Mr.R.Anand

For Respondent : Mr.N.Mohideen Basha,
Special Public Prosecutor for CBI

Crl.A(MD).No.563 of 2023:

A.Jesuraj ... Appellant

Vs.

State represented by,
The Deputy Superintendent of Police,
CBI:SCB, Chennai. ... Respondent

PRAYER: This Criminal Appeal is filed under Section 374 (2) of Cr.P.C. to call for the records and set aside the order of conviction and sentence passed in C.C.No.7 of 2012 dated 12.06.2023 by the Learned II Additional District Court (CBI Cases) under PC Act, 1988, Madurai, Madurai District and allow this appeal and acquit the appellant/accused No.14 from the charges leveled against him.

For Appellant : Mr.R.Anand

For Respondent : Mr.N.Mohideen Basha,
Special Public Prosecutor for CBI

Crl.A(MD).No.570 of 2023:

C.Arumugam ... Appellant

Vs.

The State rep.by
The Deputy Superintendent of Police,
CBI:SCB, Chennai.
(Crime No.RC9(S)/2010/CBI/SCB/Chn) ... Respondent

PRAYER: This Criminal Appeal is filed under Section 374(2) of Cr.P.C. to call for the records relating to the Judgment passed in C.C.No.7/2012 dated 12.06.2023 on the file of the learned II Additional District and Sessions Judge, (CBI Case), Madurai and to set aside the same.

For Appellant : Mr.V.K.Vijayaragavan

For Respondent : Mr.N.Mohideen Basha,
Special Public Prosecutor for CBI

Crl.A(MD).No.744 of 2023:

J.Raja Thomas ... Appellant

Vs.

The Deputy Superintendent of Police,
CBI:SCB, Chennai.
RC 9 (S) /2010 ... Respondent

PRAYER: This Criminal Appeal is filed under Section 374 (2) of Cr.P.C. to call for the records and set aside the Judgment of the II Additional District Judge (CBI Cases), Madurai District dated 12.06.2023 in C.C.No.7 of 2012.

For Appellant : Mr.V.Rajiv Rufus

For Respondent : Mr.N.Mohideen Basha,
Special Public Prosecutor for CBI

Crl.A(MD).No.751 of 2023:

1.R.Mahalingam

2.R.Thiruppathi

3.Thangarajan

4.R.Vadamalai ... Appellants

Vs.

The Deputy Superintendent of Police,
CBI:SCB, Chennai.
Crime No.RC 9 (S) /2010/CBI/SCB/CHN) ... Respondent

PRAYER: This Criminal Appeal is filed under Section 374 (2) of Cr.P.C. to call for the records relating to the judgment in C.C.No.7 of 2012 dated 12.06.2023 on the file of the II Additional District Court (CBI Cases),Madurai, and to set aside the same and allow this Criminal Appeal.

For Appellant : Mr.R.Udhayakumar

For Respondent : Mr.N.Mohideen Basha,
Special Public Prosecutor for CBI

Crl.A(MD).No.830 of 2023:

1. R.Murali

2.Sharun Rashit ... Appellants

Vs.

The State Rep.by
The Deputy Superintendent of Police,
CBI:SCB, Chennai.
(RC 9 (S) /2010) ... Respondent

PRAYER: This Criminal Appeal is filed under Section 374 (2) of Cr.P.C. to call for the records in C.C.No.7 of 2012 dated 12.06.2023 passed by the learned II Additional District Court(CBI Cases), Madurai, and to set aside the same.

For Appellants : Mr.G.Karuppasamy Pandian

For Respondent : Mr.N.Mohideen Basha,
Special Public Prosecutor for CBI

COMMON JUDGMENT

The above appellants are the accused in C.C No. 7 of 2012 on the file of the II Additional District Judge, Special Court for the CBI cases, Madurai.

2.They were arrayed as the accused number A1, A2, A4, A3, A5, A6, A7, A8, A9, A10, A11, A12, A13, A14, A15, A16, A17 & A18. Among the original accused, A5 and A18 died during the pendency of trial. The remaining accused faced the trial and A4 was acquitted from all the charges. The remaining accused Nos.1, 2, 3, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15 & 17 were convicted and sentenced to undergo the following sentences for the offences as stated below:

2.1. A6 has filed Crl.A.(MD).No.493 of 2023 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)***
493/ 2023	A-6 N.Gunaseelan	i) U/s.120B r/w 420 IPC and Sec.7 and 13(2) r/w 13(1) (d) of PC Act, 1988.	Rigorous Imprisonment for 7 years and to pay a fine of Rs.25,000/- in default to undergo Rigorous Imprisonment for 9 months.
		ii) U/s.7 of PC Act, 1988	Rigorous Imprisonment for 5 years and to pay a fine of Rs.25,000/- in default to undergo Rigorous Imprisonment for 8 months.
		iii) U/s.13(2) r/w 13(1) (d) of PC Act, 1988	Rigorous Imprisonment for 7 years and to pay a fine of Rs.25,000/- in default to undergo Rigorous Imprisonment for 9 months.
		The substantial period of sentences shall run concurrently	

2.2. A3 has filed Crl.A.(MD).No.506 of 2023 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)***
506/ 2023	A-3 Kumaresan	120-B r/w 420 IPC Sec.8 & 13(2) r/w 13(1) (d) of PC Act 1988	Rigorous Imprisonment for 3 years and to pay a fine of Rs.10,000/- in default to undergo Rigorous Imprisonment for 6 months.
		u/s.8 of PC Act, 1988	Rigorous Imprisonment for 3 years and to pay a fine of Rs.10,000/- in default to undergo Rigorous Imprisonment for 6 months.

2.3. A-1 and A-7 have filed Crl.A.(MD).No.521 of 2023, 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)***
521 / 2023	A-1 Paul Johnson	120-B r/w 420 IPC Sec.8 & 13(2) r/w 13(1) (d) of PC Act 1988	Rigorous Imprisonment for 3 years and to pay a fine of Rs.10,000/- in default to undergo Rigorous Imprisonment for 6 months.
		u/s.8 of PC Act, 1988	Rigorous Imprisonment for 3 years and to pay a fine of Rs.10,000/- in default to undergo Rigorous Imprisonment for 6 months.
	A-7 Jesuvin Febi	120-B r/w 420 IPC and Sec.8 & 13(2) r/w 13(1) (d) of PC Act 1988	Rigorous Imprisonment for 3 years and to pay a fine of Rs.10,000/- in default to undergo Rigorous Imprisonment for 6 months.
		u/s.420 IPC	Rigorous Imprisonment for 3 years and to pay a fine of Rs.10,000/- in default to undergo Rigorous Imprisonment for 6 months.
		u/s.8 of PC Act, 1988	Rigorous Imprisonment for 3 years and to pay a fine of Rs.10,000/- in default to undergo Rigorous Imprisonment for 6 months.

2.4. A17 has filed Crl.A.(MD).No.562 of 2023, 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)***

562/ 2023	A-17 Sundaresan	120-B r/w 420 IPC and Sec.8 & 13(2) r/w 13(1) (d) of PC Act 1988	Rigorous Imprisonment for 3 years and to pay a fine of Rs.20,000/- in default to undergo Rigorous Imprisonment for 6 months.
		u/s.420 IPC	Rigorous Imprisonment for 3 years and to pay a fine of Rs.20,000/- in default to undergo Rigorous Imprisonment for 6 months.
		u/s.8 of PC Act, 1988	Rigorous Imprisonment for 3 years and to pay a fine of Rs.20,000/- in default to undergo Rigorous Imprisonment for 6 months.

2.5. A14 has filed Crl.A.(MD).No.563 of 2023, 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)***
563/ 2023	A-14 Jesuraj	120-B r/w 420 IPC and Sec.8 & 13(2) r/w 13(1) (d) of PC Act 1988	Rigorous Imprisonment for 3 years and to pay a fine of Rs.20,000/- in default to undergo Rigorous Imprisonment for 6 months.
		u/s.420 IPC	Rigorous Imprisonment for 3 years and to pay a fine of Rs.20,000/- in default to undergo Rigorous Imprisonment for 6 months.
		u/s.8 of PC Act, 1988	Rigorous Imprisonment for 3 years and to pay a fine of Rs.20,000/- in default to undergo Rigorous Imprisonment for 6 months.

2.6. A8 has filed Crl.A.(MD).No.570 of 2023, 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)***
570/ 2023	A-8 Arumugam	120-B r/w 420 IPC and Sec.8 & 13(2) r/w 13(1) (d) of PC Act 1988	Rigorous Imprisonment for 3 years and to pay a fine of Rs.20,000/- in default to undergo Rigorous Imprisonment for 6 months.
		u/s.420 IPC	Rigorous Imprisonment for 3 years and to pay a fine of Rs.20,000/- in default to undergo Rigorous Imprisonment for 6 months.
		u/s.8 of PC Act, 1988	Rigorous Imprisonment for 3 years and to pay a fine of Rs.20,000/- in default to undergo Rigorous Imprisonment for 6 months.

2.7. A9 has filed Crl.A.(MD).No.744 of 2023, 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)***
744/ 2023	A-9 Raja Thomas	120-B r/w 420 IPC and Sec.8 & 13(2) r/w 13(1) (d) of PC Act 1988	Rigorous Imprisonment for 3 years and to pay a fine of Rs.20,000/- in default to undergo Rigorous Imprisonment for 6 months.
		u/s.420 IPC	Rigorous Imprisonment for 3 years and to pay a fine of Rs.20,000/- in default to undergo Rigorous Imprisonment for 6 months.
		u/s.8 of PC Act, 1988	Rigorous Imprisonment for 3 years and to pay a fine of Rs.20,000/- in default to undergo Rigorous Imprisonment for 6 months.

2.8. A-2, A-11, A-12 and A-13, have filed Crl.A.(MD).No.751 of 2023 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)*
751/ 2023	A-2 Mahalingam	120-B r/w 420 IPC and Sec.8 & 13(2) r/w 13(1) (d) of PC Act 1988	Rigorous Imprisonment for 3 years and to pay a fine of Rs.20,000/- in default to undergo Rigorous Imprisonment for 6 months.
		u/s.420 IPC	Rigorous Imprisonment for 3 years and to pay a fine of Rs.20,000/- in default to undergo Rigorous Imprisonment for 6 months.
		u/s.8 of PC Act, 1988	Rigorous Imprisonment for 3 years and to pay a fine of Rs.20,000/- in default to undergo Rigorous Imprisonment for 6 months.
	A-11 Thiruppathi	120-B r/w 420 IPC and Sec.8 & 13(2) r/w 13(1) (d) of PC Act 1988	Rigorous Imprisonment for 3 years and to pay a fine of Rs.20,000/- in default to undergo Rigorous Imprisonment for 6 months.
		u/s.420 IPC	Rigorous Imprisonment for 3 years and to pay a fine of Rs.20,000/- in default to undergo Rigorous Imprisonment for 6 months.
		u/s.8 of PC Act, 1988	Rigorous Imprisonment for 3 years and to pay a fine of Rs.20,000/- in default to undergo Rigorous Imprisonment for 6 months.
	A-12 Thangarajan	120-B r/w 420 IPC and Sec.8 & 13(2) r/w 13(1) (d) of PC Act 1988	Rigorous Imprisonment for 3 years and to pay a fine of Rs.20,000/- in default to undergo Rigorous Imprisonment for 6 months.
		u/s.420 IPC	Rigorous Imprisonment for 3 years and to pay a fine of Rs.20,000/- in default to undergo Rigorous Imprisonment for 6 months.
		u/s.8 of PC Act, 1988	Rigorous Imprisonment for 3 years and to pay a fine of Rs.20,000/- in default to undergo Rigorous Imprisonment for 6 months.
	A-13 Vadamalai	120-B r/w 420 IPC and Sec.8 & 13(2) r/w 13(1) (d) of PC Act 1988	Rigorous Imprisonment for 3 years and to pay a fine of Rs.20,000/- in default to undergo Rigorous Imprisonment for 6 months.
		u/s.420 IPC	Rigorous Imprisonment for 3 years and to pay a fine of Rs.20,000/- in default to undergo Rigorous Imprisonment for 6 months.
		u/s.8 of PC Act, 1988	Rigorous Imprisonment for 3 years and to pay a fine of Rs.20,000/- in default to undergo Rigorous Imprisonment for 6 months.

