BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: **25-02-2026**
CORAM:

THE HONOURABLE MR JUSTICE MOHAMMED SHAFFIQ

Crl.RC(MD) No.472 of 2019
and
Crl.M.P.(MD).No.6467 of 2019

Muthumani

Petitioner(s)

Vs

The Inspector of Police,
Chekkanoorani Police Station,
Chekkanoorani,
Madurai District
(Cr.No.246/2012)

Respondent(s)

Prayer: Criminal Revision Case is filed under Section 397 and 401 of Cr.P.C., to call for records and to set aside the order of conviction passed in Crl.A.No.36 of 2018 on the file of IV Additional District and Sessions Court, Madurai dated 20.03.2019 confirming the orders passed in C.C.No.559 of 2013 on the file of the Judicial Magistrate No.II, Usilampatti, Madurai dated 21.03.2018 by allowing the Criminal Revision Petition.

For Petitioner : Mr.K.R.Laxman

For Respondent : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

The present Criminal Revision Case is filed by Accused No.4 challenging the judgment of IV Additional District and Sessions Court, Madurai in Crl.A.No.36 of 2018 dated 20.03.2019 confirming the order passed in C.C.No.559 of 2013 by Judicial Magistrate No.II, Usilampatti, Madurai, dated 21.03.2018, whereby, petitioner was convicted for offence under Section 420 IPC and sentenced to undergo two years of rigorous imprisonment with fine of Rs. 5,250/-, in default to undergo six months of simple imprisonment.

2. Brief facts:

In all, five accused were involved in the alleged occurrence. A1 to A5, with the intent of swindling money from the general public, informed that a charitable institution, viz., Annai Mahalir Charitable Institution was functioning by them in Ammasithevar Marriage Hall at Chekkanoorani and that they would be able to arrange loans from Bank, if Mahalir groups are started by enrolling members. Induced by the above statement, P.W.1 started a Mahalir group at Onthimalai and enrolled 150 members. P.W.1 was asked to collect Rs.750/- from each of the members along with their ration card, photo and voter ID by the accused promising to obtain a loan of Rs.30,000/- to each member/contributor. Pursuant thereto, a sum of Rs.86,250/- was collected by P.W.1 to P.W.3 and the same was handed over to A4 and A5 through A1 to A3. However, without arranging the loans, A4 and A5 vacated their office.

2.1. On the basis of the complaint lodged by P.W.1, Petchiammal, a case was registered in Crime No.246 of 2012 before the Chekkanoorani Police Station against 5 accused for the offence under Section 420 IPC. After completion of investigation, charge sheet was filed and the same was taken on file by Judicial Magistrate No.II, Usilampatti, Madurai in C.C.No.559 of 2013. The Trial Court, vide order dated 21.03.2018, had found A4 guilty of the offence under Section 420 IPC and sentenced her to undergo two years rigorous imprisonment and to pay a fine of Rs. 5250/-, in default, to undergo six months simple imprisonment, while acquitting the other accused of the charges. Aggrieved, petitioner/A4 preferred an appeal before IV Additional District and Sessions Court, Madurai in Crl.A.No.36 of 2018. The Appellate Court, vide judgment dated 20.03.2019, dismissed the appeal confirming the order of Trial Court. Challenging the same, petitioner filed this criminal revision.

3. Case of Petitioner:

Learned counsel for the petitioner would submit that the order of the lower appellate court suffers from the following infirmities and is tainted by malafide, arbitrariness and perversity:

a) If 115 members have been allegedly cheated by the accused persons, each having paid Rs.750/- as a contribution, there ought to have been complaints regarding the same. However, not even a single complaint has been filed by the majority of 115 members, barring few, approximately half a dozen.

b) According to petitioner, it is unlikely, keeping in mind the normal course of human conduct, that a person who has been cheated would refrain from seeking redressal of their grievance. Moreso, keeping in view the fact that members/contributors belonged to lower economic strata of the society. However, the very fact that none of 115 members, except Petchiammal/P.W.11, lodged a complaint, shows that the allegations are baseless and motivated by malice.

