

**SUPREME COURT OF INDIA**

**Bench: Justices C.T. Ravikumar and Rajesh Bindal**

**Date of Decision: May 3, 2024**

CRIMINAL APPELLATE JURISDICTION

SPECIAL LEAVE PETITION (CRIMINAL) NO. 3787 OF 2024

SPECIAL LEAVE PETITION (CRIMINAL) NO. 3788 OF 2024

**T.R. VIJAYARAMAN ... Petitioner(s)**

**VERSUS**

**THE STATE OF TAMIL NADU ... Respondent(s)**

**B. KANGARAJAN ... Petitioner(s)**

**VERSUS**

**THE STATE REPRESENTED BY ITS INSPECTOR OF POLICE ...  
Respondent(s)**

**Legislation:**

Sections 120-B, 420, 477(A) of the Indian Penal Code (IPC),

Section 13(2), read with Section 13(1)(d) of the Prevention of Corruption Act,  
1988

**Subject:** Criminal petitions challenging the High Court's affirmation of the Trial Court's conviction of the petitioners for offences involving fraud and cheating in connection with unauthorised banking transactions.

**Headnotes:**

Criminal Law – Bank Fraud and Cheating – Special Leave Petitions challenging High Court's decision upholding Trial Court's conviction of petitioners for conspiracy (Section 120-B IPC) and cheating (Section 420 IPC) related to unauthorized banking transactions involving unauthorised temporary Demand Overdrafts facilitated by bank officers – Conviction affirmed as fraudulent intent and modus operandi established, involving unauthorised entries benefiting petitioners, who gained interest-free advances [Paras 1-12].

Banking Offence Analysis – Alleged transactions took place in 2002, with fraudulent entries credited to petitioners' accounts without corresponding negotiable instruments – Petitioners repaid amounts after discrepancies were discovered during 2004 bank inspection – Supreme Court finds substantial evidence of fraudulent transactions and rejects the defence that transactions were regular banking practices [Paras 4-10].

Role of Accused – Analysis of petitioners' involvement in fraudulent bank entries – High Court's verdict confirmed – Petitioners found to have directly benefitted from fraudulent activities facilitated by bank officials, with immediate repayment post-inspection indicating acknowledgment of irregularities [Paras 6, 10].

Decision – Dismissal of Special Leave Petitions – Supreme Court finds no merit in petitions, confirming High Court's decision, and directs petitioners to surrender within two weeks [Para 12].'

**Referred Cases:**

- A.T. Mydeen and Another vs. Assistant Commissioner, Customs Department [Citation not provided]
- SLP(Crl.) No.2722 of 2024 filed by R. Geetha, dismissed on 07.03.2024 [Para 11]

## **ORDER**

### **RAJESH BINDAL, J.**

1. This order will dispose off two petitions bearing number S.L.P. (Crl.) No.3787 of 2024 and S.L.P. (Crl.) No.3788 of 2024.
2. Aggrieved against the judgment of the High Court<sup>1</sup> in Criminal Appeal (MD) No.407 of 2016 and Criminal Appeal (MD) No. 386 of 2016, the petitioners are before this court.
3. The Trial Court<sup>2</sup> in C.C. No.7 of 2008 after holding the Petitioner/T.R. Vijayaraman guilty of offence punishable under Sections 120-B, read with Section 420 IPC and Section 420 IPC sentenced him to undergo rigorous imprisonment for a period of 5 years and to pay a fine of ₹ 5,000/-, in default to undergo 3 months simple imprisonment. The judgment of sentence as awarded by the Trial Court was upheld by the High Court in Criminal Appeal (MD) No.407 of 2016.  
3.1 The Trial Court in C.C. No.5 of 2008 after holding the Petitioner/B. Kanagarajan guilty of offence under Sections 120-B, read with Section 420 IPC and Section 420 IPC sentenced him to undergo rigorous imprisonment for a period of 5 years and to pay a fine of ₹ 5,000/-, in default to undergo 3 months simple imprisonment. The judgment of sentence as awarded by the Trial Court was upheld by the High Court in Criminal Appeal (MD) No.386 of 2016.
4. The proceedings arise out of common FIR No. RC MA1 2004 A 0061 dated 27.09.2004 registered by Central Bureau of Investigation (C.B.I.) under Section 120-B, read with Sections 420, 477(A) of IPC and Section 13(2), read with Section 13(1)(d) of Prevention of Corruption Act,1988 at Chennai. It is a case in which fraudulent transactions were made by the

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<sup>1</sup> High Court of Judicature at Madras, Bench at Madurai

<sup>2</sup> II Additional District Judge for CBI Cases, Madurai

accused in connivance with the officers working at that time in Indian Bank at Srirangam Branch, Trichy.

