BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved On	:	16.07.2024
Pronounced On	:	04.03.2025

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.A.(MD).No.382 of 2020

Niyazkhan @ Abdul Razack ... Appellant

Vs.

The State Represented by,
The Inspector of Police,
SPE/CBI/EOW,
Chennai. ... Respondent

PRAYER: Criminal Appeal has been filed under Section 374 of the Criminal Procedure Code, to call for the records and set aside the Judgment of conviction and sentence passed in C.C.No.3 of 2006 dated 15.12.2020, by the learned II Additional District Court for CBI Cases, Madurai, against the appellant.

For Appellant : Mr.A.Robinson
for Mr.M.Sathish Kumar

For Respondent : Mr.M.D.Poornachari,
Special Public Prosecutor for CBI Cases

JUDGMENT

The absconding accused No.6 in C.C.No.9 of 2003, on the file of the learned II Additional District Court for CBI Cases, Madurai, has filed this appeal, challenging the Judgment of conviction and sentence passed against him, in the split up C.C.No.3 of 2006, dated 15.12.2020, by the learned II Additional District Court for CBI Cases, Madurai.

2. The Brief facts of the case read as follows:

2.1.The appellant and other accused in C.C.No. 9 of 2003 on the file of the II Additional District Judge CBI Cases, Madurai entered into a conspiracy during the year 2001 at Tuticorin and various other places to cheat the Canara Bank, Beach Road Branch, Tuticorin and defrauded the amount of the bank to the tune of Rs.1,17,69,751/- by opening bogus current account A/c.No.2653 in the name of a firm namely, APN International represented by Niyazkhan @ Abdul Razack as a proprietor of APN International and presented 20 bogus out stations cheques in the said account and forged the Inter Branch Advices (IBA) and caused to sent them to Canara Bank, Beach Road branch, Tuticorin to be credited in the said account and on the basis of the said 13 forged Inter Branch Advices (IBA) an amount of Rs.76,58,751/- was credited in the said account and the same was withdrawn by A1 and this appellant issued bearer cheques to withdraw the amounts and payment cheques and thereby, caused wrongful loss of Rs.76,58,751/- and made wrongful gain. Remaining 7 forged cheques were promptly found out to be forged, before crediting the amount and thereby, they attempted to commit offences. Hence, the CBI registered a case in FIR No. RC1/E/2002, CBI/EOW, Chennai, dated 19.04.2002, on the basis of the complaint given by the Disciplinary Action Cell, Canara Bank, Madurai.

2.2. After investigation, final report was filed against the following accused including the appellant:-

1.RaajKafur @ Mohd.Asmath(A-1)
2.JohnFernando(A-2)
3.Sharmila(A-3)
4.S.Arumugam(A-4)
5.S.Sundarsingh(A-5)
6.Niyazkhan @ Abdul Razack
7.T.Mohan(A-6)

2.3. The said final report was taken on file in C.C.No. 9 of 2003 on the file of the II Additional District Judge CBI Cases, Madurai and the case against the appellant was split up in C.C.No. 3 of 2006 and the trial was continued in C.C.No.9 of 2003 against the following accused namely, 1.RaajKafur @ Mohd.Asmath, 2.John Fernando, 3.Sharmila, 4.S.Arumugam, 5.S.Sundarsingh and 6.T.Mohan and the learned trial judge after the trial, convicted them under the charged offences.

3. Aggrieved over the same, they preferred Crl.A.(MD).No.565 of 2006 and Crl.A.(MD).No. 580 of 2006 before this Court and this Court after a detailed discussion confirmed the conviction and sentence imposed against the above accused. The same was confirmed by the Hon'ble Supreme Court in SLP (Crl).No. 5215 of 2018.

4. Thereafter, the present appellant faced the trial and learned trial judge served the copies under section 207 of Cr.P.C. and framed the necessary charges and questioned the appellant. The appellant pleaded not guilty and he stood for trial. The prosecution to prove the case examined PW1 to PW19 and marked Ex.P1 to Ex.P141 and the learned trial judge

questioned the appellant under section 313 of Cr.P.C. by putting the incriminating material available against him and the appellant denied the same as false and specifically submitted that his name is not Niyazkhan @ Abdul Razack and his name is Mujit, S/o. Abdul Miyan. The appellant neither examined any witnesses nor marked any documents on his side and the learned trial judge after considering the evidence, passed the impugned judgment dated 15.12.2020, and found him guilty, convicted and sentenced him as detailed below:-