2.9. A-10, A-15 have filed Crl.A.(MD).No.830 of 2023, 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)*
830/ 2023	A-10 Murali	120-B r/w 420 IPC and Sec.8 & 13(2) r/w 13(1) (d) of PC Act 1988	Rigorous Imprisonment for 3 years and to pay a fine of Rs.20,000/- in default to undergo Rigorous Imprisonment for 6 months.
		u/s.420 IPC	Rigorous Imprisonment for 3 years and to pay a fine of Rs.20,000/- in default to undergo Rigorous Imprisonment for 6 months.
		u/s.8 of PC Act, 1988	Rigorous Imprisonment for 3 years and to pay a fine of Rs.20,000/- in default to undergo Rigorous Imprisonment for 6 months.
	A-15 Sharun Rasith	120-B r/w 420 IPC and Sec.8 & 13(2) r/w 13(1) (d) of PC Act 1988	Rigorous Imprisonment for 3 years and to pay a fine of Rs.20,000/- in default to undergo Rigorous Imprisonment for 6 months.
		u/s.420 IPC	Rigorous Imprisonment for 3 years and to pay a fine of Rs.20,000/- in default to undergo Rigorous Imprisonment for 6 months.
		u/s.8 of PC Act, 1988	Rigorous Imprisonment for 3 years and to pay a fine of Rs.20,000/- in default to undergo Rigorous Imprisonment for 6 months.

3.Challenging the said conviction and sentence imposed against them, the appellants/accused have filed the separate appeals as stated supra.

For better appreciation of the facts, the rank mentioned in CC is referred in the present appeals also.

4.A6 was the Bank Manager of the Syndicate Bank, Dindigul main branch. During the year 2015 to 2018, he conspired with the remaining appellants/accused in the above appeals and sanctioned loan by obtaining false documents and thereby, they caused loss to the tune of Rs.1,06,83,052/- Apart from that, A1 acted as a middle man and acted as agent to A6 and they received amount of Rs.70,000/- from each witness, namely, Pappathi/P.W.8 and P.W.9 and the same was taken as bribe. The said allegation was brought to the knowledge of the higher officials and hence, the Syndicate Bank vigilance department conducted an enquiry and found many illegalities in granting various loans. Therefore, they directed P.W.2 the succeeding manager to prefer a complaint before the CBI. The CBI upon receipt of the complaint registered a case in R.C.No.9 of 2010 for the offence under Sections 120-B r/w 420 of IPC, 468, 471, 13(2) r/w 13(1)(d) of the Prevention of Corruption Act, 1988, against number of officials and individual borrowers. After the investigation, they deleted number of bank officials and borrowers and filed final report against 18 persons including A6/Bank Manager, number of borrowers, middle man (A1), Auditor for the offence punishable under Section 120-B r/w 420 of

IPC and Section 8 and 13(2) r/w 13(1)(d) of the Prevention of Corruption Act, 1988 and the same was taken on file in C.C.No.7 of 2012. A5(Charted Accountant) filed quash petition before this Court and the same was allowed in Crl.O.P.(MD).No.5276 of 2013. The charge was framed against the remaining 17 accused. Accused No.18/S.Subramanian died during the pendency of the trial. Hence, there was huge loss.

4.1.After appearance of the accused, copies of records were furnished to them under Section 207 Cr.P.C. The learned Trial Judge, on perusal of records and on hearing both sides and being satisfied that there existed a *prima facie* case against the accused/appellant, framed charges under Sections 120 B r/w 420 of IPC 13(2) r/w 13(1)(c) and 13(2) r/w 13(1)(d) of the Prevention of Corruption Act, 1988 and Sections 471, 420 and 468 of IPC and the same was read over and explained to them and when questioned, the accused/appellants denied the charges and pleaded not guilty and stood for trial.

4.2.The prosecution, in order to prove its case, had examined 27 witnesses as P.W.1 to P.W.27 and exhibited 76 documents as Ex.P.1 to Ex.P.76. After recording the evidence, the learned trial Judge examined the accused under Section 313(1) (b) of Cr.P.C. by putting the incriminating materials available against them. they denied the evidence as false and further stated that a false case was foisted against them. A3, (Kumaresan) examined himself as D.W.2 and marked Ex.D4, Ex.D5, Ex.D6, Ex.D7, Ex.D8 and Ex.D9. D.W.1 was examined to substantiate the plea of A1/Paul Johnson that P.W.9 borrowed a sum of Rs.70,000/- from A1 upon executing the promissory note and Ex.D1 to Ex.D3 were marked. The other accused neither produced any documents nor examined any witness on their side.

4.3. The learned trial Judge after considering the same acquitted A4 and convicted the appellants under the above stated offences and passed the sentence as stated above by passing the impugned judgment. The same was challenged by the appellants and each learned counsel made detailed submission on facts as well on law.

5. **<u>Common submission made by the learned counsel appearing for the appellants:</u>**

The case of the prosecution is that individual borrowers who have been arrayed as accused in these cases, namely, Accused Nos.2, 3, 7, 8, 9, 10, 11, 12, 13, 14, and 15 conspired with A6 to obtain loan by obtaining the saral form with inflated amount from Charted Accountant A5 and boosted valuation certificate from A4 and obtained loan and diverted the same without utilizing the loan amount to complete the construction of house. The case against the Charted Accountant, namely, A5 was quashed. The learned trial Judge acquitted A4 also. Therefore, the case of the prosecution, individual borrowers submitted inflated saral form and boosted valuation certificate has no legs to stand on. When the loan was granted with proper valuation certificate and all the loans are secured one, the CBI has no jurisdiction to register the case and pressurize the creditors to make the payment without initiating the recovery proceedings. It is the case of the mere failure to make the payment and hence, as per the loan agreement, the bank should have initiated the recovery proceedings as per the recovery laws. Recovery proceedings also were initiated under the SARFAESI Act. Without continuing the same, initiation of the criminal proceedings amounts to abuse of process of law. The CBI has not conducted fair investigation in this case. They have not arrayed number of creditors as accused who are also similarly placed. They had adopted pick and choose method and arrayed some of the creditors as witnesses and arrayed the some of the creditors as accused. They have also deleted number of bank officials in spite of the incriminating materials available against them. In-fact no sufficient materials were either collected or sufficient witnesses were examined to prove the conspiracy between A6, A1 and the remaining creditors. They have registered the case even before the expiry of 18 months moratorium period mentioned in each loan account. They have also not deleted the number of accused/borrowers who had settled the due amount before filing final report by applying the principle of parity ie., number of witnesses who had settled the amount who were already arrayed as accused were deleted from the list of accused. They had picked some of the creditors and arranged for re-scheduling the loan and obtained the statement under Section 164 of Cr.P.C. and added them as witnesses in this case. The said opportunities were not given to the number of the accused herein. There was no evidence adduced to prove the diversion of fund. The valuer/P.W.7 who was examined on the side of the prosecution is not a competent person and he has not valued the property as per the Government guidelines and hence, conviction on the basis of the said valuation report is not legally valid. The above common submission was made by all the learned counsel in detailed manner. Apart from the said detailed common submission, each counsel on record appearing for the individual appellant made some specific submissions and the said submissions are as follows:

6. **Mr.Thirumayilmaran, learned counsel appearing for A6/the bank manager in Crl.A.(MD).No.493 of 2023 made the following submissions:**

6.1.The loan was granted by the manager on the basis of the valuation certificate issued by A4. Apart from that, the chartered accountant also recommended for granting of loan. The legal advisor also gave a legal opinion to grant loan. On the basis of the same, he has sanctioned loan, In the sanctioned loan, there was periodical repayment of the loan amount and also even before the moratorium period, the FIR was registered and hence all the borrowers were unable to repay the amount. All the borrowers were ready to pay the amount periodically as per the terms of the loan account, but the initiation of the legal proceedings hindered making the repayment of loan. Apart from that, he acted only on the basis of the valuation certificate issued by A4. He was acquitted by the learned trial judge. Hence the basic substratum of the case has gone. The core of the prosecution case is that he granted loan on the basis of the false valuation certificate issued by A4, when he was acquitted, no case is made out against him. Hence, he seeks for acquittal.

6.2.The learned counsel further submitted that all the loan was granted only after obtaining the marketable title. On the basis of the marketable title, if there is any default, recovery proceeding can be initiated either through debt recovery tribunal or by filing a suit. Without doing that, initiation of prosecution against the officer amounts to abuse of process of law. Hence he seeks for acquittal.

6.3.The learned counsel further elaborated the argument on reading the entire evidence of the prosecution in minute, relating to the involvement of each accused. The counsel submitted that volume of the evidence is available on record and from the deposition of the bank officials that the recovery proceedings is the viable one, and hence filing criminal case amounts amount to abuse of process of law and the CBI erroneously filed the final report against the accused without closing the case that it is a case for recovery of loan through due process of law. In these circumstances, he seeks for acquittal.

6.4.The learned counsel further submitted that when all the borrowers were ready to pay the balance amount, the bank officers refused to receive the amount, citing the pendency of investigation by CBI and therefore, there was some hitch to the recovery proceedings and hence, there was no loss at all. Apart from that learned counsel further submitted that the bank officers acted as per norms. It is not case of the prosecution that he granted loan without following the procedure. He acted on the basis of the documents submitted by the valuer and the chartered account. He believed the certificate issued by the chartered account and the valuer. In the said circumstances, convicting the bank officer for non-recovery of the loan amounts to abuse of process of law. Apart from that, according to the counsel, the loan amount was not fully distributed. The loan is distributed state by stage. Without payment of the entire amount and even without waiting till the moratorium period, the case has been registered which amounts to abuse of process of law. The learned Counsel further submitted that the grant of loan and initiation of recovery proceedings is the common feature in banking, but without initiation such proceedings prosecution has been initiated. In all the cases the prosecution failed to prove that the appellant and the other borrowers colluded together and caused loss to the bank. Apart from that the evidence of P.W.8 and P.W.9 namely, Papathi and her husband is unbelievable. They obtained loan in the year 2008 and they made the complaint at the instigation of the CBI officer stating that he received bribe in the year 2011. There is no corroborative evidence. They are not trustworthy witnesses and the conviction and the sentence imposed against him on the basis of the evidence of said witnesses under section 7 and 13 (i)(d) of the prevention of Corruption Act, is not correct. He further elaborated the argument that to sustain the conviction under section 7 and 13(2) r/w 13(1)(d) of the Prevision of Corruption Act, 1988, the demand and acceptance must be proved. In this case, no evidence is available for the demand and acceptance against A6. In the said circumstances, he seeks for acquittal. He also finally concluded that the departmental proceeding was initiated and action was taken and he was removed from service. Hence, he suffered a lot and hence, he seeks for allowing the appeal, holding that the appellant has not committed any offence.

7.**Mr.R.Anand, learned counsel for the appellant in Crl.A.(MD).No.562 of 2023 made the following elaborate submissions**:

The learned counsel Mr.Anand, appeared for A-17 and A-14. He stated that they furnished the marketable title and completed 90% of construction and submitted the stage completion certificate. They also regularly paid the due amount and in the said circumstances, the case registered against the true borrowers amounts to miscarriage of justice. The counsel submitted the charge also is vague. In the charge, no material particulars were mentioned. Further, no particulars are available as to who made conspiracy with which accused and there is mis-joinder of charges.

They informed the bank stated that they were ready to pay the amount but, due to the registration of the case, they were not allowed to repay the amount. He further elaborated the argument stating that even before expiry of the moratorium period, Criminal case registered . Therefore, there is miscarriage of justice and hence, he seeks for the interference in the judgment. There was no disclosure of total amount of cheating. The learned counsel further submitted that the said Papati and her husband also are borrowers, and they were added as witnesses after obtaining statement under Section 164 of Cr.P.C. Similar opportunity was not given to him to put forth his case. In the said circumstances, he seeks for acquittal.

7.1.The learned counsel further submitted that not only investigating agency, the court also has not followed the principle of parity. He means that A4, namely the valuer and A5, the chartered accountant were acquitted. In the said circumstances, the prosecution against these appellants are not valid. In all aspects, the prosecution failed to prove the case. The prosecution failed to prove the ingredients of Section 463 IPC, that is preparation of the false document. According to the prosecution, A4 prepared the false document and he was acquitted. In the said circumstances, no evidence is available to prove the charged offence against the appellants and instead of taking recovery proceedings, the help of CBI was taken to file a false case. Hence, he seeks for the acquittal.

8.**<u>Mr.R.Uday Kumar, learned counsel appearing for A-2, A-11, A-12 and A-13, made the following submissions</u>**:

7.1. The bank has not disbursed the entire sanctioned loan amount to A2, A11, A12, A13. Without disbursing the entire loan amount, the case was registered against the appellants as if they cheated the bank and defrauded the bank amount. During the pendency of the case, the Bank was not willing accept one time settlement by the loances. After the conviction, as per the condition of this Court, each deposited 3 lakhs was before the Court below. Except A-11, all have paid the amount and came out on bail. A-11, was unable to pay the amount and he is inside the jail and he seeks for acquittal. He also relied the number of judgments of the Hon'ble Supreme Court to substantiate his submission.