5. The petitioner in SLP(Crl.) No.3787 of 2024 is proprietor of M/s Kumaran Silks whereas the petitioner in SLP(Crl.) No.3788 of 2024 is the partner in M/s Sri Ganesh Godown. In the FIR, there are total 14 accused out of which 4 are bank officials and 10 are private businessmen.

6. The allegations against the accused were that the bank officers had made certain unauthorised debits in external clearing account and local drafts accounts and the said amount were credited to different parties accounts to offset the unauthorised temporary Demand Overdraft allowed earlier. The transactions were done in September 2002. The result was interest free advance to the petitioners. Inspection was carried out by the senior officers of the bank on 09.01.2004. It was noticed that certain debit entries were made in the external clearing account and credited in the accounts of the petitioner. These could be made only if any negotiable instrument is submitted for clearing. In the case in hand, there was no instrument submitted. Even the temporary overdraft granted to the parties was not reported to the head office. After the inspection, the fraudulent entries were pointed out on 09.01.2004 to the tune of ₹ 1,10,66,100/- (Rupees one crore ten lakhs sixty-six thousand and one hundred only) in the case of 10 borrowers including the petitioners. Immediately on the next date, the payment got deposited by the manager of the bank. It is in this factual scenario that the Trial Court convicted the petitioners, and the conviction was upheld by the High Court.

7. The star argument raised by Senior Counsel appearing for the petitioners was that there were 5 separate trials of the accused. However, the High Court without discussing the evidence in detail in each case separately has upheld the conviction by merely noticing the details of the exhibits, the prosecution witnesses and the defence witnesses in the matter. The petitioners cannot be said to be the persons involved in the cheating. They had not availed any undue benefit. Grant of loans by the banks is a normal practice. Security was furnished when overdraft facility was granted. Immediately when the petitioners were pointed out that the amount is to be returned back, they deposited the entire amount. No case of cheating was made out as the bank did not suffer any loss. It was a normal business transaction. In support of the arguments, reliance was

placed upon the judgment of this court in **A.T. Mydeen and Another vs. Assistant Commissioner, Customs Department**<sup>3</sup>.

8. After hearing learned counsel for the petitioners, we do not find that any case is made out for grant of leave to appeal. As already noticed above it is a case where bank officers and the private businessmen, two of whom are petitioners before this court, had cheated the bank. The fraud started in the year 2002, when without there being any instrument submitted to the bank for clearance from the accounts in which there was no balance, entries were made in the external clearing account and local drafts account for giving credit to the petitioners. The entries were made on 27.09.2002 for clearing of overdraft of about ₹ 20 lakhs granted to the petitioner/T.R. Vijayaraman from July, 2002 onwards, immediately, after the petitioner opened his current account with the bank. The *modus operandi* having come to the notice of the higher officers, inspection of the branch was carried out on 09.01.2004. When confronted the accused persons got the amount deposited immediately on the next day. It came out in the report that advance was enjoyed by the petitioners without payment of any interest. It was not a loan transaction as was sought to be argued.

9. The argument that the High Court had failed to consider all the issues in detail is merely to be noticed and rejected as it was a case of confirmation of conviction by the Trial Court. Relevant facts have been noticed and relevant evidence discussed by the High Court, as it was agreeing with the views expressed by the Trial Court.

10. The manner in which the entries were made in the accounts could not be disputed. In SLP (Crl.) No.3787 of 2024, the amount deposited by the petitioner after the inspection was to the tune of ₹ 20.05 lakhs (Rupees twenty lakhs and five thousand only) which was ₹ 21.45 lakhs (Rupees twenty-one lakh and forty-five thousand only) in SLP (Crl.) No.3788 of 2024.

10.1 The argument that the petitioners did not have any control over the bank officials in the manner in which the entries were made in the books of accounts, is nothing else but of desperation. All the accused in connivance with each other have cheated the bank, by submitting cheques of the accounts in which there was no balance, or without any

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<sup>3</sup> (2022) 14 SCC 392 : 2021 INSC 697

submission thereof and entries by the bank officers in the books of account showing them to be pending for clearing and giving credit to the account holder/accused.

11. We may also notice that SLP(Crl.) No.2722 of 2024 filed by the R. Geetha, one of the accused account holders in the same FIR, was dismissed by this court on 07.03.2024.

12. For the reasons mentioned above, we do not find any case is made out for grant of leave to appeal. The Special Leave Petitions are accordingly dismissed. The petitioners are directed to surrender before the concerned Trial Court within 2 weeks from today.

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