Accused	*Convicted under Section*	*Sentence of Imprisonment/ fine imposed*
Sole accused	U/s 120B r/w 419, 467, 468, 471, 420 of IPC and 420 r/w 511 IPC and Section 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988.	To undergo Rigorous Imprisonment for seven years and to pay a fine of Rs.5,00,000/-, in default to undergo Rigorous Imprisonment for six months.
	U/s 419 of IPC	To undergo Rigorous Imprisonment for three years and to pay a fine of Rs.5,00,000/-, in default to undergo Rigorous Imprisonment for six months.
	U/s 467 of IPC	To undergo Rigorous Imprisonment for seven years and to pay a fine of Rs.5,00,000/-, in default to undergo Rigorous Imprisonment for six months.
	U/s 468 of IPC	To undergo Rigorous Imprisonment for seven years and to pay a fine of Rs.5,00,000/-, in default to undergo Rigorous Imprisonment for six months.
	U/s 471 of IPC	To undergo Rigorous Imprisonment for seven years and to pay a fine of Rs.5,00,000/-, in default to undergo Rigorous Imprisonment for six months.
	U/s 420 of IPC	To undergo Rigorous Imprisonment for seven years and to pay a fine of Rs.5,00,000/-, in default to undergo Rigorous Imprisonment for six months.
	U/s 420 r/w 511 IPC	To undergo Rigorous Imprisonment for three years and to pay a fine of Rs.5,00,000/-, in default to undergo Rigorous Imprisonment for six months.

5. Challenging the above said conviction and sentence, the appellant has preferred the present Criminal Appeal.

6. Thiru. A.Robinson, the learned counsel for the appellant made the following submission:-

6.1. When the appellant disputed his identity and his involvement in the occurrence by taking the plea that his name is "*Mujit*", it is duty of the prosecution to prove his involvement beyond reasonable doubt. But no legal evidence was adduced to prove his involvement in the occurrence as "*Niyazkhan @ Abdul Razack*".

6.2. The prosecution neither produced any material nor established any circumstances to prove his involvement in the conspired act of opening of the bogus account in the name of APN International and withdrawal of the amount from the bogus account of APN International by preparing the forged out stations cheques, Inter Branch Advices (IBA) and through the bearer cheques, payment cheques. The identification of the bank officials about the company of the appellant along with A1 is not a circumstance to pass a conviction against the appellant for the charged offence. Therefore, the prosecution miserably failed to prove the case against the appellant under section 120 (b) of I.P.C.

6.3. Before registering the FIR by CBI, earlier report was filed by not mentioning the name of the appellant and the same was suppressed by the prosecution. Therefore, the case against the appellant is liable to be set aside. Even, in the original FIR registered by CBI, the appellant's name was not found and only in the final report, the appellant was included without sufficient materials to show the appellant's involvement in the occurrence.

6.4. According to PW1's evidence, A1 and the appellant have opened account in the name of APN International, a bogus dry flower unit. But his name was not found in Ex.P.10 (Complaint). Therefore, the prosecution has not proved his involvement in the occurrence. The learned trial judge relied upon the statement of P.W.7 recorded under section 164 of Cr.P.C. without any corroborating material.

6.5.The evidence of P.W.7, P.W.14, P.W.9 and P.W.6 are not sufficient to convict the appellant under the charged offence. The learned trial judge in all aspects, without properly considering the evidence, erroneously convicted the appellant and imposed the maximum punishment of imprisonment.

7.Dr.M.D.Poornachari, the learned Special Public Prosecutor appearing for CBI made the following submissions:-

7.1. The appellant and the accused No.1 Raaj Kafur @ Mohd. Asmath, had committed similar offence in various banks disguising himself in different names by opening different account in various banks and defrauded the amount of the banks. The identity of the appellant has been clearly spoken by various prosecution witnesses. They specifically deposed that he along with his younger brother Raaj Kafur @ Mohd. Asmath, had visited the Canara Bank, Beach Road Branch, Tuticorin on various occasions and had secret discussion with the other remaining bank officials who had been convicted in the parent C.C.No. 9 of 2003 and his active participation in the process of opening of account in the name of the non-existent APN International dry flower unit, presentation of the bogus out station cheques, transmission of bogus inter branch advises and credit of the amount on the basis of the bogus inter branch advises and withdrawal of the amount by the appellant are all clearly proved beyond reasonable doubt both in the trial of the C.C.No.9 of 2003 and in C.C.No. 3 of 2006 with sufficient materials and the conviction in C.C.No. 9 of 2003 was confirmed by this court in Crl.A.(MD).No. 565 of 2006 and Crl.A.(MD). No. 580 of 2006 and the same was confirmed by the Hon'ble Supreme Court in SLP (Crl).No. 5215 of 2018 and due to his absconding, CBI was forced to conduct the separate trial and in this case also, sufficient evidence was produced to prove the involvement of the appellant and the learned trial judge correctly appreciated the entire facts and convicted the appellant as per law and the same deserves to be confirmed.

