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CRL RC No. 1424 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30-03-2026

CORAM

THE HON'BLE MR JUSTICE G.K. ILANTHIRAIYAN

CRL RC No. 1424 of 2016

P.Kanagavel, Aged 52 Years
S/o.Periyal Muthu Raja, No.5/547, Mariamman Koil
Street, South Seyur, Seyur Post, Avinashi Taluk,
Tiruppur District

..Petitioner(s)

Vs

The State Rep. By
The Inspector Of Police, CCIW CID Coimbatore
(rural). Cr.No.1 Of 2000

..Respondent(s)

Prayer: This petition is filed under Section 397 r/w 401 of Cr.P.C against the Judgment in C.A.No.101 of 2015, on the file of First Additional District & Sessions Judge, Coimbatore dated 02.08.2016 confirming the conviction and sentence passed in Judgment C.C.No.59 of 2001 on the file of the Judicial Magistrate No.IV, Coimbatore dated 15.04.2015.

For Petitioner(s): M/s.S.Kamadevan

For Respondent(s): Mr.L.Baskaran, Govt Advocate



ORDER

This revision case is preferred against the Judgment in C.A.No.101 of 2015 passed by the First Additional District & Sessions Judge, Coimbatore on 02.08.2016 confirming the conviction and sentence passed in C.C.No.59 of 2001 on the file of the Judicial Magistrate No.IV, Coimbatore dated 15.04.2015.

2 . The case of the prosecution is that the petitioner, while working as a Secretary of Kovil Vazhil Primary Agricultural Co-operative Bank was entrusted with bank Bank Cash, Register and other day-to-day affairs of the Society. While being so the petitioner had given a sum of Rs.10,000/- towards consumer loan by making false entry and voucher. Further, on 25.05.1998, he has taken a sum of Rs.5,000/- as vehicle advance. Hence, a complaint was lodged by the Deputy Registrar, Cooperatives and enquiry was conducted under Section 81 of the Tamil Nadu Co-operative Societies Act. Based on that complaint, the respondent police has registered a case in Crime No.1 of 2000. After completing the investigation final report was filed and the same has been taken cognizance and summons were issued to the accused for the offences u/s 477(A) and 408 of Ipc.



3. On the side of the prosecution three witnesses were marked from P.Ws.1 to P.W.3 and 21 documents were marked Exs.P.1 to Ex.P.21. On the side of the accused no witness were examined and two documents were marked Exs.D.1 and Ex.D.2.

4. On the basis of the oral and documentary evidence the trial Court found the petitioner guilty under section 477(A) and 408 of I.P.C and convicted the petitioner for the offence u/s 408 of I.P.C and sentenced him to undergo six months rigorous imprisonment and to pay fine of Rs.1,000/- in default, he was sentenced to undergo one month simple imprisonment. Further, he was convicted for the offence u/s 477(A) of IPC and was sentenced to undergo six months rigorous imprisonment and to pay a fine of Rs.1,000/- in default he was sentenced to undergo one month simple imprisonment. Aggrieved by the same, the petitioner preferred a Criminal Appeal in C.A.No.101 of 2015 on the file of the First Additional District and Sessions Judge, Coimbatore and the same was dismissed and the order passed by the Trial Court was confirmed. Challenging the same the petitioner has filed the present Revision case.

5. The final report was filed in five C.C.Nos for different periods and for different types of misappropriations. On the strength of the five final report, the Trial Court had taken cognizance in separate C.C Nos and issued summons to



the accused. However, in two cases the petitioner was acquitted and he has been convicted in the remaining three cases.

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6. The learned counsel for the petitioner submitted that the prosecution miserably failed to prove the charges under Sections 408 and 477(A) of I.P.C. The Trial Court erred in shifting the onus to disprove the allegations on the accused which is contrary to the Criminal Rules and the Criminal charges. The petitioner cannot be convicted and sentenced based on assumptions and surmises. Conviction should be done only based on the substantial evidence and should not be based on preponderance of probability which could be applicable in the disciplinary proceedings. In fact if the petitioner had availed loan, the same cannot be construed as misappropriation. In order to attract section 408 and 477(A) of IPC, there should be an entrustment and there should be a falsification of records coupled with misappropriation. Even assuming that the expenditure incurred by the petitioner is contrary to and in violation of by-laws, the duties and responsibilities fixed to him, the same will not attract a criminal offence punishable u/s 408 and 477-A of I.P.C. Hence prays to allow this Criminal Case.



7. *Per contra* the learned Government Advocate submitted that the petitioner has to get prior approval from the authorised person to withdraw the amount belonging to the society. But the petitioner has withdrawn the amount without the prior approval which is a violation and the same was proven by documentary evidence. Hence, the Trial Court and the Appellate Court has rightly convicted and sentenced the petitioner which does not require interference by this Court. Hence, prays to dismiss this Criminal Case.

8. On the submissions made by counsels appearing on both sides and also on perusal of records it is revealed that on registering of one FIR, the respondent filed 5 Charge sheets which culminated into 5 CCs in which the Trial Court had convicted the petitioner under sections 408 and 477-A of I.P.C. On the complaint lodged by the Deputy Register of Co-operative Societies Act, Pollachi an enquiry was conducted under Section 81 of Tamilnadu Co-operative Societies Act.

9. The crux of the complaint is that the petitioner had given a sum of Rs.10,000/- towards consumer loan by making false entry and voucher. Further on 25.05.1998 he has taken a sum of Rs.5,000/- as vehicle advance. It is seen that as per the Service Register the appellant has joined as daily wages in the



society on 20.05.1993 and his services were regularized on 29.06.1994. As per the service rules he is entitled to avail such loan only after the completion of 5 years of service and the alleged transaction took place on 28.10.1997. Hence, the Trial Court has held that the petitioner is not eligible or he has not right to avail such loan.

10. Therefore, the Trial Court and the Appellate Court had rightly convicted the petitioner for the offences under Sections 408 and 477(A) of I.P.C. Hence, there is no illegality or infirmity in the Judgment passed by the Trial Court and the Appellate Court and the same is confirmed with regard to the conviction. However, considering the age of the accused, the sentence imposed on him is reduced to the period already undergone by him.

11. With the above observations and directions, this Criminal Revision is partly allowed.

30-03-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

smn



To

1. The learned First Additional District & Sessions Judge, Coimbatore.
2. The learned Judicial Magistrate No.IV, Coimbatore
3. The Inspector Of Police, Cciw Cid Coimbatore
(rural). Cr.No.1 Of 2000
4. The Public Prosecutor, High Court Madras



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G.K.ILANTHIRAIYAN, J.

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