

NON-REPORTABLE

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO(S). 1949 OF 2009

M. RAMALINGAM

..APPELLANT(S)

VERSUS

**STATE REPRESENTED BY
INSPECTOR OF POLICE
SBE/CBI/ACB, MADRAS**

.RESPONDENT(S)

WITH

CRIMINAL APPEAL NO(S). 2186-2188 OF 2009

CRIMINAL APPEAL NO(S). 347 OF 2010

J U D G M E N T

Rastogi, J.

1. The instant appeals arise from the common judgment dated 21st July, 2009 passed by the High Court of Judicature at Madras upholding the conviction of the appellant T. Maran (accused no. 1) for offences under Section 120B, 467, 467 read with 471, 420, 477-A IPC and Section 13(2) read with Section 13(1)(d) of Prevention of Corruption Act, 1988 and sentenced to undergo rigorous imprisonment for two years and also to pay a fine of Rs. 1,000/- in all the three cases and the sentence was directed to run concurrently.

Appellant M. Ramalingam (accused no. 2 in CC no. 03/1995) was convicted under Section 120B and 420 IPC and sentenced to undergo rigorous imprisonment for two years and also to pay a fine of Rs. 1,000/- in default to undergo rigorous imprisonment for 6 months for each of the offences and appellant N. Rajangam (accused no. 2 in CC no. 05/1995) was convicted under Section 120B, 467 read with 471 IPC and sentenced to undergo rigorous imprisonment for two years and also to pay a fine of Rs. 1,000/- in default to undergo rigorous imprisonment for 6 months for each of the offences.

2. The brief facts of the case are that T. Maran (A1) in all the three cases was the Branch Manager in the Indian Overseas Bank (IOB), Narikudi from 4th May, 1988 to 28th January, 1991. Accused no. 1 (T. Maran) along with one Nagrajan (A2 in CC No. 04/1995) (who was the clerk-cum-typist died after filing of the charge-sheets) were the custodian of the jewel safe of the Branch. Three separate criminal cases CC No. 03/1995, 04/1995 and 05/1995 were filed against him and the allegation was that appellant (T. Maran-A1) sanctioned agricultural jewel loan of Rs. 7,000/- in favour of M. Ramalingam (A2 in CC No. 03/1995) in AJL No. 78/89. It was alleged that the jewels deposited in AJL No. 45/81 had been used by A1 (T. Maran) for the purpose of advancing loan AJL No. 78/89 to M. Ramalingam (appellant

in Criminal Appeal No. 1949 of 2009). For that purpose, account no. AJL 45/81 was opened on 12th November, 1981 and closed on 26th March, 1988.

3. In a different transaction, Appellant T. Maran (A1) sanctioned jewel loan of Rs. 7,100/- to one Nagarajan(A2 in CC No. 04/1995-since deceased) in JL No. 49/90. The allegation was that the jewel deposited in JL No. 50/90 had been altered to JL No. 49/90 and the same was used for advancing loan to Nagarajan(deceased). JL 50/90 was opened on 24th March, 1990 and closed on 1st June, 1990.

4. Yet in another separate transaction, appellant (T. Maran- A1) sanctioned agricultural jewel loan of Rs. 10,000/- to one Rajangam (A2 in CC No. 05/1995) in AJL NO. 123/90. The allegation was that the jewel deposited in AJL No 372/87 had been used for the purpose of advancing the loan AJL No. 123/90 of Rajangam. AJL No. 372/87 was opened on 10th November, 1987 and closed on 28th January, 1988.

5. It was unearthed when appellant(T. Maran-A1) went on leave from 4th October, 1990 to 6th October, 1990. PW-2 (Krishnamoorthy) became in-charge and found certain discrepancies and informed the same to the Chief Zonal Officer. The Vigilance Officer was deputed to

enquire into the loan accounts who, after enquiry, found serious irregularities and thereafter three separate FIR were registered and finally the charges were framed in each of them against appellant T. Maran(A1) who was charged under Section 120B, 467, 467 read with 471, 420, 477-A IPC and Section 13(2) read with Section 13(1)(d) of Prevention of Corruption Act, 1988 and accused M. Ramalingam(A2 in CC No. 03/1995 was charged under Section 120B, 420 IPC and accused N. Rajangam(A2 in CC No. 05/1995) was charged under Section 120B, 467 read with 471 IPC.