7.2. The special public prosecutor would further submit that in this type of bank fraud theory of "*particeps criminis*" comes into operation. The appellant's involvement in every stage of the case is proved through the established circumstances. The appellant has received the amount from the said APN International account for his personal use. Therefore, the prosecution clearly proved the charge framed against the appellant.

7.3. The special public prosecutor also submitted that the appellant and A1 had committed similar type of offences in various banks and hence he deserves maximum punishment and he relied the following precedents:-

Sl.No	*Citations*
1.	*1996(4) SCC 659*
2.	*2012 7 SCC 699*
3.	*2015 2 SCC 553*
4.	*2019 7 SCC 204*
5.	*2022 1 SCC (Cri.) 208*
6.	*2009 11 SCC 737*

8. This court considered the rival submission and perused the records and impugned judgment and the precedents relied by the respective counsel.

9. The question that arises in this appeal is that *whether the conviction and sentence of imprisonment imposed by the learned trial judge vide impugned judgment requires any interference?*

10.For the purpose of convenience and sequence, the rank of the accused stated in the original C.C.No. 9 of 2003 is herein after referred in this case. As discussed earlier, CBI have filed the final report against the appellant and other following 6 accused for the offence under section 120B IPC r/w Sec.419, 420, 467, 468, 471 of IPC and Sec.511 of IPC r/w 420

IPC and Sec.13(2) r/w 13(1)(d) of Prevention of corruption Act, 1988:-

1.RaajKafur @ Mohd.Asmath(A-1)
2.JohnFernando(A-2)
3.Sharmila(A-3)
4.S.Arumugam(A-4)
5.S.Sundarsingh(A-5)
6.Niyazkhan @ Abdul Razack
7.T.Mohan(A-6)

The appellant and Raaj Kafur @Mohd.Asmath are brothers. Accused No. 2 and accused No.3 are husband and wife. The accused No. 4 was the manager of the Canara Bank, Breach Road, Branch, Tuticorin during the occurrence period. Accused No.5 was the sub-staff of the said branch. Accused No.6 a private individual had introduced Raaj Kafur @ Mohd. Asmath and the appellant to A4 manager. Accused No.2 acted as introducer in the bogus account opened in the name of APN International represented by the Raaj Kafur @ Mohd. Asmath. A new account was opened in the name of A3 Sharmila to divert the fund from the APN International in the name of Maria Reals in UCO Bank, Tuticorin and amount was also withdrawn. She also acted as instrument in preparing the rental deed on the basis of which the account was opened in the name of

APN International in the A4's branch.

11.1. This Court in Crl.A.(MD).No. 565 of 2006 and Crl.A.(MD).No. 580 of 2006 made a detailed discussion about the opening of the account in the name of the non-existing APN International firm with wrong information of doing manufacturing of dry flowers, preparation of the 20 bogus outstation cheques, presentation of the said bogus 20 out station cheques in the account of APN International, credit of the amount of Rs. 76,58,751/- on the basis of 13 bogus cheques in the said account and the consequential withdrawal of the said amount by the accused including this appellant, and thwarting of 7 bogus withdrawal cheques upon finding of forgery of bogus cheque and forged IBA and confirmed the conviction and sentence imposed by the learned trial Judge in the parent C.C.No. 9 of 2003. The said judgment of this Court is also confirmed by the Hon'ble Supreme Court in SLP (Crl).No. 5215 of 2018.

11.2.From the perusal of the records and evidence, the following material circumstances have emanated:-

Creation of
Sham and nominal rental agreement to
Open the bogus bank account
in the Canara Bank.

