



CRL.A NO. 2450 OF 2010

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2025:KER:61583

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT

THE HONOURABLE MR. JUSTICE A. BADHARUDEEN
THURSDAY, THE 14TH DAY OF AUGUST 2025 / 23RD SRAVANA, 1947
CRL.A NO. 2450 OF 2010

AGAINST THE JUDGMENT DATED 25.11.2010 IN CC NO.2 OF 2005 OF
ENQUIRY COMMISSIONER & SPECIAL JUDGE, THIRUVANANTHAPURAM
APPELLANTs/ACCUSED:

- 1 P.PRABHAKARAN & OTHERS
MANAGER, KSFE CHALAI BRANCH, THIRUVANANTHAPURAM.
- 2 B.KADAMBARI WO. PRABHAKARAN
KOLLIVILAOM HOUSE, TC 48/157,, AMBALATHARA,
POONTHURA.P.O.,, THIRUVANANTHAPURAM.
- 3 D. MAYADEVI DO. DEVAKI
KOLLIVILAOM HOUSE, TC 48/157, POONTHURA.P.O.,,
MUTTATHARA VILLAGE, THIRUVANANTHAPURAM.

BY ADVS.
SRI.PIRAPPANCODE V.S.SUDHIR
SRI.JELSON J.EDAMPADAM

RESPONDENT/COMPLAINANT:

STATE OF KERALA
PROSECUTOR, OFFICE OF THE ADVOCATE GENERAL,, HIGH COURT
OF KERALA, ERNAKULAM(DY.S.P. VIGILANCE, AND ANTI
CORRUPTION BUREAU, THIRUVANANTHAPURAM.)

OTHER PRESENT:

ADV.RAJESH A SPL PP VACB,ADV.REKHA.S SRPP VACB

THIS CRIMINAL APPEAL HAVING COME UP FOR ADMISSION ON
14.08.2025, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



C R

A. BADHARUDEEN, J

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CrlAppeal No. 2450 of 2010

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Dated 14th day of August 2025

JUDGMENT

Accused Nos.1 to 3 in C.C No. 2 of 2005 on the files of
the Enquiry Commissioner and Special Judge,
Thiruvananthapuram, have preferred this appeal challenging the
verdict in the said case dated 25th November 2010.

2. Heard the learned counsel for the appellants/accused
Nos. 1 to 3 as well as the learned Special Public Prosecutor
representing the Vigilance and Anti-Corruption Bureau



(VACB) in detail. Perused the records of the special court and the decisions placed by the learned counsel for the appellants/accused Nos. 1 to 3.

3. The crux of the prosecution allegation is that the 1st accused who held the post of Manager, Chalai Branch of Kerala State Financial Enterprises (for short, 'KSFE' hereafter) abused his official position in association with the 2nd accused, his wife and the 3rd accused, his sister after sharing common intention to cheat KSFE and to obtain undue pecuniary advantage for them created forged employment certificates in the name of fictitious persons and used those forged employment certificates as genuine in two chitti loans and accordingly the 2nd accused



obtained loan of Rs.44,000/- on 20.10.1993 and the 3rd accused obtained loan of Rs.48,000/- on 24.11.1993.

4. The Special Court took cognizance of the matter and proceeded with the trial. During trial, PWs 1 to 15 examined and Exts.P1 to P23 were marked. When opportunity was provided to the accused to adduce defence evidence, after they were questioned under Section 313(1)(b) of the Code of Criminal Procedure, DW1 examined and Ext.D1 marked on the side of the defence.

5. On analysis of the evidence, the Special Judge found that accused Nos. 1 to 3 committed offences punishable under Section 468 and 471 r/w 34 of the IPC as well as under Section



13(1)(d) r/w 13(2) of the PC Act, accordingly, they were sentenced as under:-

“Accused Nos. 1 to 3 are sentenced to undergo rigorous imprisonment for a period of one year each and in addition they shall pay a fine of Rs.500/- (Rupees five hundred only) each and in default of payment of fine, they shall undergo rigorous imprisonment for a period of one month each, for the offence under Ss.468 r/w 34 I.P.C., they are sentenced to undergo rigorous imprisonment for a period of one year each and in addition they shall pay a fine of Rs.500/- (Rupees Five hundred only) each and in default of payment of fine, they shall undergo rigorous imprisonment for a period of one month each, for the offence under Ss.471 r/w 34 I.P.C. they are sentenced to undergo rigorous



imprisonment for a period of one year each and in addition they shall pay a fine of Rs.500/- (Rupees Five hundred only) and in default of payment of fine, they shall undergo imprisonment for a period of one month each. The bail bonds executed by them are cancelled. The substantive sentences shall run concurrently.