9. **<u>Mr.vijaya Raghavan, learned Senior counsel appearing for A8, made the following submissions:</u>**

The registration of Criminal case, without initiating the recovery proceedings or filing civil suit, amounts to abuse of process of law. They received the amount for construction of the house and there was no evidence adduced that they used the said amount for any illegal purpose. Without any evidence showing illegal use, it should be construed that the amount was used for construction of the house. When they were ready to settle the entire amount with the interest as agreed by the agreement entered by the accused with the bank, the same should have been allowed. But the bank refused to receive the amount citing the investigation. In the said circumstances, he seeks for the acquittal.

9.1.The learned Senior Counsel further submitted that the valuation of property is not correct. The property is a valuable property and the same was properly assessed by the valuer and the said valuer was acquitted. When the valuer was acquitted, the certificate issued by him is legally valid. In the said circumstances, the basic fabric of the case goes. Hence, he seeks for collapses acquittal.

9.2According to the learned Senior Counsel, the case was registered case prematurely. A6, according to the report is concerned, there is some allegation against A6. To punish the accused, all the creditors were wrongly roped as tools to convict A6. The Senior Counsel also submitted that it is immaterial to see the purpose for which amount is being utilized. There was no condition in the loan agreement. He further submitted that even though the claim is barred by limitation, he is ready to settle the entire amount. Further, his client was ready to settle the entire due and only because of the registration of the case he could not do so. In the said circumstances, it is false to allege the loan was granted to ineligible borrowers the theory of the ineligible borrowers and they all submitted the documents to show the markable title. Even now, the bank can initiate the recovery proceedings and the value of the property is much higher. Now, the proceeding has also been initiated under SARFEAESI Act, In the said circumstances, he seeks for acquittal.

10.**Mr.G.Karuppasamy Pandian, learned counsel appearing for A- 10 and A-15, made the following submissions.**

10.1. A-10 and A-15 is concerned, the prosecution alleged that they constructed substandard house. To prove substandard house has been built no material evidence has been produced. He submitted that P.W.7's evidence to prove the substandard construction is not sufficient He also stated that P.Ws.11, 14 and 15 did not pay the loan amount but, they have not been arrayed as accused. Both the court and CBI have not treated all the persons who are in the same similar footing equally as that of P.Ws.11, 14 and 15. So far as the conspiracy is concerned, as a matter of fact, the prosecution has not proved beyond reasonable doubt specifying of the date of the conspiracy and time of the conspiracy. Apart from that, he also submitted that the vigilance department attached to the bank after receiving the report, sent it to P.W.2 along with the written communication to register the case. According to the counsel, they said written communication is the earliest complaint. Same was not produced and hence, the prosecution, burked the same and hence, adverse inference is to be taken. The same was not also considered by the trial court.

10.2. The counsel further submitted that there was no intention to cheat the bank from the inception. They borrowed the loan. They deposited the title deed without any encumbrance and also there was no circumstance to infer that there was intentional deception at the time of raising the loan. All the legal formalities were complied with. He also stated that getting the loan amount and not paying the amount, does not amount to criminal case. They should have filed the suit for recovery or initiated the recovery proceeding under the Recovery of Debts Due to Banks and Financial Institutions Act. Without doing that, the criminal prosecution can not be launched against the appellant that they had the intention to cheat the bank. Now, the recovery proceedings have been initiated and therefore, he seeks for acquittal.

11.**Mr.R.Gowrisankar, learned counsel for A3, made the following submissions:**

According to the prosecution, A3 is the Government servant. He obtained loan in the name of his mother, Muthulakshmi. He stood as a surety to the said loan in addition to the execution of the mortgage deed in respect of the property and also as surety to his mother who died due to cancer. The other witnesses Tamilarasi, Revathi also stood as a sureties to the said loan and they were not added as accused. Before registration of the case, the amount was periodically recovered from the surety's account. Subsequently, after the registration of the case, during the pendency of the above criminal case, the bank official accepted the OTS scheme and the same was paid. And the said document was marked as Ex.D7. The same was not considered by the learned trial judge and hence he seeks for the consideration of the same and exonerate him from the charges. He specifically argued that on the basis of the ground Nos.G and H stated in memorandum of grounds that there was unfair investigation and unfair trial. Hence, he seeks for acquittal.

11.1. **Mrs. Benazir Begum, the learned counsel appearing for the appellant in Crl.A.(MD).No.521 of 2023, made the following elaborate submissions on the basis of the material available on record:**

She submitted that A7 is wife of A1. She was working as a teaching assistant and eligible to obtain loan and she obtained the loan providing sufficient surety and upon execution of the mortgage deed and she repaid the entire amount. Therefore, A7 is entitled to acquittal. She also placed the judgement of the Hon'ble Supreme Court reported in ***2014 (2) SCC 579*** and the unreported case of this court in Crl.O.P.(MD).No.525 of 2020.

11.2. The learned counsel would further submit that according to the prosecution, A1 acted as middleman and he received the bribe amount on behalf of A6/Bank Manager and hence, in addition to the charge under Section 120-B, r/w 420 of IPC, the charge under Section 8 of Prevention of Corruption Act, 1988 has been framed. But, no evidence was adduced to prove both the charged offences. P.W.8 and her husband were examined after very long time and they were tutored witnesses and they deposed under duress and hence, conviction on the basis of their evidence is not legally correct. The learned trial Judge has not properly considered the evidence of D.W.1 and has followed different yardstick to appreciate the defence witness. Therefore, miscarriage of justice is caused. D.W.1 clearly deposed about borrowing of money by P.W.8 from accused No.1 and he also produced the promissory note. Therefore, there are two views on record in respect of the receipt of the amount from P.W.8. Hence, benefit of doubt is to be given to the accused. She also submitted that no clinching evidence is available on record to prove the conspiracy between A1 and the remaining accused. She relied the judgment of the Hon'ble Supreme Court reported in 2013(14) SCC 153 and 2009 (15) SCC 200 and hence, she seeks acquittal.

12. **Mr.V.Rajiv Rufus, learned counsel appearing for the appellant/ in Crl.A.(MD).No.744 of 2023 made the following detailed submission:**

He stated that all the creditors were arrayed as accused/and used as tools to convict. Every small infraction in granting loan is not a reason to file a criminal case. CBI has not conducted investigation in proper manner. He has settled the entire due amount even before registration of the case. He obtained loan as per the procedure and he furnished valid documents to obtain the loan. Hence, he seeks acquittal. He paid the amount of Rs. 2,50,000/-namely before the registration of the case. In the said circumstance, the registration of the case and filing of the final report against thim is not legally valid.

13.**Thiru.Mohideen Bacha learned Special Public Prosecutor made the following detailed submissions:**

He has prepared detailed chart with particulars of incriminating materials available against each accused in meticulous manner and submitted that each loanee submitted documents with false particulars and obtained loan. The acquittal of A4 is not a ground to acquit the appellants herein on the basis of the available sufficient materials to hold their the conviction. Even though A4 was acquitted, each loanee produced documents with false particulars annexed with the loan application. The said false particulars is within the knowledge of the bank Manager/A6. Apart from that, all the accused is diverted the fund and utilized for some other purpose. In none of the cases, the loanees had completed the constructions. But, they received the amount for construction. As per the loan agreement clause, both criminal prosecution and recovery proceedings are permissible. In this case, each loanee obtained loan amount on the basis of submitting false particulars and therefore, they are liable to be prosecuted. Hence, the repeated contents of all the counsel that when the remedy of recovery proceeding is available, the registration of the criminal case is not permissible cannot be accepted. The settlement of the loan amount is not a ground to seek acquittal. The acquittal of A4 and discharge of the auditor is not a ground to acquit the appellants when the available materials prove the charged offences. There is clinching evidence to prove the demand and acceptance on the part of A6 from the Papati and her husband. Apart from that another witness also said that they handed over the bribe amount directly to A6 and hence, the conviction and sentence imposed under Sections 7, 13(2) r/w 13(2) of the Prevention of Corruption Act, 1988 is in accordance with law. Similarly, sufficient materials were adduced to prove the involvement of A1 for the charged offences. The learned trial Judge has correctly relied the inspection report to convict the accused. P.W.7 inspected the premises and found out the misdeeds and his report was marked without any objection and therefore, the learned trial Judge has considered the same and rendered a finding about the diversion of the fund. The learned trial Judge also considered entire material and convicted the accused. The learned trial Judge, considering the gravity of the offence and the involvement of the huge amount, correctly awarded sentence of imprisonment.

14.The learned Additional Public Prosecutor also submitted that each loanee furnished false particulars in the saral form and applied loan with criminal intention even at the inception. Hence, they are liable for prosecution under section 420 of IPC. Two accused obtained the loan and had not constructed anything. Hence, from the above fact, it is clear that they have had an intention to deceive from the inception. According to the learned Special Public Prosecutor, prosecution has proved beyond reasonable doubt about the fraudulent act of furnishing false particulars in saral form to obtain loan and diversion of the fund. He vehemently countered that there is no necessity to prove the conspiracy by direct evidence. In these type of case of documentary evidence conspiracy can be inferred from the act of the parties. The public prosecutor submitted that submitting false particulars to obtain loan itself is a strong circumstance to prove the conspiracy. Apart from that they did not utilize the fund for the purpose for which they obtained the loan. This would further strengthen the case of conspiracy. In each case there is a false declaration and also intentional act of furnishing false particulars to obtain loan. Therefore, he seeks to confirm the judgment passed by the learned trial Judge.

15. **Discussion on submissions:**

15.1. The argument of the both counsels were concluded. This Court considered the rival submissions and also the meticulous submissions made by the learned counsel appearing on either side and perused the materials available on record and the precedents cited by the both parties.

15.2.The question in this case is *whether the conviction and sentence passed against the appellants in the impugned judgment is sustainable?*

15.3.The sum and substance of the prosecution case is that A6 was the manager of the Syndicate Bank, Dindigul. He conspired with 20 housing loanees and flouted all banking norms, procedure and fraudulently sanctioned housing loan to 20 persons causing wrongful loss to the tune of Rs.1,06,83,052/- and made the corresponding wrongful gain. He is said to have granted loan to the said 20 persons on the basis of the valuation certificate given by A4 and certificate of income issued by A5 (Chitrambala Nadarajan discharged as per the order of this Court in quash petition in Crl.O.P.(MD).No.5276 of 2013). He sanctioned the loan on the basis of the above said person's certificate and without proper verification and end use of the loan amounts and released the said loan amounts. Due to the said improper verification, they committed default in repayment. Therefore, an enquiry was conducted by the department and found that the loans were granted against procedure and without proper verification. The loan also was granted to the ineligible persons. Therefore, FIR was registered against number of the bank officials and other loanees. After investigation, the Investigating Agency have not found sufficient material against the other the bank officials except involvement of A6. During the investigation, number of loanees settled the amount and hence, some of the loanees were deleted in the final report and A3/mother obtained loan and she died as a result of cancer and hence, she was deleted. Number of other loanees were deleted on the ground that they got regularisation of the loan. Finally, the final report was filed against A1 to A18 for the alleged offence under Sections 120(b) r/w 420 of IPC and 8 and 13 (2) r/w 13(1)(d) of prevention of Corruption Act. The auditor was arrayed as A5. He said to have furnished the forged saral form inflating the income of the each individual loanee in order to show the repaying capacity. A4 is the valuer and he is said to have given the valuation with inflated value of the land as well as building. On the basis of their certificates, A6 granted loan. During the process, he is said to have received bribe through A1 and also through some witnesses directly. As per the finding of the learned trial Judge, there was no evidence against A4 and hence, the valuation was correct. A5/Auditor, who gave the certificate of the saral form with inflated income to show the repaying capacity was discharged by this Court in the Crl.O.P.(MD).No.5276 of 2013. In the said circumstances, now the only question in this case is whether the prosecution established the remaining allegation that A6 is granted loan to the each individual loanee without following the prescribed norms and the mandatory procedure and improperly granted loan without verifying the stage of the construction and end use of the loan amount.

15.4. In this case, this Court perused the 13 volumes of the typed set of papers and Ex.P.1 to Ex.P.76 and evidence P.W.1 to P.W.27 and defence witnesse D.W.1 and defence document Ex.D1 to Ex.P.D9 and the answers given by all the accused during questioning under Section 313 Cr.P.C., and the written submission filed by the both the parties to the appeals herewith and also the detailed written submission filed before the trial Court and impugned judgment passed by the learned trial Judge. From the consideration of the above materials, this Court finds that there are five types of allegations against the appellants herein. A6 bank manager without verifying the end use of the loan amount and without verifying the stage of the construction granted loan to number of accused who had not even commenced the construction. Similarly, he had not verified the incomplete construction and disbursed the loan before completion of the entire structure. There are some cases where some loanees constructed the house and there are some loanees who made substandard constructions they are diversion of founds. There are some loanees who had paid the entire amount and the same was not considered by the learned trial Judge.

