

CRL RC(MD)No.1267 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 29.08.2025

PRONOUNCED ON : 13.11.2025

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

CRL RC(MD)No.1267 of 2024

Krishnakumari @ Pragalya

... Petitioner

Vs.

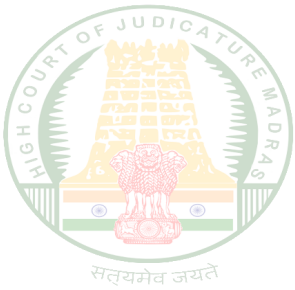
The State of Tamilnadu,
Rep. by the Inspector of Police,
Tallakulam Police Station,
Madurai District.
(Crime No.430 of 2019)

... Respondent

PRAYER: Criminal Revision Petition is filed under Section 438 r/w 442 of BNSS, 2023, to call for the records and set aside the judgment passed in C.A.No.14 of 2022 by the learned IVth Additional District and Session Judge, Madurai District, dated 10.09.2024 confirmed the conviction passed in C.C.No. 1232 of 2019 on the file of the learned Judicial Magistrate No.II, Madurai, dated 25.02.2022.

For Petitioner : Mr.R.L.Dhilipan Pandian

For Respondent : Mr.M.Sakthikumar,
Government Advocate



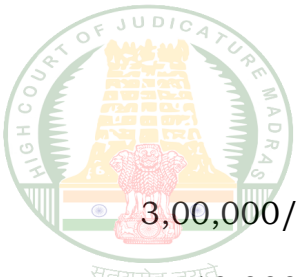
ORDER

Preface:

This Criminal Revision is directed against the concurrent conviction of the petitioner/Accused No.1 for offences under Sections 406 and 420 IPC, as confirmed in C.A. No. 14 of 2022 by the learned IV Additional District and Sessions Judge, Madurai, arising from C.C. No. 1232 of 2019 on the file of the learned Judicial Magistrate No. II, Madurai. While re-examining the conviction and sentence under Sections 397/401 Cr.P.C., 1973, this Court also records the subsequent developments before it concerning restitution to the victims and considers the appropriateness of extending the benefit of the Probation of Offenders Act, 1958 ("PO Act").

Case of the Prosecution :

2. The *de-facto* complainant Mohammed Rakip (PW1) and victim Saravanakumar (PW2) were reception/administrative staff at Vadamalayan Hospital, Madurai. Accused No.1, Krishnakumari @ Praghalya, a resident of Krishnanagar/Thiruppalai, Madurai, and Accused No.2, Aso Jebro Samuel, a Kenyan national, then residing at Madurai, allegedly represented that 2nd Accused's father was running a hospital in Cuba and induced PW-1 and PW-2 to part with monies on the promise of overseas employment. On diverse dates, i.e., 23.04.2018, 02.05.2018, 14.05.2018, 20.05.2018, and 11.10.2018, PW1 and PW2 paid, in cash/bank deposits/ATM transfers, an aggregate of Rs.

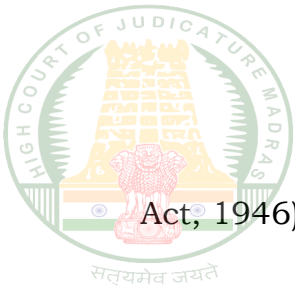


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3,00,000/- (Rupees Three Lakhs only) each to Accused Nos.1 and 2 including Rs.10,000/- (Rupees Ten Thousand only) to 1st Accused's Canara Bank A/c No. 6115101004640. Victim Suresh Krishnan (PW-4) similarly paid Rs. 3,00,000/- (Rupees Three Lakhs only) upon promises of employment in “Google”, and passports of PW1, PW2 and PW4 were taken and not returned until recovery during investigation. The prosecution relied on alleged forged “offer letters”/“flight tickets” (Ex.P1, P2, P5, P7, P8), bank receipts (Ex.P3, P6, P9), seizure mahazars (Ex.P12 and P13), and recovery of the passports (Ex.P18 and P19). On 16.02.2019, near Vasantham Hotel, Ayyar Bangalow, when repayment was demanded by PW1, PW2, and PW3 (PW1’s father Syed Mohammed), the accused allegedly issued threats. The FIR in Crime No. 430/2019 was registered on 11.03.2019 under Sections 406, 420, 506(ii) IPC. Later Section 14 of the Foreigners Act, 1946, was invoked against Accused No. 2 for overstay.