Opening of APN
International in Canara Bank
Beach road Branch,
Thoothukudi in A/c. No. CA2653
Using the said agreement

preparation of the
Bogus out station cheques

Removal of the
said forged outstations
cheques in the courier
and inserted the forged
inter branch Advices (IBA)

Amount credited in the said APN account, on the basis of the forged Inter branch advise	Withdrawn the said amount by A1 through the bearer cheques and payment cheques

11.3. **This court makes discussion on the above said heading:**

Accused No. 3 Sharmila is the owner of the building situated in Tuticorin City in D.No. 320B, South Cotton Road, Maria Square. She and the appellant created the rental agreement for the purpose of opening the account in the Branch where A4 was the Manager. To prove the same, the said rental agreement was marked as Ex.P26 and it is not the case of A3 that she had no relationship with the appellant and they had only landlord and tenant relationship. She actively participated in the entire conspiracy by withdrawing the amount through the payment cheque issued by the appellant and A1, in her account opened for the said purpose in the UCO Bank, Tuticorin and she has not produced any rental receipt for the proof of the landlord and tenant relationship. Therefore, the case of the prosecution that the said document was created to open the current account in A4's branch is clearly proved.

11.4. The opening of the current account in C.A.No. 2653 in the Tuticorin Beach Road Branch of A4 in the name of non-existing proprietorship concern namely, APN International represented by one Abdul Razak with introduction of A2, who was none other than the husband of A3 is also proved. According to the accused, the said proprietorship concern was doing the business of exporting dry flower. But, neither any registration certificate, customs documents nor foreign export licenses or any valid documents were produced to show the business. Even the bogus cheques presented in the said account were not concerned with the dry flower business. Therefore, the prosecution has proved beyond reasonable doubt that the opening of the account in the name of the Non-existing APN International proprietorship concern represented by accused was with an intention to cheat the bank and defraud the amount.

11.5. The appellant and his brother Raaj Kafur @Mohd.Asmath were in the bank at the time of the opening of the current account in the name of APN International and their meeting with A4 and their company with A2 and A3 is clearly proved through the evidence of PW6, PW7, PW15 and PW16. The witnesses, namely, PW17 clearly deposed about the company of the appellant along with A1 and opening of the account on the basis of the said rental agreement to show the address proof with the introduction of A2. The appellant himself impersonated as "*Abdul Razak*" by putting the signature in the opening form. His evidence is cogent and also corroborated with the evidence of PW9 who also deposed about the presence of the appellant and his brother A1 and their secret talk with A4 and A5 and he also identified the appellant before the court during the course of the trial. PW2 is the Manager of one Sathiya Agency, Tuticorin, PW6 is the proprietor of M/s. Ultimate Computer Care and they also deposed cogently that A2 introduced the appellant as a customer and the appellant purchased the articles from their shop by issuing the cheques in the name of the APN International and the cheques were marked as Ex.P7 and Ex.P12. Apart from that PW3, brother of A3 also identified the appellant and spoken about his unusual company with his sister A3 and brother in law. He further deposed that he handed over the Rs.5 Lakhs at the instance of his sister.

11.6. A2 conducted the construction business in the name of Maria construction and A3 opened the account in the name of Maria Constructions. In the said construction company PW7 was working as a Manager. He deposed about the new business venture intended to be started by A2 with the guidance of A1 and appellant and their company in the relevant period of time. He also deposed about the presentation of the cheque of APN International in the account of the Maria constructions and encashment of amount. Similarly, PW3, PW6 also identified the appellant. Therefore, the prosecution clearly proved the fact of unholy company of the remaining accused along with the appellant and the utilization of the amount credited in the APN International account on the basis of the bogus out stations cheques and forged IBA.

11.7. The learned trial judge in parent case C.C.No. 9 of 2003 made a detailed discussion about the conspired act of remaining accused along with the appellant to cheat the bank and their further attempt to encashment of amount on the basis of the forged outstation cheques which was thwarted and the said finding was confirmed by this court and further affirmed by the Hon'ble Supreme Court. In the said circumstances, the prosecution clearly proved that the appellant is the nerve center for the entire transaction of preparation of the following bogus outstation cheques and the credit of the amount mentioned in the cheques by preparing of the forged IBA:-

Sl. No.	***Ex.P-90-Pay-in-slip for collection of cheque for***	***FCS with its date***	***IBA.No and Rs.***
1.	Rs.3,70,410/-	FCS-192/ 23.05.2001 (Ex.P-21)	IBA No.*27924/ 28.05.2001/ Rs.3,70,410/- (Ex.P.30)
2.	Rs.4,65,000/-	FCS-981/ 14.05.2001 (Ex.P-24)	IBA No.*27894/ 21.05.2001/ Rs.4,65,000/- (Ex.P.29)
3.	Rs.4,92,000/-	FCS-192 23.05.2001 (Ex.P-21)	IBA No.*27925/ 28.05.2001/ Rs.4,92,000/- (x.P.31)
4.	Rs.6,42,000/-	OSC-1198 16.06.2001 (Ex.P-21)	IBA No.*35396/ 21.06.2001/ Rs.6,42,000/- (Ex.P.17)
5	Rs.5,42,000/-	OSC-1199/ 16.06.2001/ (Ex.P.21)	IBA No.*35438/ 21.06.2001/ Rs.5,42,000/- (Ex.P.17)