15.5. To prove the substandard construction and the under valuation, they examined P.W.7/Chandrasekaran, who made inspection at the request of the branch Manager. He admitted that he has not enquired with the local residents to verify the valuation. He also admitted that he has not stated in his report about the valuation of the Government guidelines value. This Court perused his reports corresponding to 20 loanees. He has annexed the photograph for the construction of building by each loanee. The learned Special public Prosecutor appearing for CBI submitted written argument disclosing the stage of the construction after perusal of the said documents. Some of the appellants utilized the entire installments put up the building Number of the appellants have received the installments but, they have constructed only portion of the building and the remaining persons have not constructed any structure in spite of receipt of the entire installments. This Court considered both the above report with photographs.

16.Discussion on unfair investigation and unfair trial:

A detailed submission was made on behalf of the accused about the unfair investigation and unfair trial. The Hon'ble Supreme Court reiterated the principle that merely because the Investigating Officer has committed some lapse either intentionally or inadvertently it is not a ground to disbelieve the available cogent and trustworthy evidence to sustain the conviction imposed by the learned Trial Judge against the appellant. Therefore, the plea of the appellant that they are entitled to acquittal on the ground of lapse in investigation cannot be accepted.

17.Discussion on allegation of A1's Receipt of bribe:

The allegation against A1 is that he is said to have received bribe from some of the loanees to facilitate the loan and hence, charge was framed under Section 8 of the prevention of Corruption Act, apart from the common charge under Section 120(b) r/w 420 of IPC. His wife was A7 and she is said to be involved in the said loan transaction without properly utilizing of the amount. To prove the same, the prosecution examined the following witnesses:-

17.1. P.W.8 and P.W.9 cogently deposed that he made a demand and accepted the bribe. P.W.8 deposed that A1 received Rs.70,000/- from her as a commission to grant the loan. She was subjected to incisive cross examination and nothing was elicited to disbelieve her evidence. In fact, she reaffirmed the same in the cross examination. P.W.9 also deposed that she also gave Rs.70,000/- to A1 and she also corroborated the version of P.W.9. A1 to disprove the said allegation, examined D.W.1 as his side. D.W.1 deposed in chief examination that he knew A1 and P.W.9 received an amount of Rs.70,000/- from A1, upon execution of the pronote/Ex.D.2. The said document was objected by the learned Special Public Prosecutor for the reason that the same was created to prove the defence. He also admitted that except on the day except the day of the execution of the pronote, he never saw him thereafter. In his cross examination, he admitted that he does not know the address of A1. It is the case of the prosecution and also number of witnesses and undisputed fact that A1 was a pastor. He also deposed that he does not know the scribe of the pro-note. He came to know about of P.W.9 only through his uncle. He has no knowledge about the village of P.W.9. He further deposed that he could not remember whether P.W.9 either put signature or the thumb impression on the pro-note. He also admitted that there was no mentioning about date in the promissory note. He also deposed that he was doing goat business and he purchased goats from the friend of A1 and hence, he had acquaintance with the friend of A1. In the above circumstances, the learned trial Judge correctly disbelieved the witness and this Court also for the above stated reasons holds that the said witness is a planted witness to escape from the punishment. If the pro-note was available, the appellant/A1 could have very well produced earlier. Apart from that, the CBI made search in his house and the said pro-note was not available. There was no explanation on the part of A1 to disown the same. Apart from that, there was no explanation from A1 relating to transaction of Pappathi. The evidence of the Pappathi is still on record and the same is trustworthy. Therefore, the conviction passed against him under Section 8 of the Prevention of corruption Act, needs no interference.

18.Discussion on the plea of A6/bank Manager:

The learned counsel appearing for A6/Bank Manager made the detailed submission as stated above and more particularly, argued that he granted loan on the basis of the certificate issued by the valuer(A4) and auditor (A5). The case against A5 had been quashed by this Court in Crl.O.P.(MD).No.5276 of 2013. The learned trial Judge acquitted A4. Therefore, he has to be acquitted. Apart from that, the conviction against A6 can not be maintained only on the basis of the evidence of Chandrasekaran/P.W.7. He further submitted that the conviction against A6 under Section 13(2) r/w 13(1) of the Prevention of Corruption Act is not maintainable on the ground that there was no demand and acceptance and there was no evidence that he illegally obtained any pecuniary advantage by abusing his official position. The duty of A6 is that he ought to have followed the instruction as mentioned here under:-

"***4.2. Monitoring the End Use***

Banks/ Fis should closely monitor the end-use of funds and obtain certificates from borrowers certifying that the funds are utilized for the purpose for which they were obtained. In case of wrong certification by the borrowers, banks/FIs may consider appropriate legal proceedings, including criminal action wherever necessary, against the borrowers.

4.3.Criminal Action by Bank/FIs

It is essential to recognise that there is scope even under the existing legislations to initiate criminal action against wilful defaulters depending upon the facts and circumstances of the case under the provisions of Section

403 and 415 of the Indian Penal Code (IPC) 1860, Bank/FIs are, therefore, advised to seriously and promptly consider initiating criminal action against wilful defaulters or wrong certification by borrowers, wherever considered necessary, based on the facts and circumstances of each case under the above provisions of the IPC to comply with out instructions and the recommendations of JPC.

It should also be ensured that the penal provisions are used effectively and determinedly but after careful consideration and due caution. Towards this end, banks/FIs are advised to put in place a transparent mechanism, with the approval of their Board, for initiating criminal proceedings based on the facts of individual case."

18.1.He disbursed the loan to various appellants in other connected appeals without verifying the stage of the construction as per the loan terms. As per the loan terms, he is duty bound to verify at every stage and disburse the corresponding installments. In this case, as discussed earlier, the loanees had not completed the construction but, they have received the entire loan amount. In preparing the disbursement voucher, he had played predominent role and the same was clearly deposed by the various bank witnesses. That apart, P.W.8 in her chief examination clearly deposed that she handed over Rs.70,000/- to A1 and on the following date, she met A6 that A6 informed that he had received the said amount. Further, P.W.9 also deposed in similar line and both the evidence corroborated with each other. P.W.11 in his examination, clearly deposed about that the demand and receipt of the bribe amount of Rs.50,000/-. Each loanee has furnished false particulars in the "saral form" and the same was within the knowledge of A6/Bank Manager and he sanctioned the loan upon receipt of the bribe. P.W.8 and P.W.9 categorically deposed that A6 demanded and received the bribe amount. As per the following finding in Crl.O.P.(MD).No.5276 of 2013 filed by A5 that the false particulars in the "saral form" are furnished by each loanee.

> *17.The Hon'ble Supreme Court in its recent decision in CBI, Hyderabad vs K.narayana Rao reported in 2012(9)SCC 512 wile dealing with a case where this Panel Advocate of a Bank was charge sheeted for submitting false legal opinion to the Bank in respect of the housing loans in the capacity of a panel advocate and did not point out actual ownership of the properties, held that the liability against an opining advocate arises only when the lawyer was an active participant in a plan to defraud the bank. It further held that merely because his opinion*

may not be acceptable, he cannot be mulcted with the criminal prosecution, particularly, in the absence of tangible evidence that the associated with other conspirators.

18.In the instant case, there is nothing in the complaint to show that the petitioner was aware of the wrong particulars said to have been furnished by the assessees or he received or given illegal gratification in the said process. It is evidence from the materials placed on record that the petitioner has performed his professional duty of assisting the assessees in compiling the particulars in their SARAL forms and submitting the same before the income tax department. Even if all the averments made in the charge are true, there would still be no basis to hold that the petitioner had committed any of the offences alleged against him."

18.2. Further, in the loan application, each loanee has affirmed that the information stated in the documents are true. Therefore, the argument of all the counsel that the case of the prosecution against the appellants is not made out after the discharge of A5 Auditor deserves to be rejected. In the said Criminal original petition, it is categorically held that false particulars were furnished by each loanee. Therefore, the conspiracy between A6 and the loanees is clearly proved.

18.3. Yet another submission of the learned counsel for the appellants that the learned trial Judge has acquitted the valuer/A4 and hence, the conviction against the appellants is not legally valid. This Court is not inclined to acquit the accused for the reason that as already held above, each loanee obtained the loan by submitting the false particulars in the saral form with the active connivance of A6/Bank manager. Therefore, this Court concurs with the finding of the learned trial Judge in convicting the appellants under the charged offences. Therefore, the case of the prosecution that they committed misconduct under Section 13(1) (d) r/w 13(2) of the Prevention of Corruption Act, is clearly proved. The conspiracy with the remaining appellants in remaining appeals to commit the offence of cheating is clearly proved from the disbursement of loan loanees who did not make any construction as per loan terms. Therefore, in all aspects, the prosecution proved the case against A6.

19.Discussion on defective charges:-

The learned counsel appearing for the appellants, Thiru. R.Anand, Thiru. P.Thirumahilmaran, vehemently submitted that charges framed against them are vague and without necessary particulars as required under the Secton 216 of Cr.P.C. Each transaction is entirely different transaction and clubbing of the all the allegation in one charge without any specification is an to illegality. Due to the illegality, accused were unable to defend their case properly. Therefore, there was miscarriage of justice and serious prejudice was caused. Hence, he seeks acquittal.

19.1. The Hon'ble Constitution Bench Judgment in ***Willie (William) Slaney Vs. State of M.P*** reported in ***AIR 1956 SC 116*** and subsequent judgment of the Hon'ble Supreme Court in ***Dalbir Singh Vs, State of U.P*** **reported in** ***2004 5 SCC 334*** and ***Anil Vs. Admn of Daman & Diu, Daman*** *reported in* ***2006 13 SCC 36,*** clearly laid down the principle that the trial of the offence and conviction of the offence without framing the charge is entirely different from the case where the charges were framed with defective particulars. Apart from that, Section 19 of the Prevention of Corruption Act, clearly stated that the conviction and sentence of imprisonment cannot be set aside only on the ground that the charge was not properly framed. In view of the specific provision and also to achieve the object of the Act, this Court does not find any failure on the part of the prosecution.

19.2.This Court perused the charges framed by the learned trial Judge and the initial questioning and 313 questioning and their entire cross examination and finds no prejudice was caused to the accused. The understanding of the allegation and cross examining the witnesses and submitting explanations and also putting forth their case before the learned trial Judge and also raising the grounds of appeal all would should show no prejudice was caused to the accused. The allegation are all made in the final report and the final report along with the material documents were supplied to the appellants. After understanding the nature of the allegation they faced trial. They have not established any prejudice and the consequential miscarriage of justice.

19.3. In these type of the cases where the criminal conspiracy was hatched to commit bank fraud, the requirement of meeting of mind and the exact role of the each accused has to be inferred from the established circumstances of the prosecution case. In this case, the appellants have not made any construction and obtained loan and siphoned off the amount and failed to repay the said amount. From that, the charge for the conspiracy and other offences is clearly proved.

20. **Discussion on plea to receive additional documents under Section 391 Cr.P.C:-**

The learned counsel for A1 has filed Crl.M.P.(MD).No.5859 of 2024 under Section 391 of Cr.P.C., to receive the following additional documents to consider his case:

i) Judgment in C.C.No.8 of 2012 on the file of the II Additional District Court (CBI Cases) Madurai, dated 20.05.2014.

ii) Appreciation certificates given by the Complainant's bank for the years, 2001, 2002, 2004, 2005, 2006.

iii) Appreciation Letters given by the complainant's bank dated 10.07.2007, 09.04.2007, 24.01.2008, 22.04.2008, 28.02.2007.

20.1.This Court perused the said documents. The acquittal order passed in C.C.No.8 of 2012, on different transaction is not a ground to disbelieve the evidence available in this case and to discord the material documents produced by the prosecution in this case and acquit him. Each case rests on its own facts. In this case, the prosecution has established beyond reasonable doubt that A6 bank manager conspired with each loanee accused and granted housing loan with the knowledge of the false particulars in the saral form and also he was a party to the diversion of the fund. Apart from that, there is a clear, cogent and trust worthy evidence available against him to prove the charge of demand and acceptance of the bribe to grant loan. Hence, this Court is not inclined to receive the said documents to consider the case of A6/Bank Manager.

20.2. The remaining documents, namely, appreciation certificate given to A6 are also liable to be rejected. It is specific case of the prosecution, A6, entered into conspiracy with the number of accused during the period from 2005 to 2008 and sanctioned loan with knowledge of the false particulars and subsequently, the bank authorities found that he had indulged in such fraudulent practice. Therefore, the appreciation certificate issued by the authority is not a relevant document for even considering the reduction of sentence. If he had acted in fair manner in perusing the loan application and in disbursing the loan amount, there would not have been loss to the bank. From the records, it is clear that he and A1 committed many of misdeeds in granting loan to the various accused. Therefore, this Court is not inclined accept the appreciation certificate issued by the bank authorities. But, considering his age, illness and as he also faced disciplinary proceedings and removed from service, this Court is inclined to reduce the sentence from Seven years to four years without any reduction of the fine amount.