Gist of the Trial Court Judgment in C.C. No. 1232 of 2019:

3. After examining PW1 to PW8 and marking Ex.P1 to P23, the learned Magistrate acquitted Accused Nos.1 and 2 under Section 506(ii) IPC, and convicted Accused No.1 under Sections 406 & 420 IPC, Accused No.2 under Sections 406 & 420 IPC and Section 14, Foreigners Act, 1946, and imposed Simple Imprisonment for one year on each IPC count with fine, with sentences to run concurrently (Accused No.2 additionally one year under the Foreigners



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Act, 1946) and set-off was granted for pre-trial custody.

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Gist of the Judgment in C.A. No. 14 of 2022:

4. The learned 1st Appellate Court confirmed the learned Trial Court's findings and sentence against Accused Nos.1 and 2, holding that the oral evidence of PW1 to PW4, the bank/ATM material and the recovery of passports established dishonest inducement and misappropriation, rejecting challenges based on delay, document authorship, and non-examination of Vignesh/Niranjan.

Grounds in Revision

5. The petitioner urges, *inter alia*, that the Courts below misappreciated the evidence. Ex.P4 complaint vis-à-vis Ex.P14 FIR and dates 16.02.2019 vs. 11.03.2019, render the prosecution doubtful. The ingredients of Sections 406 and 420 were not proved. Some exhibits, such as Ex.P1, P2, P5, P7, P8 are unreliable. PW1/PW2's testimonies were not considered in proper perspective, and the sentence is excessive, and overall findings are unreasonable/arbitrary.

6. The learned counsel for the petitioner rested on the written grounds, stressing variance and de-linkage between the payments and the petitioner,



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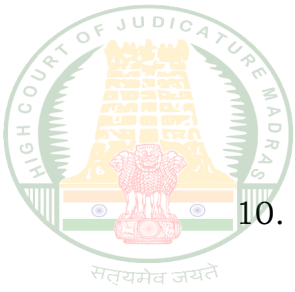
and urged mitigation in the light of restitution and 141 days of pre-trial incarceration.

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7. The learned Government Advocate Mr.M.Shakthi Kumar supported concurrent findings pointing to cumulative evidentiary value of PW1 to PW4, banking trail, recovery of passports, however, left sentencing to the discretion of this Court in view of subsequent restitution.

8. During the revision hearing, Accused No.1 appeared before this Court and offered to compensate and settle the victims. By order of this Court, the *de-facto* complainant, Mohammed Rakip, and victims Saravanakumar and Suresh Krishnan were directed to appear on 28.08.2025. On 28.08.2025, the said victims appeared, and each acknowledged receipt of Rs.2,50,000 (Rupees two lakh and fifty thousand only), the amount claimed to have been due to them in this case. Their acknowledgments were recorded in open Court.

9. Heard the learned counsels on either sides and carefully perused the materials available on record.



10. Points for determination:

(i) Whether the concurrent conviction of Accused No.1 under Sections 406 & 420 IPC warrants interference in revision?

(ii) In the event, the conviction is sustained, whether the sentence requires interference having regard to full restitution, 141 days of pre-trial incarceration, and the claim for benefit under Sections 3 & 4 PO Act, 1958?

11. Analysis:

This Court, exercising revisional jurisdiction, does not reappreciate evidence as a First Appellate Court unless perversity or patent illegality is shown. The testimony of PW1 to PW4 is natural and mutually corroborative on (a) inducement for overseas placement; (b) staged payments; (c) forged documentation handed over; and (d) recovery of the passports from the accused side during investigation. The banking materials, including Ex.P3 and ATM receipts Ex.P6, and recovery mahazars lend assurance. The criticism based on the FIR date, or that certain documents lack signatures of Accused No.1, does not erode the core circumstances proved. No perversity or misdirection has been demonstrated. Accordingly, the conviction of Accused No.1 under Sections 406 and 420 IPC is affirmed.



12. Post-conviction conduct is a relevant sentencing consideration. I am of the considered view that three features are decisive here:

(i) **Complete restitution:** Pursuant to orders of this Court, on 28.08.2025 each victim, including the *de-facto* complainant, received Rs. 2,50,000/- (Rupees Two Lakhs and Fifty Thousand only) and acknowledged receipt in open Court. Restitution was voluntary and timely, addressing the pecuniary harm.

(ii) **Pre-trial incarceration:** Accused No.1 has already undergone 141 days of custody during investigation/pre-trial.

(iii) **Prospects of reform:** There is material to consider release on probation to secure rehabilitation, community supervision, and lasting closure for the victims, instead of a purely retributive approach, especially after restitution.