c) There are discrepancies regarding persons to whom the amount of Rs. 86,250/- was handed over. Petchiammal (P.W.1) would state that the money was received by the accused, whereas, Eswari (P.W. 4) stated that the money was handed over to Nagalakshmi, Ganeshwari and Muthumani, viz., Accused Nos. 1, 2, and 4, as contributions from 40 members. Annakodi (P.W.5) stated that the contribution of Rs. 86,250/- was handed over to and received by Muthumani (Accused No.4). He submitted that these discrepancies, which have material bearing, have been completely ignored.

d) There are discrepancies regarding the place of occurrence, as well as the place where the money was handed over or received. P.W. 1/Petchiammal stated that she is not able to recall the time and place when the money was handed over to accused. P.W.4/Eswari stated that the money was handed over at Arisikara Ammasi Mahal. These discrepancies have been completely overlooked and in the absence of any complaint by 115 victims, recovery of money or even submission of the list of victims would show that there is hardly any material evidence *per se* in support of the accusation.

3.1. Learned counsel would thus submit that in the absence of any material evidence, the conviction of Accused No.4 alone is perverse and therefore, it is liable to be dismissed and set aside.

4. Case of the Respondent:

4.1. Learned Additional Public Prosecutor would submit that 115 contributors were cheated and that Rs.750/- each was collected, as evident from the statements of P.W.1, P.W.4, and P.W.5. He would further submit that minor discrepancies or inconsistencies in the statements, regarding the place of occurrence or the person who received the money would not materially alter the offence of cheating committed by the petitioner/A4.

4.2. He would further submit that one must keep in mind that the cross-examination took place after a lapse of more than ten years and therefore, it is only natural that the witnesses may not be able to recall the occurrence vividly. He would submit that in this case, where the findings of fact are concurrent, unless shown to be perverse, there is no warrant for interference.

5. Heard the learned counsel on both sides and perused the records.

6. Before proceeding further, it may be relevant to refer to the findings of the Trial Court as well as lower Appellate Court:

6.1. Findings of Trial Court:

Trial Court, after considering the submissions of both sides and evaluating the evidence adduced, found as follows :

a) Although it has been alleged that Rs.750/- was collected from 115 members and handed over to the accused, the list of contributors from whom the amount was collected has not been submitted. The total amount of Rs. 86,250/-, which the accused were said to have obtained, has not been recovered. These are the defects/lacuna in the investigation. It is clear that the petitioner/Accused No. 4 had received a sum of Rs. 86,250/-, representing Rs.750/- contributed by each of 115 members and therefore, petitioner/Accused No. 4 alone was found guilty for offence under Section 420 of the IPC and sentenced to undergo rigorous imprisonment for two years and to pay a fine of Rs. 5,250/-, in default, to undergo six months simple imprisonment. While acquitting Accused Nos.1 to 3 and 5, the Trial Court also directed that an amount of Rs. 750/- be disbursed to P.W.s 1, 2, 4, 5, 6, 7, and 8.

6.2. Findings of Appellate Court:

(a) The Appellate Court found the submission neither the place of occurrence nor the list/details of 115 members from whom Rs.750/- each was collected had not been furnished is without any substance.

(b) Reliance was placed on the evidence of P.W.4, who in her cross examination, had stated that the money was handed over to A4 at Arasikara Mahal, it was thus found that the submission that the place of occurrence is not available, lacks merit.

(c) With regard to non-production of the list of members, the Appellate Court found that P.W.8 and P.W.9 had admitted receiving the receipts from the witnesses, however the same was not produced. The attempt to draw support therefrom was rejected on the premise that it only reflected a lackadaisical approach on the part of the prosecution.

(d) The submission that there has been a delay in lodging a complaint, was also found to be lacking merit on the premise that P.W.1, who is a victim and deceived by the accused, had approached the accused either for obtaining loans or for return of the money collected and it was only after all their efforts had failed, a petition/under Section 156(3) of Cr.P.C came to be filed. The above delay was sought to be explained by stating that though the accused stated that he would settle, he did not actually do so and the defacto complainant and others belonging to lower economic strata had not taken appropriate steps immediately.