21. **Discussion on plea of parity** -:

21.1.The acquittal passed against A4 and A5 is not a ground to order acquittal against A6 when he flouted all the guidelines and norms and disbursed the loan to various loanees without even seeing the construction activities stage by stage. Therefore, as held by the Hon'ble three Judges Bench of Supreme Court in the following judgement when abundant material is available to convict A6 as discussed above, the conviction and sentence imposed against A6 needs no interference. Therefore, as held by the Hon'ble Supreme Court in the case of ***Achhar Singh v. State of H.P.,*** reported in ***(2021) 5 SCC 543,*** when the abundant material is available to convict A6 as discussed above, the conviction and sentence imposed against A6 needs no interference. The relevant portion of the said judgment is as follows:-

> "**26.** The learned State counsel has rightly relied on *Gangadhar Behera* [*Gangadhar Behera* v. *State of*

Orissa, (2002) 8 SCC 381 : 2003 SCC (Cri) 32] to contend that even in cases where a major portion of the evidence is found deficient, if the residue is sufficient to prove the guilt of the accused, conviction can be based on it. This Court in *Hari Chand* v. *State of Delhi* [*Hari Chand* v. *State of Delhi*, (1996) 9 SCC 112 : 1996 SCC (Cri) 950] held that : (*Hari Chand case* [*Hari Chand* v. *State of Delhi*, (1996) 9 SCC 112 : 1996 SCC (Cri) 950] , SCC pp. 124-25, para 24)

"*24.* … So far as this contention is concerned it must be kept in view that *while appreciating the evidence of witnesses in a criminal trial especially in a case of eyewitnesses the maxim falsus in uno, falsus in omnibus cannot apply and the court has to make efforts to sift the grain from the chaff. It is of course true that when a witness is said to have exaggerated in his evidence at the stage of trial and has tried to involve many more accused and if that part of the evidence is not found acceptable the remaining part of evidence has to be scrutinised with care and the court must try to see whether the acceptable part of the evidence gets corroborated from other evidence on record so that the acceptable part can be safely relied upon*."

(emphasis supplied)

22. Discussion on maintainability of conviction under section 8 of the Prevention of Corruption Act, 1988:-

The learned trial Judge has convicted the appellants A1 to A4, A6 to A18 under Section 8 of the Prevention of Corruption Act, 1988. It is the specific case of the prosecution that A1(K.Paul Johnson @ Johnson alone received the bribe amount from the witness namely, Papathi (Approver) and other witnesses and the Bank Manager (A6- Gunaseelan) also received the bribe amount from some of the witnesses. There is no evidence on record to prove that the remaining accused received any bribe from the approver Papathi. Therefore, the prosecution miserably failed to prove the offence under Section 8 of the Prevention of Corruption Act, 1988, against A2, A3, A4 and A7 to A18 ie., individual loanees/appellants in Crl.A(MD)Nos.493 of 2023, 506/2023 562/2023 563/2023 570/2023, 744/2023 751/2023 830/2023. But, there is sufficient evidence to prove the conspiracy and the combined charge under Section 120-B r/w 420 IPC, and 13(2) of the Prevention of Corruption Act, 1988, against A2, A3, A4, A7 to A18 . Therefore, the conviction only on the combined charge is legally maintainable against A2, A3, A4, A7 to A8.

23. <u>Conclusion on Conviction</u> :-

In view of the above discussion, the prosecution clearly proved the charged offence against the appellants in Crl.A(MD)Nos.493, 506, 521, 562, 563, 570, 744, 751 and 830 of 2023 and the first appellant in

Crl.A(MD)No.521 of 2023 beyond reasonable doubt except offence under Section 8 of the Prevention of Corruption Act 1988. But the conviction against the appellants in Crl.A(MD)No.493 of 2023, second appellant in Crl.A(MD)No.521 of 2023 is confirmed. Accordingly the conviction passed against the appellants in Crl.A(MD)Nos.493 of 2023, 506/2023 562/2023 563/2023 570/2023, 744/2023 751/2023 830/2023, first appellant in Crl.A(MD)No.521 of 2023 vide impugned judgment in C.C.No. 7 of 2012 on the file of the learned II Additional District Judge, for CBI Cases, Madurai, is confirmed except the offence under section 8 of the Prevention of Corruption Act, 1988 as stated below:

S. No	Charged offence	Accused Rank	Trial Court finding	This court finding
1	120-B r/w 420 IPC Sec.8 & 13(2) r/w 13(1) (d) of PC Act 1988	A1 to A4, A6 to A18	All are convicted under section 120-B r/w 420 IPC Sec.8 & 13(2) r/w 13(1) (d) of PC Act 1988	A1, A6 are convicted 120-B r/w 420 IPC Sec.8 & 13(2) r/w 13(1) (d) of PC Act 1988 A2, A3, A4, A6 to A18 are convicted 120-B r/w 420 IPC & 13(2) r/w 13(1) (d) of PC Act 1988 A2, A3, A4, A6 to A18 are acquitted under section 120-B r/w 8 of PC Act 1988

2	u/s.8 of PC Act, 1988	A1 to A4, A6 to A18	All are convicted under section Sec. 8 of PC Act 1988	A2, A3, A4, A6 to A18 are acquitted under section 8 of PC Act 1988. A1, A6 are convicted under section 8 of PC Act 1988.
3	420 of I.P.C.	A2, A4, A7 to A18	All are convicted	Confirmed
4	13(1)(d) r/w 13 (2) of Prevention of Corruption Act, 1988	A6	Convicted	Confirmed

24.1. Discussion on Question of Sentence in Crl.A(MD)No.493 of 2023/A6/N.Gunaseelan:-

The learned Counsel appearing for the appellant/A6 would submit that he is aged about 66 years and he has already undergone treatment for heart decease, diabetes and blood pressure. The departmental proceeding has been initiated against him and he has been dismissed from service. Therefore, he seeks for reduction of sentence. He was manager of the bank. He has flouted the rules and procedure and granted loan to number of loanees who did not have eligibility and thereby caused wrongful loss to the bank to the tune of Rs.1,06,83,052/- (Rupees one Crore six lakhs eighty three thousand and Fifty two Only). In view of the above mitigating circumstances, this court inclines to reduce the sentence of imprisonment alone by confirming the fine amount with default sentence imposed in C.C.No. 7 of 2012 on the file of the Learned II Additional District Judge, for CBI Cases, Madurai, dated 12.06.2023, on the following terms on payment of **Rs.15,00,000/- (Rupees Fifteen Lakhs Only)** as compensation payable to the Branch Manager, Syndicate Bank Main Branch, Dindigul within a period of 30 days from the date of receipt of a copy of this order, otherwise the sentence of imprisonment imposed by the Trial Court shall automatically be restored:

Sl. No	***Offence under Sections***	***Punishment imposed by the Trial Court***	***Punishment imposed by this court***
1	120-B r/w 420 IPC Sec.7 & 13(2) r/w 13(1) (d) of PC Act 1988	Rigorous Imprisonment for **7 years** and to pay a fine of Rs.25,000/- in default to undergo Rigorous Imprisonment for 9 months.	Sentence of imprisonment to undergo **7 years** rigorous imprisonment is **reduced to undergo 1 year.** Direction to pay the fine of Rs.25,000/- in default to undergo Rigorous Imprisonment for 9 months is confirmed.
2	u/s.7 of PC Act, 1988	Rigorous Imprisonment for **5 years** and to pay a fine of Rs.25,000/- in default to undergo Rigorous Imprisonment for 8 months	Sentence of Rigorous Imprisonment to undergo **5 years** is **reduced** into **1 year** and direction to pay a fine of Rs.25,000/- in default to undergo Rigorous Imprisonment for 8 months is confirmed.

3	13(2) r/w 13(1)(d) PC Act, 1988	Rigorous Imprisonment for **7 years** and to pay a fine of Rs.25,000/- in default to undergo Rigorous Imprisonment for 9 months.	Sentence of Rigorous Imprisonment to undergo **7 years** is **reduced** into **1 year** and direction to pay a fine of Rs.25,000/- in default to undergo Rigorous Imprisonment for 9 months is confirmed.
4		Substantial period of sentences shall run concurrently	Substantial period of sentences shall run concurrently. The period if already undergone by the appellant is order to be set off U/s.428 of CrPC.

24.2. <u>Conclusion in Crl.A.(MD) No.493 of 2023</u>

Accordingly, the Crl.A.(MD) No.493 of 2023 is partly allowed on the following terms:

1.Conviction passed against the appellant in C.C.No. 7 of 2012 on the file of the Learned II Additional District Judge, for CBI Cases, Madurai dated 12.06.2023, is hereby confirmed.

2.The sentence of imprisonment passed against the appellant in C.C.No. 7 of 2012 on the file of the Learned II Additional District Judge, for CBI Cases, Madurai, dated 12.06.2023, is reduced on condition to pay Rs.**15,00,000/- (Rupees Fifteen Lakhs Only) as a compensation payable to Branch Manager, Syndicate Bank Main Branch, Dindigul within a period of 30 days from the date of receipt of a copy of this order,** otherwise the sentence of imprisonment imposed by the Trial Court shall automatically be restored, on the following terms:

2.1. Sentence of imprisonment to undergo **7 years** rigorous imprisonment for the offence under section 120-B r/w 420 IPC Sec.7 & 13(2) r/w 13(1) (d) of PC Act, 1988, is **reduced** to undergo **1 year** Direction to pay the fine of Rs.25,000/- in default to undergo Rigorous Imprisonment for 9 months is confirmed.

2.2. Sentence of Rigorous Imprisonment to undergo 7 **years** for the offence under section 7 of PC Act, 1988, is **reduced** into **1 year** and direction to pay a fine of Rs.25,000/- in default to undergo Rigorous Imprisonment for 8 months is confirmed.

2.3. Sentence of Rigorous Imprisonment to undergo **7 years** for the offence under section 13(2) r/w 13(1)(d) PC Act, 1988 is **reduced** into **1 year** and direction to pay a fine of Rs.25,000/- in default to undergo Rigorous Imprisonment for 9 months is confirmed.

2.4. Substantial period of sentences shall run concurrently. The period if already undergone by the appellant is order to be set off U/s.428 of CrPC.

25.1. Discussion on Question of Sentence in Crl.A(MD)No.751 of 2023/A11/R.Thiruppathi:-

The appellant is aged about 48 years. Many medical records were produced to prove his various illnesses. He was unable to deposit the amount of **Rs.3 lakhs (Rupees Three Lakhs Only)** as per the order of this Court. The proceedings under SARFAESI Act was already initiated. Therefore, considering the above mitigating circumstances, this court inclines to reduce the sentence of imprisonment alone by confirming the fine amount with default sentence imposed in C.C.No. 7 of 2012 on the file of the learned II Additional District Judge, for CBI Cases, Madurai, dated 12.06.2023, on payment of **Rs.7,50,000/- (Rupees Seven Lakhs and Fifty Thousand Only)** as compensation payable to the Branch Manager, Syndicate Bank Main Branch, Dindigul **within a period of 30 days** from the date of receipt of a copy of this order, otherwise the sentence of imprisonment imposed by the Trial Court shall automatically be restored on the following terms:

25.1.1. Discussion on Question of Sentence in Crl.A(MD)No.751 of 2023/A2, A12, A13/Mahalingam, Thangaraj, Vadamalai:-

The appellants are aged about 61, 48, 58 years respectively. Many medical records were produced to prove their various illnesses. They had already deposited amount of **Rs.3 lakhs (Rupees Three Lakhs Only)** each as per the order of this Court. The proceedings under SARFAESI Act was already initiated. Therefore, considering the above mitigating circumstances, this court inclines to reduce the sentence of imprisonment alone by confirming the fine amount with default sentence imposed in C.C.No. 7 of 2012 on the file of the learned II Additional District Judge, for CBI Cases, Madurai, dated 12.06.2023, on payment of **Rs.4,50,000/- (Rupees Four Lakhs and Fifty Thousand Only) each** as a compensation payable to the Branch Manager, Syndicate Bank Main Branch, Dindigul, within a period of 30 days from the date of receipt of a copy of this order, otherwise the sentence of imprisonment imposed by the Trial Court shall automatically be restored on the following terms :

Sl. No	***Offence under Sections***	***Punishment imposed by the Trial Court***	***Conviction by this court***	***Punishment imposed by this court***
1	120-B r/w 420 IPC Sec.8 & 13(2) r/w 13(1) (d) of PC Act 1988	Rigorous Imprisonment for **3 years** and to pay a fine of Rs.20,000/- in default to undergo Rigorous Imprisonment for 6 months.	120-B r/w 420 IPC & Sec. 13(2) r/w 13(1) (d) of PC Act 1988	Sentence of imprisonment to undergo **3 years** rigorous imprisonment is **reduced** to undergo **1 year.** Direction to pay the fine of Rs.20,000/- in default to undergo Rigorous Imprisonment for 6 months is confirmed.
2.	U/s.420 of IPC	Rigorous Imprisonment for **3 years** and to pay a fine of Rs.10,000/- in default to undergo Rigorous Imprisonment for 6 months.	confirmed	Sentence of imprisonment to undergo **3 years** rigorous imprisonment is **reduced** to undergo **1 year.** Direction to pay the fine of Rs.20,000/- in default to undergo Rigorous Imprisonment for 6 months is confirmed.