6. The allegation against appellant(T. Maran) and appellant(M. Ramalingam-A2 in CC No. 03/1995) was that A2 (M. Ramalingam) along with A1 (T. Maran, Branch Manager) and Nagarajan(since deceased) conspired together so as to cheat the bank to the extent of Rs. 7000/- without pledging the jewel. A2 (M. Ramalingam) applied for the jewel loan and the same was sanctioned by A1 (T. Maran) by making false entries in the jewel loan movement register(Exhibit P-4), as if the jewel was pledged by A2 (M. Ramalingam) but in fact there was no entry in the register thereby caused wrongful loss to the bank and wrongful gain for themselves. As per the jewel register, the jewel as shown to be pledged by A2 (M. Ramalingam) is pertaining to other loanee Sri Muthuramalingham(PW-9) (loan dated 12th November,

1981) and he closed his loan account (AJL No. 45/81 on 26th March, 1988) and the jewel pledged by him was not returned to him which were kept as lien. The register shows that bank had not obtained any jewel in support of loan AJL 78/89 by A2 (M. Ramalingam) and there was no entry for AJL 78/89 and in between 75/89 and 80/89, one entry has not been done.

7. The allegation against appellant(T. Maran) and A2 Nagarajan(clerk who died after filing of the charge-sheet) in CC No. 04/1995 was that appellant T. Maran(A1) entered in conspiracy to cheat the bank. Further that A2(Nagarajan-deceased) on 24th March, 1990 applied for the jewel loan for a sum of Rs. 7,100/- and the same was sanctioned by A1 (T. Maran) in JL No. 49/90. There is no entry of 24th March, 1990 in the jewel loan movement register(Exhibit P-5) for the said jewel loan but there is entry with regard to a jewel loan no. 50/90 obtained by one 'Irulan' (his jewel application-Exhibit P4) and that subsequently jewel loan no. 50/90 had been altered to JL No. 49/90 to show that the jewel was pledged for the JL No. 49/90. JL No. 50/90 to 'Irulan' was sanctioned on the same date, i.e. 24th March, 1990 and curious enough, JL No. 50/90 was closed as the loanee 'Irulan' redeemed the jewel and there is entry in the jewel movement register of 1st June, 1990 to that effect.

8. In yet another transaction which is separately registered CC No. 05/1995, allegation was that A2 (N. Rajangam) along with appellant(T. Maran-branch manager A1) and Nagrajan(clerk who died after filing of the charge-sheet) have conspired so as to cheat the bank to the extent of Rs. 10,000/- without pledging the jewel. The allegation was that on 30th August, 1990, A2(N. Rajangam) applied for jewel loan for Rs. 10,000/- without pledging the jewel. A1 (T. Maran) sanctioned the loan and the jewels alleged to have been pledged were not appraised by bank appraiser and further there was no entry in the jewel loan movement register (Exhibit P-4) with regard to AJL Nos. 123 and 124 of 1990 but whereas on 28th August, 1990 an entry was made with regard to jewel loan no. 122 of 1990 and on 4th September, 1990, another entry was made with regard to jewel loan no. 125 of 1990. It was alleged that jewels in AJL No. 123 of 1990 were not tallied with the weight as the available chain weight was only 17.5 grams and not 64 grams as stated in the loan application of A2(N. Rajangam) and the said jewel pertained to one 'A. Karuppannan' who pledged the jewel on 10th November, 1987 under the jewel loan no. 372/87 and received the loan of Rs. 2,000/- and the loan account was closed by him on 28th January, 1988 but the jewel was not returned to him as the same was kept as lien over the bullock cart loan 8/84.

9. It is to be noticed that apart from the criminal case, both the employees faced departmental enquiry and after being held guilty, appellant(T. Maran-A1) was dismissed from service on 8th July, 1992.

10. That during the course of trial the statements of PW-2(Officer, Indian Overseas Bank, Regional Office, Madurai), PW-3(Officer, Vigilance, Indian Overseas Bank), PW-4(Cashier, Indian Overseas Bank, Narikkudi), PW-5(Chief Officer, Zonal Office), PW-6(Special Assistant, Indian Overseas Bank, Narikkudi) and PW-8(Mr. Jayprakash, the legal heir of the loanee Karupppannan) were recorded in support of the case of the prosecution and the learned trial Judge conducted simultaneous trial of all the three cases 03/1995, 04/1995 and 05/1995 and held appellant(T. Maran) guilty and convicted him under Section 120B, 467, 467 read with 471, 420, 477-A IPC and Section 13(2) read with Section 13(1)(d) of Prevention of Corruption Act, 1988 and sentenced him to undergo rigorous imprisonment for two years and also to pay a fine of Rs. 1,000/- in default to undergo rigorous imprisonment for six months for each of the offences and sentence to run concurrently.