(e) While considering the issue as to whether ingredients of Section 420 of IPC were satisfied, the Lower Appellate Court found that from the cross-examination of P.W.4/Eswari, it could be presumed that accused had admitted the initial proposal made by them to defacto complainant regarding collection of Rs.750/- per head for arrangement of loan and that no one, other than Government-sponsored organisation or Welfare Department, can arrange loans for the general public. Thus, the conduct of the accused in approaching the defacto complainant and collecting Rs.750/- per person for arranging bank loans reveals their fraudulent and dishonest intention. It was therefore held that the acts of the accused fall squarely under Section 420 of IPC. Thus, Lower

Appellate Court found A4 alone guilty and confirmed the judgment passed by the Trial Court. Relevant paragraph reads as under:

> *"16. That apart, here, it may be further relevant to refer the ingredients required under Section 420 of IPC. In order to prove the guilty of the accused, it is mandate to establish the dishonest intention of the accused at the inception itself. Accordingly, if the case on hand is viewed from the mode of cross-examination of P.W.4, it could be easily presumed that the accused has categorically admitted the initial proposal made by them to the defacto-complainant regarding the demanding of Rs.750/- per head for arranging of loan. It is their only contention that the said amount was not given to accused. On contra, the P.W.1 swallowed the entire amount. It is common knowledge that no one except the Government Sponsors Organisation or Welfare Department can arrange loan for the general public. While so, the conduct of the accused approaching the defacto-complainant to collect Rs.750/- per head for arranging loan from the bank in my considered view, disclose their obvious fraudulent and dishonest intention of the accused, because the nature of transaction between the accused and defacto-complainant shows receiving of Rs. 750/- per head from the general public for arranging loan*

for them, the modus operandi of which is no way concerned with any Government Scheme. Hence, as stated in supra, the conduct of the accused clearly shows the fraudulent and dishonest intention at the stage of inception itself. Hence the act of the accused squarely falls under offence punishable under section 420 of IPC."

6.3. However, the appellate court was of the view that the other accused were also guilty and ought to have been convicted. Since the prosecution did not file any appeal against their acquittal, no further action was taken in that regard. The Appellate Court found that it was not permissible to disclose or deal with the role of other accused. The Lower Appellate Court also recorded that while there were defects on the part of the prosecution, those defects were only due to the shoddy and lackadaisical approach of the police authorities and were not considered material enough to rule out the entire evidence of prosecution witnesses, more particularly P.W.1, 2, 4 to 7.

7. This Court while conscious of the limitation on the ground jurisdiction for interference under Section 397 of the Code of Criminal Procedure, as explained by the Supreme Court, that this Court is vested with the power to call for and examine the records of an inferior Court for the purposes of satisfying itself as to the legality and regularity of any proceedings or order made in a case. The object of the provision being to set right a patent defect or an error of jurisdiction or law. There has to be a well-founded error and it may not be appropriate for the Court to scrutinise the orders, which upon the face of it bears a token of careful consideration and appear to be in accordance with law. If one looks into the various judgments of this Court, it emerges that the revisional jurisdiction can be invoked where the decisions under challenge are grossly erroneous, there is no compliance with the provisions of law, the finding recorded is based on no evidence, material evidence is ignored or judicial discretion is exercised arbitrarily or perversely. These are not exhaustive classes, but are merely indicative. Each case would have to be determined on its own merits.[1]

1 *Amit Kapoor v. Ramesh Chander, (2012) 9 SCC 460*

8. This Court finds that the order of the Courts below, insofar as it finds the petitioner/Accused No.4 be guilty of offence under Section 420 IPC, suffers from being perverse inasmuch as the following aspects have been completely lost sight of, rather not taken into account by the Court below.