6. According to the learned counsel for appellant/accused Nos. 1 to 3, in this case, based on Ext.P1 series, as well as Ext.P3 series, the allegation of the prosecution is that the accused forged employment certificates in the name of Smt. P K Sarasamma, who was working as P.D. Teacher at the Government UP School, Karavaram, Attingal, as Ext.P3(e) and as per Ext.P3(d), the employment certificate of Smt.K.Ambikapathy, who was



working as P.D. Teacher of the Government Upper Primary School, Karavaram, Attingal. Similarly, the other allegation is that as per Ext.P1(c) and P1(d), the accused forged employment certificates of Sri. Ramachandran Assari, as well as K.Krishnankutti Nair, to avail loan in the name of the 2nd and 3rd accused. According to the learned counsel for the accused, as far as grant of loans is concerned, the same is not in dispute. The case advanced by learned counsel for the appellant/accused Nos 1 to 3 is that when it was decided to run a self-employment unit for the benefit of the wife and children of the 1st accused, during October 1993, two loans were applied in the name of accused Nos.2 and 3, who are the wife and sister of the 1st



accused. In this regard one Vijayan who was a drawing teacher in a private school closely related to the wife of the 1st accused arranged sureties. Accordingly sureties reached KSFE Chalai along with employment certificates and signed. Thereafter the loan was sanctioned after confirming the genuineness of the same by the 1st accused. The repayment of the loan was defaulted, and there was internal audit. According to learned counsel for the appellant/accused Nos. 1 to 3, anyhow when revenue recovery proceedings were initiated during 1997 the loans were repaid as deposed by DW1.

7. According to the learned counsel for the appellant/accused Nos. 1 to 3, in order to substantiate the



offence of forgery, mere creation of false document is insufficient and there must be proof that the accused persons are the makers of the alleged forged documents. In this connection, the learned counsel for the appellant/accused Nos.1 to 3 placed decision of this court reported in ***Manu/KE/4345/2024 K Mohammed Ali and Ors. v. Chinnamma K M and Ors.*** with reference to paragraphs 19 and 20, where this court held as under:

“19. Further, it is the settled law that every false or fabricated document is not a forged document. There must be acts that constitute the document as a false or fabricated one, that is to say, the case must fall within the definition of making false document under Section 464



of the IPC, and such false document must also possess the character of tendency described under Section 463 of IPC. It is not necessary that the document should be published or made in the name of a really existing person (vide explanation 2). But it must either appear on its face to be, in fact, on which, if true, would possess some legal validity. Or in other words, must be legally capable of effecting the fraudulent intent. Until a false document is made either in whole or in part, there cannot be any forgery. Mere preparation for the commission of a possible crime of forgery without a false document in part or in whole cannot itself be either forgery or abetment of



forgery. To put it otherwise, it is not correct to say that an offence of forgery in terms of Section 464 of IPC comes into being when a person makes a false document and not when a person causes to be made a false document. No word in an enactment is surplusage. The law-making authority, in its wisdom, has used the word “makes” in addition to the other words, such as “signs, seals and executes”. The said word has, therefore, to be interpreted independently of the other words referred above. Making a document is different from causing it to be made. As per explanation 2 to Section 464 of IPC, it is clarified that for constituting offence under Section



464 of IPC, it is imperative that a false document is made and the accused person is the maker of the same.

20. An intent to cause injury is not an essential ingredient in the offence of forgery. The intents, as recited in section 463 of the Indian Penal Code, 1860 include among various alternatives, an intent to cause damage or injury, but this phrase does not govern the other intents mentioned in the section. It is an intent complete in itself. The definition in section 463 is itself subject to the definition in section 464 IPC, in which the other two essential elements are that the act should be done “dishonestly or fraudulently.” In other words,



whichever of the intents given in section 464 may be applicable, the act itself must be done dishonestly or fraudulently to sustain a conviction for forgery. The use by the Legislature of words “dishonestly or fraudulently” in the alternative obviously means that they are not tautological but must be given different meanings. The intention to defraud is something other than the intention to cause wrongful gain or loss.”