3.		Substantial period of sentences shall run concurrently		Substantial period of sentences shall run concurrently. The period if already undergone by the appellant is order to be set off U/s.428 of CrPC.
Sl. No	***Offence under Sections***	***Punishment imposed by the Trial Court***	***Conviction by this court***	***Punishment imposed by this court***
1	120-B r/w 420 IPC Sec.8 & 13(2) r/w 13(1) (d) of PC Act 1988	Rigorous Imprisonment for **3 years** each and to pay a fine of Rs.20,000/- each in default to undergo Rigorous Imprisonment for 6 months each.	120-B r/w 420 IPC & Sec. 13(2) r/w 13(1) (d) of PC Act 1988	Sentence of imprisonment to undergo **3 years** rigorous imprisonment is **reduced** to undergo **1 year each.** Direction to pay the fine of Rs.20,000/- each in default to undergo Rigorous Imprisonment for 6 months each is confirmed.
2.	U/s.420 of IPC	Rigorous Imprisonment for **3 years** each and to pay a fine of Rs.10,000/- each in default to undergo Rigorous Imprisonment for 6 months each.	confirmed	Sentence of imprisonment to undergo **3 years** rigorous imprisonment is **reduced** to undergo **1 year each.** Direction to pay the fine of Rs.20,000/- each in default to undergo Rigorous Imprisonment for 6 months each is confirmed.
3.		Substantial period of sentences shall run concurrently		Substantial period of sentences shall run concurrently. The period if already undergone by the appellant is order to be set off U/s.428 of CrPC.

25.2. Conclusion in Crl.A.(MD) No.751 of 2023

Accordingly, the Crl.A.(MD) No.751 of 2023 is partly allowed on the following terms:

1. Conviction passed against the appellants in C.C.No. 7 of 2012 on the file of the learned II Additional District Judge, for CBI Cases, Madurai, dated 12.06.2023, under s***ection 8 of the Prevention of Corruption Act, 1988 is set aside*** and also conviction under section 120(B), r/w 420 of I.P.C., Section 8 r/w 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988 is modified into conviction under section ***120(B), r/w 420 of I.P.C., r/w 13(2) r/w 13(1)(d)*** of Prevention of Corruption Act, 1988 and conviction under section 420 of IPC is confirmed.

2. The sentence of imprisonment passed against the 2nd appellant/Thiruppathi in C.C.No. 7 of 2012 on the file of the learned II Additional District Judge, for CBI Cases, Madurai, dated 12.06.2023, is reduced on condition to pay **Rs.7,50,000/- (Rupees Seven Lakhs and Fifty Thousand Only)** as a compensation payable **to Branch Manager, Syndicate Bank Main Branch, Dindigul within a period of 30 days from the date of receipt of a copy of the order,** otherwise, the sentence of imprisonment imposed by the Trial Court shall be automatically restored on the following terms:

2 (i) Sentence of imprisonment to undergo **3 years**

rigorous imprisonment for the offence under section 120-B r/w 420 IPC and section 13(2) r/w 13(1) (d) of PC Act 1988 is **reduced** to undergo **1 year** Direction to pay the fine of Rs. 20,000/- with default to undergo Rigorous Imprisonment for 6 months is confirmed.

2(ii) Sentence of Rigorous Imprisonment to undergo **3 years** for the offence under section 420 of IPC is **reduced** into **1 year** and direction to pay a fine of Rs.20,000/- in default to undergo Rigorous Imprisonment for 6 months is confirmed.

2(iii). Substantial period of sentences shall run concurrently. The period if already undergone by the appellant is order to be set off U/s.428 of CrPC.

3. The sentence of imprisonment passed against the 1st appellant/Mahalingam, 3rd Appellant/Thangaraj, 4th Appellant/R.Vadamalai in C.C.No. 7 of 2012 on the file of the learned II Additional District Judge, for CBI Cases, Madurai, dated 12.06.2023, are reduced on condition to pay **Rs.4,50,000/- (Rupees Four Lakhs and Fifty Thousand only) *each* as a compensation payable to Branch Manager, Syndicate Bank Main Branch, Dindigul in addition to the amount already deposited within a period of 30 days from the date of receipt of a copy of the order**, otherwise, the sentence of imprisonment imposed by the Trial Court shall

automatically be restored on the following terms :

3 (i) Sentence of imprisonment to undergo **3 years** rigorous imprisonment each for the offence under section 120-B r/w 420 IPC and section 13(2) r/w 13(1) (d) of PC Act 1988 is **reduced** to undergo **1 year each.** Direction to pay the fine of Rs.20,000/- each with default to undergo Rigorous Imprisonment for 6 months is confirmed.

3(ii) Sentence of Rigorous Imprisonment to undergo **3 years** each for the offence under section 420 of IPC is **reduced** into **1 year** each and direction to pay a fine of Rs.20,000/- each in default to undergo Rigorous Imprisonment for 6 months is confirmed.

3(iii). Substantial period of sentences shall run concurrently. The period if already undergone by the appellants is order to be set off U/s.428 of CrPC.

26.1. Discussion on Question of Sentence in Crl.A(MD)No.562 of 2023/A17/S.Sundresan:-

The appellant is aged about 66 years. Many medical records were produced to prove his various illness. The proceedings under SARFAESI Act was already initiated Therefore, considering the above mitigating circumstances, this court inclines to reduce the sentence of imprisonment alone by confirming the fine amount with default sentence imposed in C.C.No.7 of 2012 on the file of the learned II Additional District Judge, for

CBI Cases, Madurai, dated 12.06.2023, on the following terms on payment of **Rs.7,50,000/- (Rupees Seven Lakhs and Fifty Thousand Only)** as a compensation payable to the Branch Manager, Syndicate Bank Main Branch, Dindigul, within a period of 30 days from the date of receipt of a copy of order, otherwise, the sentence of imprisonment imposed by the Trial Court shall automatically be restored:

Sl. No	***Offence under Sections***	***Punishment imposed by the Trial Court***	***Conviction by this court***	***Punishment imposed by this court***
1	120-B r/w 420 IPC Sec.8 & 13(2) r/w 13(1) (d) of PC Act 1988	Rigorous Imprisonment for **3 years** and to pay a fine of Rs.20,000/- in default to undergo Rigorous Imprisonment for 6 months.	120-B r/w 420 IPC & Sec.13(2) r/w 13(1) (d) of PC Act 1988	Sentence of imprisonment to undergo **3 years** rigorous imprisonment is reduced to undergo **1 year.** Direction to pay the fine of Rs.20,000/- with default to undergo Rigorous Imprisonment for 6 months is confirmed.
2.	U/s.420 of IPC	Rigorous Imprisonment for **3 years** and to pay a fine of Rs. 10,000/- in default to undergo Rigorous Imprisonment for 6 months.	confirmed	Sentence of imprisonment to undergo **3 years** rigorous imprisonment is reduced to undergo **1 year.** Direction to pay the fine of Rs.20,000/- with default to undergo Rigorous Imprisonment for 6 months is confirmed.

3.		Substantial period of sentences shall run concurrently		Substantial period of sentences shall run concurrently. The period if already undergone by the appellant is order to be set off U/s.428 of CrPC.

26.2. <u>Conclusion in Crl.A.(MD) No.562 of 2023</u>

Accordingly, the Crl.A.(MD) No.562 of 2023 is partly allowed on the following terms:

1. Conviction passed against the appellant in C.C.No. 7 of 2012 on the file of the learned II Additional District Judge, for CBI Cases, Madurai, dated 12.06.2023, under s***ection 8 of the Prevention of Corruption Act, 1988 is set aside*** and also conviction under section 120(B), r/w 420 of I.P.C., Section 8 r/w 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988 is modified into conviction under section ***120(B), r/w 420 of I.P.C., r/w 13(2) r/w 13(1)(d)*** of Prevention of Corruption Act, 1988 and conviction under section 420 of IPC is confirmed.

2. The sentence of imprisonment passed against the appellant in C.C.No.7 of 2012 on the file of the learned II Additional District Judge, for CBI Cases, Madurai, dated 12.06.2023, is reduced on condition to pay

Rs.7,50,000/- (Rupees Seven Lakhs and Fifty Thousand Only) as a compensation payable to Branch Manager, Syndicate Bank Main Branch, Dindigul, within a period of 30 days from the date of receipt of a copy of this order, otherwise, the sentence of imprisonment imposed by the Trial Court shall automatically be restored on the following terms:

> 2 (i) Sentence of imprisonment to undergo **3 years** rigorous imprisonment for the offence under section 120-B r/w 420 IPC and section 13(2) r/w 13(1) (d) of PC Act 1988 is **reduced** to undergo **1 year.** Direction to pay the fine of Rs.20,000/- with default to undergo Rigorous Imprisonment for 6 months is confirmed.
>
> 2(ii) Sentence of Rigorous Imprisonment to undergo **3 years** for the offence under section 420 of IPC is reduced into **1 year** and direction to pay a fine of Rs.20,000/- in default to undergo Rigorous Imprisonment for 6 months is confirmed.
>
> 2(iii) Substantial period of sentences shall run concurrently. The period if already undergone by the appellant is order to be set off U/s.428 of CrPC.

27.1. Discussion on Question of Sentence in Crl.A(MD)No.744 of 2023/A9/Raja Thamos:-

He is aged about 67 years and his right foot was amputated and he is suffering from various illness including type II Mellitus Diabetes. He has already deposited a sum of Rs.5,00,000/- (Rupees Five Lakhs Only) as per the order of this Court. Due to the registration of FIR and pendency of the criminal case, the Bank Authority refused to accept his proposal of either OTS or full settlement. The proceedings under SARFAESI Act was already initiated. Therefore, considering the above mitigating circumstances, this Court inclines to reduce the sentence of imprisonment alone by confirming the fine amount with default sentence imposed in C.C.No.7 of 2012 on the file of the learned II Additional District Judge, for CBI Cases, Madurai, dated 12.06.2023, in the following terms on payment of Rs.4,00,000/- (Rupees Four Lakhs Only) as a compensation payable to the Branch Manager, Syndicate Bank Main Branch, Dindigul, within a period of 30 days from the date of receipt of a copy of this order, otherwise the sentence of imprisonment imposed by the Trial Court shall automatically be restored:

Sl. No	***Offence under Sections***	***Punishment imposed by the Trial Court***	***Conviction by this court***	***Punishment imposed by this court***

1	120-B r/w 420 IPC Sec. 8 & 13(2) r/w 13(1) (d) of PC Act 1988	Rigorous Imprisonment for **3 years** and to pay a fine of Rs.20,000/- in default to undergo Rigorous Imprisonment for 6 months.	120-B r/w 420 IPC & Sec.13(2) r/w 13(1) (d) of PC Act 1988	Sentence of imprisonment to undergo **3 years** rigorous imprisonment is **reduced** to undergo **1 year.** Direction to pay the fine of Rs.20,000/- with default to undergo Rigorous Imprisonment for 6 months is confirmed.
2	420 of IPC	Rigorous Imprisonment for **3 years** and to pay a fine of Rs.20,000/- in default to undergo Rigorous Imprisonment for 6 months.	confirmed	Sentence of imprisonment to undergo **3 years** Rigorous Imprisonment is **reduced** to **1 year.** Direction to pay the fine of Rs.20,000/- with default to undergo Rigorous Imprisonment for 6 months.
		Substantial period of sentences shall run concurrently		Substantial period of sentences shall run concurrently. The period if already undergone by the appellant is order to be set off U/s.428 of CrPC.