13. Sections 3 and 4 of the PO Act, 1958, enable admonition or release on probation upon entering a bond with supervision conditions, having regard to the offender's age, character, antecedents, and the circumstances of the offence. Given the restitution and the period of custody already suffered, this Court is of the considered view that no further incarceration is called for, and a structured probationary regime for one year will meet the ends of justice.



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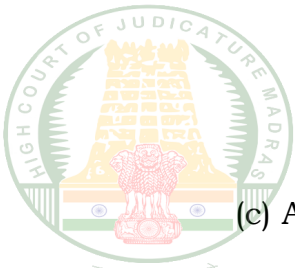
14. In the result, the conviction of the petitioner/Accused No.1 for offences under Sections 406 and 420 IPC is confirmed. The substantive sentence of imprisonment imposed by the Courts below on Accused No.1 is hereby set aside. In substitution, benefit under Sections 3 and 4 of the Probation of Offenders Act, 1958 is extended to the petitioner, subject to a favourable Probation Officer's report.

15. The Probation Officer, Madurai District, shall submit a report on Accused No.1's background, antecedents, and suitability for probation to this Court within ten days. Upon receipt of a favourable report, Accused No.1 shall be released under Section 4 PO Act, 1958, on executing a bond for Rs. 25,000/- (Rupees Twenty Five Thousand only) with one surety for the like sum, to the satisfaction of the learned Judicial Magistrate No.II, Madurai, to keep the peace and be of good behaviour for one year, subject to the conditions set forth herein.

16. **Conditions:**

(a) Accused No.1 shall report to the Probation Officer once a month and comply with lawful directions;

(b) Accused No.1 shall not involve in any offence, especially of cheating/ criminal breach of trust;



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(c) Accused No.1 shall keep her current address/phone updated with the Probation Officer and the learned Trial Court;

(d) Accused No.1 shall not contact or harass any victim/witness in this case, save for lawful proceedings.

(e) In case of breach, the Probation Officer shall report to the learned Trial Court for appropriate orders including cancellation of bond and revival of sentence per law.

17. The acknowledged receipt on 28.08.2025 of Rs.2,50,000/- (Rupees Two Lakhs and Fifty Thousand only) each by Mohammed Rakip (PW1), Saravanakumar (PW2) and Suresh Krishnan (PW4) is recorded. The said amounts shall be treated as full and final restitution for this case, without prejudice to any independent civil rights already settled/compounded. The learned Trial Court shall preserve the acknowledgments with the case records.

18. The petitioner's 141 days of pre-trial incarceration are noted for record. In view of probation being substituted for a custodial sentence, no further custody is warranted.



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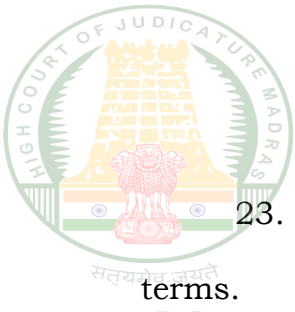
19. The present criminal revision case concerns Accused No.1 alone and the orders vis-à-vis Accused No.2 passed by the Courts below remain unaffected by this judgment.

20. Registry is directed to call for and place the Probation Officer's report within ten days.

21. On receipt of a copy of this order along with the report of the probation officer, the learned Trial Court is directed to have the bond executed and supervision commenced forthwith and a copy of bond and conditions to be furnished to the Accused No.1 and the Probation Officer. Compliance report to be filed before this Court within two weeks thereafter.

Epilogue:

22. The criminal process must vindicate truth and protect the community, yet sentencing must remain proportionate and purposive. Having ensured restitution to the victims and acknowledging the 141 days of custodial suffering already undergone, this Court chooses a probationary framework that better secures reformation and durable peace without diluting the affirmed finding of guilt.



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23. In fine, the Criminal Revision Petition is partly allowed in the above terms.

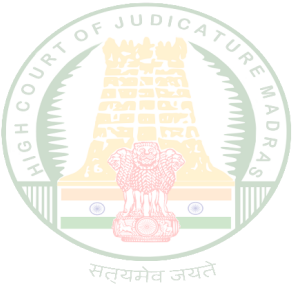
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NCC : Yes / No
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Internet : Yes
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To

- 1.The Judicial Magistrate No.II,
Madurai.
- 2.The IVth Additional District and
Session Judge,
Madurai District.
- 3.The Inspector of Police,
Tallakulam Police Station,
Madurai District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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L.VICTORIA GOWRI, J.,

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