9.a) The alleged occurrence took place from 10.03.2009 to 19.01.2012, but the complaint was belatedly lodged on 06.07.2012.

b) The Trial Court failed to consider that the date of occurrence and time of occurrence was not proved by the prosecution.

c) None of the prosecution witnesses deposed to the exact date on which the money was handed over to the accused.

d) Except for P.W.7/Usha, who deposed about the place of occurrence where the accused was alleged to have received the money, there was no eyewitness to support her testimony. Neither the accused received any money, nor were any documents collected from 115 members of the Women's Self-Help Group, formed by P.W. 1/Petchiammal, produced as evidence before the Trial Court. Additionally, no receipt of money was produced before the court or the

Investigating Officer.

e) The Trial Court failed to note that the prosecution failed to examine the owner of Ammasi Mahal, in which the Trust is running.

10. The above infirmities would show that the order of Appellate Court is perverse inasmuch as it is not based on any evidence but on mere suspicion, conjecture and surmises.

11. A finding is perverse if it is based on no evidence or that on the evidence on record no reasonable person could have come to that conclusion. Any finding which is not supported by evidence or inference is drawn in a stretched and unacceptable manner, can be said to be perverse. [1]. This Court finds that orders of the Court below that the infirmities pointed out in paragraph 9 renders the orders of the Court below perverse.

12. The Court below ought to have seen that evidence on record does not establish beyond reasonable doubt that the ingredients of cheating in terms of IPC is established. The evidence at best may, as

1 *Vishwanath Agrawal v. Sarla Vishwanath Agrawal, (2012) 7 SCC 288*

seen supra, give rise to suspicion. It is trite that suspicion, however grave it may be, cannot take the place of proof, and there is a large difference between something that 'may be' proved and 'will be proved'. In a criminal trial, suspicion no matter how strong, cannot and must not be permitted to take place of proof. This is for the reason that the mental distance between 'may be' and 'must be' is quite large and divides vague conjectures from sure conclusions. In a criminal case, the court has a duty to ensure that mere conjectures or suspicion do not take the place of legal proof. The large distance between 'may be' true and 'must be' true, must be covered by way of clear, cogent and unimpeachable evidence produced by the prosecution, before an accused is condemned as a convict, and the basic and golden rule must be applied. In such cases, while keeping in mind the distance between 'may be' true and 'must be' true, the court must maintain the vital distance between conjectures and sure conclusions to be arrived at, on the touchstone of dispassionate judicial scrutiny based upon a complete and comprehensive appreciation of all features of the case, as well as the quality and credibility of the evidence brought on record. The court must ensure that miscarriage of justice is avoided and if the facts and circumstances of a case so demand, then the benefit of doubt must be given to the accused, keeping in mind that a reasonable doubt is not an imaginary, trivial or a merely probable doubt, but a fair doubt that is based upon reason and common sense[1].

13. In the light of the above discussion, this Court is of the view that the findings by the Courts below that the petitioner had committed the offence of cheating is not based on evidence but on the basis of mere suspicion, conjuncture and surmises. Secondly, the evidence only at best give rise to suspicion and thus, benefit of doubt ought to have been extended the petitioner to which the Courts below failed.

14. In view thereof, the impugned judgment passed by IV Additional District and Sessions Court, Madurai in Crl.A.No.36 of 2018 dated 20.03.2019, confirming the order passed in C.C.No.559 of 2013 by Judicial Magistrate No.II, Usilampatti, Madurai, dated 21.03.2018 are set aside.

1 *Raj Kumar Singh Vs. State of Rajasthan, (2013) 5 SCC 722*

15. Accordingly, the Criminal Revision Case is allowed. Consequently, connected miscellaneous petition is closed.

25-02-2026

Rgm/Lm

To:

1. The IV Addl District and Sessions Court,
Madurai.

2. The Judicial Magistrate No.II, Usilampatti,
Madurai.

3. The Inspector of Police
Chekkanoorani Police Station,
Chekkanoorani, Madurai District.

MOHAMMED SHAFFIQ, J

Rgm/Lm

Crl.RC(MD) No.472 of 2019

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