27.2. <u>Conclusion in Crl.A.(MD) No.744 of 2023</u>

Accordingly, the Crl.A.(MD) No.744 of 2023 is partly allowed in the following terms:

1. Conviction passed against the appellant in C.C.No.7 of 2012 on the file of the Learned II Additional District Judge, for CBI Cases,

Madurai, dated 12.06.2023, under s***ection 8 of the Prevention of Corruption Act, 1988 is set aside*** and also conviction under section 120(B), r/w 420 of I.P.C., Section 8 r/w 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988 is modified into conviction under section ***120(B), r/w 420 of I.P.C., r/w 13(2) r/w 13(1)(d)*** of Prevention of Corruption Act, 1988 and conviction under section 420 of IPC is confirmed.

2. The sentence of imprisonment passed against the appellant in C.C.No.7 of 2012 on the file of the Learned II Additional District Judge, for CBI Cases, Madurai, dated 12.06.2023, is reduced on condition to pay **Rs.4,00,000/- (Rupees Four Lakhs Only) as a compensation in addition to the amount already deposited by order of this court payable to Branch Manager, Syndicate Bank Main Branch, Dindigul within a period of 30 days from the date of receipt of a copy of this order,** otherwise the sentence of imprisonment imposed by the Trial Court shall automatically be restored on the following terms:

> 2 (i) Sentence of imprisonment to undergo **3 years** rigorous imprisonment for the offence under section 120-B r/w 420 IPC and section 13(2) r/w 13(1) (d) of PC Act 1988, is **reduced** to undergo **1 year** Direction to pay the fine of Rs. 20,000/- with default to undergo Rigorous Imprisonment for 6 months is confirmed.

2(ii) Sentence of Rigorous Imprisonment to undergo **3 years** for the offence under section 420 of IPC is **reduced** into **1 year** and direction to pay a fine of Rs.20,000/- in default to undergo Rigorous Imprisonment for 6 months is confirmed.

2(iii) Substantial period of sentences shall run concurrently. The period if already undergone by the appellant is order to be set off U/s.428 of CrPC.

28.1. Discussion on Question of Sentence in Crl.A(MD)No.830 of 2023/A10 and A15/R.Murali and Sharun Rashit:-

The 1st Appellant is aged about 59 years and 2nd Appellant is aged about 45 years and both are suffering from various illness. They also produced in medical records. They have already deposited a sum of Rs. 3,00,000/- (Rupees Three Lakhs Only) as per the order of this Court. Due to the registration of FIR and pendency of the criminal case, the Bank Authority refused to accept their proposal of either OTS or full settlement. The proceedings under SARFAESI Act was already commenced. Therefore, considering the above mitigating circumstances, this Court inclines to reduce the sentence of imprisonment alone by confirming the fine amount with default sentence imposed in C.C.No. 7 of 2012 on the file of the Learned II Additional District Judge, for CBI Cases, Madurai, dated 12.06.2023, on the following terms on payment of **Rs.4,50,000/- (Rupees Four Lakhs and Fifty Thousand Only)** as a compensation payable to the Branch Manager, Syndicate Bank Main Branch, Dindigul in addition to the compensation already paid within a period of 30 days from the date of receipt of a copy of this order, otherwise, the sentence of imprisonment imposed by the Trial Court shall automatically be restored:

Sl. No	***Offence under Sections***	***Punishment imposed by the Trial Court***	***Conviction by this court***	***Punishment imposed by this court***
1	120-B r/w 420 IPC Sec.8 & 13(2) r/w 13(1) (d) of PC Act 1988	Rigorous Imprisonment for **3 years** and to pay a fine of Rs.20,000/- in default to undergo Rigorous Imprisonment for 6 months.	120-B r/w 420 IPC & Sec.13(2) r/w 13(1) (d) of PC Act 1988	Sentence of imprisonment to undergo **3 years** rigorous imprisonment is **reduced** to undergo **1 year.** Direction to pay the fine of Rs.20,000/- with default to undergo Rigorous Imprisonment for 6 months is confirmed.
2	420 of IPC	Rigorous Imprisonment for 3 years and to pay a fine of Rs.20,000/- in default to undergo Rigorous Imprisonment for 6 months.	confirmed	Sentence of imprisonment to undergo **3 years** Rigorous Imprisonment is **reduced** to **1 year.** Direction to pay the fine of Rs.20,000/- with default to undergo Rigorous Imprisonment for 6 months.
		Substantial period of sentences shall run concurrently		Substantial period of sentences shall run concurrently

28.2. Conclusion in Crl.A.(MD) No.830 of 2023

Accordingly, the Crl.A.(MD) No.830 of 2023 is partly allowed in the following terms:

1. Conviction passed against the appellant in C.C.No. 7 of 2012 on the file of the learned II Additional District Judge, for CBI Cases, Madurai, dated 12.06.2023, under s***ection 8 of the Prevention of Corruption Act, 1988 is set aside*** and also conviction under section 120(B), r/w 420 of I.P.C., Section 8 r/w 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988 is modified into conviction under section ***120(B), r/w 420 of I.P.C., r/w 13(2) r/w 13(1)(d)*** of Prevention of Corruption Act, 1988 and conviction under section 420 of IPC is confirmed.

2. The sentence of imprisonment passed against the appellant in C.C.No. 7 of 2012 on the file of the learned II Additional District Judge, for CBI Cases, Madurai, dated 12.06.2023, is reduced on condition to pay **Rs.4,50,000/- (Rupees Four Lakhs and Fifty Thousand Only)** as a compensation in addition to payable to Branch Manager, Syndicate Bank Main Branch, Dindigul within a period of 30 days from the date of receipt of a copy of this order, otherwise the sentence of imprisonment imposed by the Trial Court shall automatically be restored on the following terms:

2 (i) Sentence of imprisonment to undergo **3 years** rigorous imprisonment for the offence under section 120-B r/w 420 IPC and section 13(2) r/w 13(1) (d) of PC Act 1988 is **reduced** to undergo **1 year.** Direction to pay the fine of Rs.20,000/- with default to undergo Rigorous Imprisonment for 6 months is confirmed.

2(ii) Sentence of Rigorous Imprisonment to undergo **3 years** for the offence under section 420 of IPC is reduced into **1 year** and direction to pay a fine of Rs.20,000/- in default to undergo Rigorous Imprisonment for 6 months is confirmed.

2(iii) Substantial period of sentences shall run concurrently. The period if already undergone by the appellant is order to be set off U/s.428 of CrPC.

29.1. Discussion on Question of Sentence in Crl.A(MD)No.570 of 2023/A8/:-

The Appellant is aged about 73 years and he is suffering from various illness. He also produced medical records. Due to the registration of FIR and pendency of the criminal case, the Bank Authority refused to accept his proposal of either OTS or full settlement. The proceedings under SARFAESI Act was already commenced. Therefore, considering the above mitigating circumstances, this Court inclines to reduce the sentence of imprisonment alone by confirming the fine amount with default sentence imposed in C.C.No. 7 of 2012 on the file of the learned II Additional District Judge, for CBI Cases, Madurai, dated 12.06.2023, on the following terms on payment of **Rs.4,50,000/- (Rupees Four Lakhs and Fifty Thousand Only)** as a compensation payable to the Branch Manager, Syndicate Bank Main Branch, Dindigul, in addition to the compensation already paid within a period of 30 days from date of receipt of a copy of this order, otherwise the sentence of imprisonment imposed by the Trial Court shall automatically be restored:

Sl. No	***Offence under Sections***	***Punishment imposed by the Trial Court***	***Conviction by this court***	***Punishment imposed by this court***
1	120-B r/w 420 IPC Sec.8 & 13(2) r/w 13(1) (d) of PC Act 1988	Rigorous Imprisonment for **3 years** and to pay a fine of Rs.20,000/- in default to undergo Rigorous Imprisonment for 6 months.	120-B r/w 420 IPC & Sec.13(2) r/w 13(1) (d) of PC Act 1988.	Sentence of imprisonment to undergo **3 years** rigorous imprisonment is **reduced** to undergo **1 year.** Direction to pay the fine of Rs.20,000/- with default to undergo Rigorous Imprisonment for 6 months is confirmed.

2	420 of IPC	Rigorous Imprisonment for 3 years and to pay a fine of Rs.20,000/- in default to undergo Rigorous Imprisonment for 6 months.	confirmed	Sentence of imprisonment to undergo **3 years** Rigorous Imprisonment is **reduced** to **1 year.** Direction to pay the fine of Rs.20,000/- with default to undergo Rigorous Imprisonment for 6 months.
		Substantial period of sentences shall run concurrently		Substantial period of sentences shall run concurrently. The period if already undergone by the appellant is order to be set off U/s.428 of CrPC.

29.2. <u>Conclusion in Crl.A.(MD) No.570 of 2023</u>

Accordingly, the Crl.A.(MD) No.570 of 2023 is partly allowed in the following terms:

1. Conviction passed against the appellant in C.C.No.7 of 2012 on the file of the learned II Additional District Judge, for CBI Cases, Madurai dated 12.06.2023 under s***ection 8 of the Prevention of Corruption Act, 1988 is set aside*** and also conviction under section 120(B), r/w 420 of I.P.C., Section 8 r/w 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988 is modified into conviction under section ***120(B), r/w 420 of I.P.C., r/w 13(2) r/w 13(1)(d)*** of Prevention of Corruption Act, 1988 and conviction under section 420 of IPC is confirmed.

2. The sentence of imprisonment passed against the appellant in C.C.No.7 of 2012 on the file of the learned II Additional District Judge, for CBI Cases, Madurai dated 12.06.2023, is reduced on condition to pay **Rs.4,50,000/- (Rupees Four Lakhs and Fifty Thousand Only) as a compensation to payable to Branch Manager, Syndicate Bank Main Branch, Dindigul within a period of 30 days from the date of receipt of a copy of this order,** otherwise, the sentence of imprisonment imposed by the Trial Court shall automatically be restored on the following terms:

2 (i) Sentence of imprisonment to undergo **3 years** rigorous imprisonment for the offence under section 120-B r/w 420 IPC and section 13(2) r/w 13(1) (d) of PC Act 1988 is **reduced** to undergo **1 year.** Direction to pay the fine of Rs.20,000/- with default to undergo Rigorous Imprisonment for 6 months is confirmed.

2(ii) Sentence of Rigorous Imprisonment to undergo **3 years** for the offence under section 420 of IPC is reduced into **1 year** and direction to pay a fine of Rs.20,000/- in default to undergo Rigorous Imprisonment for 6 months is confirmed.

2(iii) Substantial period of sentences shall run concurrently. The period if already undergone by the appellant is order to be set off U/s.428 of CrPC.

30.1. Discussion on Question of Sentence in Crl.A(MD)No.506 of 2023/A3/A.Kumaresan:-

The learned counsel for the appellant would submit that his ailing mother availed loan on furnishing sufficient sureties. He has utilized the said amount. He has not submitted any loan form. He settled the entire due amount and bank authorities also issued Ex.D9. He was not an accused in the FIR and he was arrayed as Accused only in the final report. The learned Special Public Prosecutor appearing for CBI on instructions, from CBI and the Bank Authorities confirmed the same. Therefore, considering the above mitigating circumstances, this Court inclines to reduce the sentence of imprisonment alone by confirming the fine amount with default sentence imposed in C.C.No. 7 of 2012 on the file of the learned II Additional District Judge, for CBI Cases, Madurai, dated 12.06.2023, on the following terms:

Sl.No	*Offence under Sections*	*Punishment imposed by the Trial Court*	*Conviction by this court*	*Punishment imposed by this court*

1	120-B r/w 420 IPC Sec.8 & 13(2) r/w 13(1) (d) of PC Act 1988	Rigorous Imprisonment for 3 years and to pay a fine of Rs.10,000/- in default to undergo Rigorous Imprisonment for 6 months.	120-B r/w 420 IPC & Sec. 13(2) r/w 13(1) (d) of PC Act 1988	Sentence of imprisonment to undergo **3 years** rigorous imprisonment is **reduced** to period ***"already undergone"*** Direction to pay the fine of Rs.10,000/- with default to undergo Rigorous Imprisonment for 6 months is confirmed.
		Substantial period of sentences shall run concurrently		Period already undergone. So, this will not apply

30.2. <u>Conclusion in Crl.A.(MD) No.506 of 2023</u>

Accordingly the Crl.A.(MD) No.506 of 2023 is partly allowed in the following terms:

1. Conviction passed against the appellant in C.C.No. 7 of 2012 on the file of the learned II Additional District Judge, for CBI Cases, Madurai, dated 12.06.2023, under s***ection 8 of the Prevention of Corruption Act, 1988 is set aside*** and also conviction under section 120(B), r/w 420 of I.P.C., Section 8 r/w 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988 is modified into conviction under section ***120(B), r/w 420 of I.P.C.,***

r/w 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988 and conviction under section 420 of IPC is confirmed.