Sl. No.	*Ex.P-90-Pay-in-slip for collection of cheque for*	*FCS with its date*	*IBA.No and Rs.*
6.	Rs.8,35,700/-	OSC-1201/ 16.06.2001/ (Ex.P.21)	IBA No.*35509/ 22.06.2001/ Rs.8,35,700/- (Ex.P.32)
7.	Rs.7,78,900/-	OSC-1200/ 16.06.2001/ (Ex.P.21)	IBA No.*35506/ 22.06.2001/ Rs.7,78,900/- (Ex.P.33)
8	Rs.7,95,000/-	OSC-1202/ 16.06.2001/ (Ex.P.21)	IBA No.*35595/ 23.06.2001/ Rs.7,95,000/- (Ex.P.34)
9.	Rs.8,58,000/-	OSC-1362/ 07.07.2001/ (Ex.P.21)	IBA No.*39795/ 16.07.2001/ Rs.8,58,000/- (Ex.P.35)
10.	Rs.3,33,600/-	OSC-1352/ 06.07.2001/ (Ex.P.21)	IBA No.*9343/ 21.07.2001/ Rs.3,33,600/- (Ex.P.16)
11.	Rs.5,60,841/-	OSC-1353/ 06.07.2001/ (Ex.P.21)	IBA No.*9347/ 23.07.2001/ Rs.5,60,841/- (Ex.P.16)
12.	Rs,4,46,000/-	OSC-1430 (As per entry in (Ex.P.36)	IBA No.*329142/ 23.07.2001/ Rs,4,46,000/- (Ex.P.36)
13.	Rs.5,38,500/-	OSC-1431 (As per entry in (Ex.P.37)	IBA No.329437/ 24.07.2001/ Rs.5,38,500/- (Ex.P.37)

11.8. The details of the forged outstation cheques deposited in C.A.No.2653 in the name of M/s.A.P.N. International are as follows:

Sl. No	*Cheque No.*	*Date*	*Amount (Rs)*	*Issued by*	*Bank*
1.	977081	23.05.2001	Rs. 3,70,410/-	M/s.Vijay Exports	SBI, Fort Mumbai
2.	912569	06.05.2001	Rs. 4,65,000/-	A/c.No.864	SBI, Fort Mumbai
3.	977099	02.06.2001	Rs. 4,92,000/-	M/s.Vijay Exports	SBI, Fort Mumbai
4.	977087	23.05.2001	Rs. 6,42,000/-	M/s.Vijay Exports	SBI, Fort Mumbai
5.	977090	20.05.2001	Rs. 5,42,000/-	M/s.Vijay Exports	SBI, Fort Mumbai
6.	977086	21.05.2001	Rs. 8,35,700/-	M/s.Vijay Exports	SBI, Fort Mumbai
7.	977079	23.05.2001	Rs. 7,78,900/-	M/s.Vijay Exports	SBI, Fort Mumbai
8.	977089	23.05.2001	Rs. 7,95,000/-	M/s.Vijay Exports	SBI, Fort Mumbai
9.	977098	11.06.2001	Rs. 8,58,800/-	M/s.Vijay Exports	SBI, Fort Mumbai
10.	527922	02.07.2001	Rs. 3,33,600/-		Indian Bank, Cosmopolitan Hospital Branch, Trivandrum.
11.	527920	30.06.2001	Rs. 5,60,841/-		Indian Bank, Cosmopolitan Hospital Branch, Trivandrum.
12.	933053	07.07.2001	Rs. 4,46,000/-	Deccan Exports	UCO Bank, Perambur, Chennai.
13.	933051	05.07.2001	Rs. 5,38,500/-	Deccan Exports	UCO Bank, Perambur, Chennai.
14.	933064	15.06.2001	Rs. 6,25,000/-	Deccan Exports	UCO Bank, Perambur, Chennai.

