IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.03.2026

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.A.No.588 of 2014

The Assistant Director,
Enforcement Directorate,
Government of India,
Shastri Bhawan,
Chennai – 600 006. ... Appellant

Vs.

1. A.N.Dyaneswaran
S/o.A.D.Namasivayam,
No.9, Water Works Colony,
Aspirin Garden, Kilpauk,
Chennai – 600 010.

2. C.Sampath Kumar,
S/o.V.M.Chellappan,
Plot No.1766, 6th Avenue,
Anna Nagar West,
Chennai – 600 040. ... Respondents

PRAYER: Criminal Appeal filed under Section 378(4) of Cr.P.C., to set aside the order dated 04.06.2014 passed by the learned Additional Chief Metropolitan Magistrate (E.O.I) Egmore, Chennai-3 and pass further orders as this Court may deem fit and necessary in the facts, circumstances and evidence of the case.

For Appellant : Mr.P.Rajnish Pathiyil
Special Public Prosecutor
for Enforcement
For Respondent : Mr.B.Sathish Sundar for R2

JUDGMENT

This Criminal Appeal has been filed as against the judgment dated passed 04.06.2014, passed by the learned Additional Chief Metropolitan Magistrate (E.O.I) Egmore, Chennai-3, in E.O.C.C. No.251of 1997, thereby acquitting the respondents for the offences punishable under Sections 9(1)(b) & 9(1)(d) of the Foreign Exchange Regulation Act, 1973 punishable under Section 56(1)(i) of Foreign Exchange Regulation Act 1973 (hereinafter referred to as "the FERA Act").

2. The case of the prosecution is that on 19.01.1996, a search was conducted by the appellant herein at the residence of the first accused. During the course of search, the second accused entered into the said premises with a briefcase. As a result of search, certain documents as well as money of United States of America $5,061/- and Singapore $ 527/- and Malaysian ringets 210 were recovered from the premises. In the course of search, from the briefcase of the second accused the money of United States of America $5,014/- and certain documents were also seized by the appellant team. Further, the first accused was a resident of India and an authorized dealer in foreign exchange. He made various payment to the tune of Rs.1,45,59,195/- during the year 1994-95 to the second accused on behalf of one Nadadur Varadhan, who was a Non

Resident of India, without the general or special exemption of Reserve Bank of India. The second accused had received a sum of Rs.1,45,59,195/- from the first accused on behalf of the said Nadadur Varadhan and utilized the same to make payment to the credit of the account of Nadadur Varadhan to the extent of Rs.1,08,86,244.65 and also for other local disbursement to the tune of Rs.12,72,000/-, which is a contravention under Sections 9(1)(b) r/w & 9(1)(d) r/w 56(1)(i) of FARA. After completion of investigation, the appellant filed charge sheet and the same has been taken cognizance in E.O.C.C.No.251 of 1997 by the Trial Court.

3. In order to bring the charges to home, the prosecution had examined witnesses P.W.1 to P.W.6 and marked documents in Ex.P.1 to Ex.P.64. On the side the accused, no one was examined and no documents were marked to disprove the charge. On perusal of the oral and documentary evidences, the Trial Court found the appellant not guilty for the offences under Sections 9(1)(b) & 9(1)(d) of the FERA punishable under Section 56(1)(i) of FERA and acquitted both the accused. Aggrieved by the same, the present appeal has been filed by the appellant.

4. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

5. On perusal of the records, it is revealed that the first accused died and as such all the charges as against the first accused are abated. Insofar as the second accused is concerned, it is only corresponding charges as against the second accused. The first accused made payment to the tune of Rs.1,45,59,195/-, during the year 1994-1995 to the second accused. The alleged search and seizure was made at the residence of the first accused in which, the briefcase of the second accused was also seized by the appellant. Therefore there is no corroborating evidence between the first and second accused to prove the case of the appellant. According to the appellant, the non resident viz., Nadadur Varadhan was neither examined nor any statement were recorded from him to prove the charges. Further keeping those documents in the briefcase of the second respondent is unbelievable and unnatural. The appellant also failed to examine the said person and it is the fatal to the case of the prosecution.

6. Further the appellant had relied upon the documents by marking the same as Ex.P.5 & Ex.P.6 for implicating the second respondent for violation of FERA. It is not permissible in law, since the

statement of the second accused cannot be relied upon to implicate him as an accused. Further there is absolutely no evidence to prove that the alleged payment made by the first accused to the second accused that too on the instructions of Nadadur Varadhan, who is a non-resident of India. Therefore, the corresponding charges as against the second accused are not all all proved by the prosecution and as such the trial Court rightly acquitted him and it doesn't warrant any interference from this Court.

7. Accordingly, the Criminal Appeal stands dismissed.

23.03.2026

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order

rts

G.K.ILANTHIRAIYAN, J.

rts

To

1.The Additional Chief Metropolitan Magistrate
(E.O.I) Egmore, Chennai-3.

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