2. The sentence of imprisonment passed against the appellant in C.C.No. 7 of 2012 on the file of the learned II Additional District Judge, for CBI Cases, Madurai, dated 12.06.2023, is reduced on the following terms:

> 2 (i) Sentence of imprisonment to undergo **3 years** rigorous imprisonment for the offence under section 120-B r/w 420 IPC and section 13(2) r/w 13(1) (d) of PC Act 1988 is **reduced** to the period **"already undergone".** Direction to pay the fine of Rs.10,000/- with default to undergo Rigorous Imprisonment for 6 months is confirmed.

31.1. Discussion on Question of Sentence in Crl.A(MD)No.521 of 2023/A7/Jesuvin Febi:-

The learned counsel for the appellant would submit that she availed loan on furnishing sufficient sureties. she settled the entire due amount. The learned Special Public Prosecutor appearing for CBI on instructions, from CBI and the Bank Authorities confirmed the same. Therefore, considering the above mitigating circumstances, this Court inclines to reduce the sentence of imprisonment alone by confirming the fine amount with default sentence imposed in C.C.No.7 of 2012 on the file of the learned II Additional District Judge, for CBI Cases, Madurai, dated 12.06.2023, in the following terms:

Sl. No	***Offence under Sections***	***Punishment imposed by the Trial Court***	***Conviction by this court***	***Punishment imposed by this court***
1	120-B r/w 420 IPC Sec.8 & 13(2) r/w 13(1) (d) of PC Act 1988	Rigorous Imprisonment for **3 years** and to pay a fine of Rs.10,000/- in default to undergo Rigorous Imprisonment for 6 months.	120-B r/w 420 IPC & Sec.13(2) r/w 13(1) (d) of PC Act 1988	Sentence of imprisonment to undergo **3 years** rigorous imprisonment is **reduced** to the period ***"already undergone***" Direction to pay the fine of Rs.10,000/- with default to undergo Rigorous Imprisonment for 6 months is confirmed.
2	420 of IPC	Rigorous Imprisonment for 3 years and to pay a fine of Rs.20,000/- in default to undergo Rigorous Imprisonment for 6 months.	confirmed	Sentence of imprisonment to undergo **3 years** rigorous imprisonment is **reduced** to the period ***"already undergone".*** Direction to pay the fine of Rs.10,000/- with default to undergo Rigorous Imprisonment for 6 months is confirmed.
		Substantial period of sentences shall run concurrently		Period already undergone. So, this will not apply

31.2. Conclusion in Crl.A.(MD)No.521 of 2023

Accordingly the Crl.A.(MD) No. 521 of 2023 in so far as the 2nd appellant is partly allowed in the following terms:

1. Conviction passed against the appellant in C.C.No. 7 of 2012 on the file of the learned II Additional District Judge, for CBI Cases, Madurai, dated 12.06.2023, under s***ection 8 of the Prevention of Corruption Act, 1988 is set aside*** and also conviction under section 120(B), r/w 420 of I.P.C., Section 8 r/w 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988 is modified into conviction under section ***120(B), r/w 420 of I.P.C., r/w 13(2) r/w 13(1)(d)*** of Prevention of Corruption Act, 1988 and conviction under section 420 of IPC is confirmed.

2. The sentence of imprisonment passed against the appellant in C.C.No. 7 of 2012 on the file of the learned II Additional District Judge, for CBI Cases, Madurai, dated 12.06.2023, is reduced on the following terms:

> 2 (i) Sentence of imprisonment to undergo **3 years** rigorous imprisonment for the offence under section 120-B r/w 420 IPC and section 13(2) r/w 13(1)(d) of PC Act 1988 is **reduced to** the period "***already undergone***". Direction to pay the fine of Rs.10,000/- with default to undergo Rigorous

Imprisonment for 6 months is confirmed.

32.1. Discussion on Question of Sentence in Crl.A(MD)No.521 of 2023/A1/ Paul Johnson:-

The learned counsel for the appellant would submit that he is aged about 61 years and he is suffering from various illness. He has not availed any loan. His wife namely 2nd Appellant in the above appeal has obtained loan and the same was settled. Therefore he seeks for the reduction of sentence of imprisonment. The learned Special Public Prosecutor appearing for CBI would submit that he was convicted under section 8 of Prevention of Corruption Act 1988. He was the kingpin of the entire loan transaction. He also received the bribe amount from the witnesses. Hence his request to reduce the sentence of imprisonment deserves to be rejected. Therefore, considering his conviction under section 8 of the Prevention of Corruption Act, 1988 and taking into account of the wrongful loss of Rs.1,06,83,052/- (one Crore six lakhs eighty three thousands and Fifty two), this Court inclines to reduce the sentence of imprisonment alone by confirming the fine amount with default sentence imposed in C.C.No. 7 of 2012 on the file of the learned II Additional District Judge, for CBI Cases, Madurai, dated 12.06.2023, on the following terms on payment of

Rs.15,00,000/- (Rupees Fifteen Lakhs Only) as compensation payable to the Branch Manager, Syndicate Bank Main Branch, Dindigul, within a period of 30 days from the date of receipt of a copy of order, otherwise, the sentence of imprisonment imposed by the Trial Court shall automatically be restored:

Sl. No	***Offence under Sections***	***Punishment imposed by the Trial Court***	***Punishment imposed by this court***
1	120-B r/w 420 IPC Sec.8 & 13(2) r/w 13(1) (d) of PC Act 1988	Rigorous Imprisonment for **3 years** and to pay a fine of Rs.10,000/- in default to undergo Rigorous Imprisonment for 6 months.	Sentence of imprisonment to undergo **3 years** rigorous imprisonment is **reduced** to undergo **1 year.** Direction to pay the fine of Rs.10,000/- with default to undergo Rigorous Imprisonment for 6 months is confirmed.
2	Section 8 PC Act, 1988	Rigorous Imprisonment for **3 years** and to pay a fine of Rs.10,000/- in default to undergo Rigorous Imprisonment for 6 months.	Sentence of Rigorous Imprisonment to undergo **3 years** is **reduced** into **1 year** and direction to pay a fine of Rs.10,000/- in default to undergo Rigorous Imprisonment for 6 months is confirmed.
		Substantial period of sentences shall run concurrently	Substantial period of sentences shall run concurrently. The period if already undergone by the appellant is order to be set off U/s.428 of CrPC.

32.2. Conclusion in Crl.A.(MD)No.521 of 2023/1st Appellant/A1/Paul Johnson:-

Accordingly, the Crl.A.(MD)No.521 of 2023 is partly allowed in the following terms:

1. Conviction passed against the appellant in C.C.No. 7 of 2012 on the file of the learned II Additional District Judge, for CBI Cases, Madurai, dated 12.06.2023, is confirmed.

2. The sentence of imprisonment passed against the appellant in C.C.No. 7 of 2012 on the file of the learned II Additional District Judge, for CBI Cases, Madurai, dated 12.06.2023, is reduced on condition to pay **Rs.15,00,000/- (Rupees Fifteen Lakhs Only)** as a compensation payable to Branch Manager, Syndicate Bank Main Branch, Dindigul within a period of 30 days from the date of receipt of a copy of this order, otherwise, the sentence of imprisonment imposed by the Trial Court shall automatically be restored on the following terms:

> 2 (i) Sentence of imprisonment to undergo **3 years** rigorous imprisonment is **reduced** to undergo **1 year** Direction to pay the fine of Rs.10,000/- with default to undergo Rigorous Imprisonment for 6 months is confirmed.
>
> 2(ii) Sentence of Rigorous Imprisonment to undergo **3 years** is reduced into **1 year** and direction to pay a fine of Rs.10,000/- in default to undergo Rigorous Imprisonment for 6 months is confirmed.

2(iii) Substantial period of sentences shall run concurrently. The period if already undergone by the appellant is order to be set off U/s.428 of CrPC.

33.1. Discussion on Question of Sentence in Crl.A(MD)No.563 of 2023/A14/A.Jesuraj :-

The appellant is aged about 48 year. Many medical records were produced to prove his various illness. He already deposited amount of Rs.3 lakhs (Rupees Three Lakhs Only) as per the order of this Court. The proceedings under SARFAESI Act was already initiated. Therefore, considering the above mitigating circumstances, this court inclines to reduce the sentence of imprisonment alone by confirming the fine amount with default sentence imposed in C.C.No.7 of 2012 on the file of the learned II Additional District Judge, for CBI Cases, Madurai, dated 12.06.2023, in the following terms on payment of **Rs.4,50,000/- (Rupees Seven Lakhs and Fifty Thousand Only)** as a compensation payable to the Branch Manager, Syndicate Bank Main Branch, Dindigul within a period of 30 days from the date of receipt of a copy of this order, otherwise the sentence of imprisonment imposed by the Trial Court shall automatically be restored:

Sl.No	*Offence under Sections*	*Punishment imposed by the Trial Court*	*Conviction by this court*	*Punishment imposed by this court*
1	120-B r/w 420 IPC Sec.8 & 13(2) r/w 13(1) (d) of PC Act 1988	Rigorous Imprisonment for 3 years and to pay a fine of Rs.20,000/- in default to undergo Rigorous Imprisonment for 6 months.	120-B r/w 420 IPC & Sec.13(2) r/w 13(1) (d) of PC Act 1988	Sentence of imprisonment to undergo **3 years** rigorous imprisonment is **reduced** to undergo **1 year**. Direction to pay the fine of Rs.20,000/- with default to undergo Rigorous Imprisonment for 6 months is confirmed.
2	420 of IPC	Rigorous Imprisonment for 3 years and to pay a fine of Rs.20,000/- in default to undergo Rigorous Imprisonment for 6 months.	confirmed	Sentence of imprisonment to undergo **3 years** Rigorous Imprisonment is **reduced** to **1 year.** Direction to pay the fine of Rs.20,000/- with default to undergo Rigorous Imprisonment for 6 months.
		Substantial period of sentences shall run concurrently		Substantial period of sentences shall run concurrently. The period if already undergone by the appellant is order to be set off U/s.428 of CrPC.

33.2. <u>Conclusion in Crl.A.(MD) No.563 of 2023</u>

Accordingly, the Crl.A.(MD) No.563 of 2023 is partly allowed in the following terms:

1. Conviction passed against the appellants in C.C.No. 7 of 2012 on the file of the learned II Additional District Judge, for CBI Cases, Madurai dated 12.06.2023 under s*ection 8 of the Prevention of Corruption Act, 1988 is set aside* and also conviction under section 120(B), r/w 420 of I.P.C., Section 8 r/w 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988 is modified into conviction under section ***120(B), r/w 420 of I.P.C., r/w 13(2) r/w 13(1)(d)*** of Prevention of Corruption Act, 1988 and conviction under section 420 of IPC is confirmed.

2. The sentence of imprisonment passed against the appellant in C.C.No. 7 of 2012 on the file of the learned II Additional District Judge, for CBI Cases, Madurai dated 12.06.2023, is **reduced** on condition to pay **Rs.4,50,000/- (Rupees Four Lakhs and Fifty Thousand Only) as a compensation payable to Branch Manager, Syndicate Bank Main Branch, Dindigul within a period of 30 days from the date of receipt of a copy of this order,** otherwise, the sentence of imprisonment imposed by the Trial Court shall automatically be restored. on the following terms:

> 2 (i) Sentence of imprisonment to undergo **3 years** rigorous imprisonment for the offence under section 120-B r/w 420 IPC and section 13(2) r/w 13(1) (d) of PC Act 1988

is **reduced** to undergo **1 year** Direction to pay the fine of Rs.20,000/- with default to undergo Rigorous Imprisonment for 6 months is confirmed.

2(ii) Sentence of Rigorous Imprisonment to undergo **3 years** for the offence under section 420 of IPC is reduced into **1 year** and direction to pay a fine of Rs.20,000/- in default to undergo Rigorous Imprisonment for 6 months is confirmed.

2(iii) Substantial period of sentences shall run concurrently. The period if already undergone by the appellant is order to be set off U/s.428 of CrPC.

Bail bond executed by the appellants in Crl.A(MD)Nos.493, 562, 563, 570, 744, 751 and 830 of 2023 shall be cancelled and the learned trial Judge is directed to secure the appellants in Crl.A(MD)Nos.493, 562, 563, 570, 744, 751 and 830 of 2023 to undergo remaining part of sentence of imprisonment. Consequently, the connected miscellaneous petition is closed.

04.03.2025

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

To

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

2. The II Additional District and Sessions Judge, (CBI Case),
   Madurai.

3. The Deputy Superintendent of Police,
   CBI:SCB, Chennai.

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

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

K.K.RAMAKRISHNAN,J.

vsg

Pre-delivery common judgment made in
CRL.A(MD).Nos.493,506,521,562,
563,570,744,751 & 830 of 2023
and
Crl.M.P(MD).No.5859 of 2024

04.03.2025