Sl. No	Cheque No.	Date	Amount (Rs)	Issued by	Bank
15.	933065	15.07.2001	Rs. 5,10,000/-	Deccan Exports	UCO Bank, Perambur, Chennai.
16.	933054	15.07.2001	Rs. 6,32,000/-	Deccan Exports	UCO Bank, Perambur, Chennai.
17.	119635	06.07.2001	Rs. 6,70,000/-	Deepak Enterprises	Vijaya Bank, Race Course Road, Bangalore.
18.	119634	06.07.2001	Rs. 7,82,000/-	Deepak Enterprises	Vijaya Bank, Race Course Road, Bangalore.
19.	119639	24.07.2001	Rs. 5,72,000/-	Deepak Enterprises	Vijaya Bank, Race Course Road, Bangalore.
20.	119638	27.07.2001	Rs.32,000/-	Deepak Enterprises	Vijaya Bank, Race Course Road, Bangalore.

11.9.The following are the details of the corresponding OSC Schedules prepared, but intercepted and not sent, but for which forged IBAs were forwarded to the branch:-

S.No.	Cheque No.	OSC No & Date	IBA No. & Date
1.	977081	FCS-192; 23.05.2001	27924; 28.05.2001
2.	912569	981; 14.05.2001	27894; 21.05.2004
3.	977099	FCS-192; 23.05.2001	27925; 28.05.2001
4.	977087	1198 ; 14.05.2001	35396; 21.06.2001

S.No.	*Cheque No.*	*OSC No & Date*	*IBA No. & Date*
5.	977090	1199; 14.06.2001	35438; 21.06.2001
6.	977086	1201;14.06.2001	35509; 22.06.2001
7.	977079	1200; 14.06.2001	35506; 22.06.2001
8.	977089	1202;14.06.2001	35595; 23.06.2001
9.	977098	1262; 06.07.2001	35795; 16.07.2001
10.	527922	1352; 05.07.2001	9343; 21.07.2001
11.	527920	1353;05.07.2001	9347; 23.07.2001
12.	933053	1430; 16.07.2001	329142;23.07.2001
13.	933051	1431; 16.07.2001	329437; 24.07.2001
14.	933064	1501; 24.07.2001	Not available
15.	933065	1502; 24.07.2001	332506; 30.07.2001
16.	933054	1503; 24.07.2001	332625;01.08.2001
17.	119635	1498;24.07.2001	552465; 01.08.2001
18.	119634	1499; 24.07.2001	Not received
19.	119639	1579; 31.07.2001	Not received
20.	119638	1580; 31.07.2001	Not received

11.10. The prosecution also proved through the presentation of the following 7 outstation cheques and their intentional attempt to encash the same which was thwarted:-

Sl.No	*Cheque No.*	*Date*	*Amount in Rs.*
1	933064	15.06.2001	6,25,000/-
2	933065	15.07.2001	5,10,000/-
3	933054	15.05.2001	6,32,000/-
4	119635	06.07.2001	6,70,000/-
5	119634	06.07.2001	7,82,000/-

6	119639	24.07.2001	5,72,000/-
7	119638	27.07.2001	3,20,000/-

11.11.The submission for the learned counsel for the appellant that the prosecution has not proved the identity of the appellant by conducting the test identification parade and other method, cannot be accepted. His company on various occasions from the opening of the account along with A2, A3 andA4 is clearly proved through the bank witnesses and also through the independent witnesses apart from the deposition of PW3, who is none other than the brother in law of A1 and brother of A3.

11.12. The learned counsel for the appellant submitted that there are no circumstances to prove the conspiracy and this submission is to be rejected on the ground that, as already discussed, that he was the kingpin for the entire transaction in preparation of the bogus cheques, forged IBA and withdrawal of the amount from the account of A3 and also other persons through the cheque issued in the name of APN International. He was instrumental in the presentation of the forged outstation cheques from various cities in the name of various exporters purported to have been issued in favour of the APN International. Therefore, in all aspects prosecution clearly proved the case beyond reasonable doubt. Hence, this court finds no merit in the contention of the learned counsel for the appellant and the appeal lacks merits and deserves to be dismissed.

12.Accordingly, the Criminal Appeal is dismissed and the conviction and sentence passed by the learned II Additional District Court for CBI Cases, Madurai, in C.C.No.3 of 2006, dated 15.12.2020, is hereby confirmed. The bail bond executed by the appellant is hereby cancelled and the learned trial Judge is directed to secure the accused to make him undergo the remaining part of sentence of imprisonment.

04.03.2025

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

dss

K.K.RAMAKRISHNAN, J.

dss

To:

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

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

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

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

Crl.A.(MD).No.382 of 2020

04.03.2025