11. At the same time appellant M. Ramalingam(A2 in CC no. 03/1995) was convicted under Section 120B and 420 IPC and

appellant N. Rajangam(A2 in CC no. 05/1995) was convicted under Section 120B, 467 read with 471 IPC and sentenced to undergo rigorous imprisonment for two years and also to pay a fine of Rs. 1,000/- in default to undergo rigorous imprisonment for 6 months for each of the offences.

12. The High Court also on appraisal found no infirmity in the findings recorded by the trial Judge holding the appellants guilty for the aforesaid offences and proceeded on the undisputed facts which came on record that appellant T. Maran(A1) was the Branch Manager from 4th May, 1988 to 28th January, 1991 and Nagarajan, since deceased, being shroff during that period were joint custodians of jewel safe of the branch, that one Karuppannan availed jewel loan 372/87 and the account was closed on 28th January, 1988 on his repayment, that when appellant T. Maran(A1) went on leave from 4th October, 1990 to 6th October, 1990, PW-2 Krishnamoorthy was deputed in his place and also appraised the evidence of PW-3 Vigilance Officer of the Bank who inspected physically all the jewel with the pending loan accounts and on physical verification, he found only one jewel namely gold chain weighing 17.5 grams available in the pocket relating to AJL 123/90 instead of 10 items of jewels and the one jewel also was pertaining to the jewel loan 372/87. The High

Court also took note of the statement of PW-4 (S.A. Soosai Prakasam, Cashier, IOB, Narikkudi), PW-6(P. Ponnuchamy, Spl. Assistant, IOB, Narikudi), PW-8 (Mr. Jayprakash, the legal heir of the loanee Karuppannan) and found no infirmity in the finding recorded by the learned trial Judge under the impugned judgment and accordingly confirmed the conviction and sentence of the accused appellants and held that the appellant(T. Maran-A1) being the public servant by abusing position and by illegal means dishonestly misused the public money and got the amount sanctioned without furnishing any security. Thus, charges framed against the accused appellants have been held to be proved beyond reasonable doubt and accordingly confirmed the conviction and sentenced passed by the trial Court under the impugned judgment.

13. We have heard learned counsel for the parties and with their assistance perused the material available on record.

14. As regards the appellant(T. Maran-A1) is concerned, there is sufficient evidence on record which has been examined by the trial Judge and so also appraised by the High Court and nothing has been elicited from the submissions made by learned counsel for the appellant and on appraisal of the evidence which has come on record and after going through the impugned judgment of the case, we find no

apparent error being committed by the High Court in upholding conviction of the accused appellant(T. Maran) for the offences under Section 467, 467 read with 471, 420, 477-A IPC and Section 13(2) read with Section 13(1)(d) of Prevention of Corruption Act, 1988.

15. At the same time so far as appellant M. Ramalingam(A2 in CC No. 03/1995) and appellant N. Rajangam(A2 in CC No. 05/1995) is concerned, there was no evidence on record which could at all connect them for the offences under Section 120B and 420 IPC(appellant M. Ramalingam) and Section 120B, 467, 467 read with 471 IPC(appellant N. Rajangam) and it was not the case of the prosecution that the loanee A2(N. Ramalingam and N. Rajangam) were ever aware of this fact that such a loan could be sanctioned only after a jewel being pledged. In all bonafides, it reveals from the record that applications were submitted by the loanee who are illiterate agriculturists and loan was got sanctioned by the appellant T. Maran(A1-Bank Manager) with the connivance of the Nagrajan(deceased) in violating the rules and regulations for their personal gains.

16. We are not able to trace out any evidence in respect of dishonesty/misuse in obtaining loan without furnishing any security. In our view the prosecution has failed to prove beyond reasonable doubt the charges levelled against the appellant(M. Ramalingam and

N. Rajangam) in Criminal Appeal No. No. 1949 of 2009 and Criminal Appeal 347 of 2010 and, the conviction of appellant M. Ramalingam under Section 120B and 420 IPC and appellant N. Rajangam under Section 120B, 467 read with 471 IPC deserves to be set aside.

17. Consequently, Criminal Appeal No. 1949 of 2009 filed by M. Ramalingam and Criminal Appeal No. 347 of 2010 filed by N. Rajangam are allowed. The impugned judgment qua the appellants is hereby set aside and since both are on bail, their bail bonds be discharged.

18. At the same time, Criminal Appeal Nos. 2186-2188 of 2009 filed by appellant T. Maran (A1) are hereby dismissed. The appellant T. Maran was granted bail on 9th April, 2010. His bail bonds are cancelled and he is directed to surrender and undergo remaining part of the sentence.

19. Pending application(s), if any, stand disposed of.

.....J.
(N. V. RAMANA)

.....J.
(AJAY RASTOGI)