8. Similarly decision of this Court in **Crl.Appeal Nos. 359-360 of 2010** with reference to paragraph No.26 also has been given emphasis to substantiate this argument, and the same is extracted as under:-



“26. The definition of "false document" is a part of the definition of "forgery". Both must be read together. 'Forgery' and 'Fraud' are essentially matters of evidence which could be proved as a fact by direct evidence or by inferences drawn from proved facts. In the case in hand, there is no finding recorded by the trial Court that the respondents have made any false document or part of the document/record to execute mortgage deed under the guise of that false document'. Hence, neither respondent no.1 nor respondent no.2 can be held as makers of the forged documents. It is the imposter who can be said to have made the false document by committing forgery. In



*such an event, the trial court as well as the appellate court
misguided themselves by convicting the accused.*

*Therefore, the High Court has rightly acquitted the
accused based on the settled legal position, and we find no
reason to interfere with the same.”*

9. In addition to that another decision of this Court in
***Crl.Revision.Petition No. 1237 of 2023 Indrabalan
Pillai v. State of Kerala 2025 KER 55575*** also has been
placed to buttress this point.

10. Whereas it is submitted by the learned Special Public
Prosecutor that on a perusal of Exts. P1(c), P1(d) as well as
P3(c)and P3(d), on the top of the certificates, the accused



himself certified that he knew the persons who produced the employment certificates personally and the particulars given in the employment certificate were correct. It is pointed out by the the learned Special Public Prosecutor further that in the instant case it is evident from Ext.P19, the list of schools during the relevant period that Government Upper Primary School, Karavaram, Attingal under its forged seal the forged employment certificates were issued, is not in existence and therefore the certificates alleged to be forged is the creation of the 1st accused who had domain over the file being the manager and the higher official in the officer of KSFE, Chalai Branch, who in fact wanted to avail the loan for running self



employment unit for his wife and sister. Therefore the prosecution succeeded in proving the guilt of the accused beyond reasonable doubt as rightly found by the special court. Thus the finding of the trial court need not require any interference.

11. Adverting to the rival submissions, the following questions arise for consideration:--

1. Whether the trial court is justified in holding that the accused Nos. 1 to 3 committed offence punishable under Section 468 r/w 34 of the IPC?



2. Whether the trial court is justified in holding the accused Nos. 1 to 3 committed offence punishable under Section 471 r/w 34 of the IPC?
3. Whether the trial court is justified in holding the accused Nos. 1 to 3 committed offence punishable under Section 13(1)(d) r/w 13(2) of the PC Act?
4. Whether the verdict under challenge would require interference?
5. The order to be passed?

Point Nos.1 to 5:-

12. In the instant case, PW5 and PW13 are the internal auditors of the KSFE, who conducted audits in Chalai



Branch during 1994. PW5 was the Inspector of the Internal Audit Wing of the KSFE and PW13 was the Chief of the Internal Audit Wing of the KSFE. Regarding the conduct of audit in Chalai Branch of KSFE and preparation of Ext.P8 Confidential Report they supported the prosecution case. Similarly PW13 supported Ext.P9 audit report. PW13 identified his signatures in Exts.P8 and P9. The evidence of PWs 5 and 13 supported by Exts.P8 and P9 is that on verification of the files regarding the chitti loans applied by the 2nd and 3rd accused, it was found that the 2nd accused is the wife of the 1st accused, and the 3rd accused is the sister of the 1st accused. They also found as per Ext.P5 cheque on 20.10.1993, the amount was



encashed by A2. Ext.P10 is the cheque book and counterfoil of received slip. Ext.P10(a) is the details of Ext.P5 cheque. The same were not properly acknowledged, and the same also reported by PW5. According to PW5, usually when the amounts are disbursed under the chitty loans account payee cheque would be issued. But Ext.P10(a) would show that bearer cheque was issued in this case. Likewise, in the 4th page of Ext.P8, the details of the chitty loan transaction of A3 as deposed by PW13. Ext.P6 cheque was issued for an amount of Rs.48,000/- and on the backside of Ext. P6, the signature of A2 is available which was identified by PW5. PW5 stated that he had reported that A3 is the sister of A1. This loan transaction was also not repaid and it



was noted that the same was defaulted. It is further stated by PW5 that the previous chitty transactions of A3 were also in arrears. In Ext.P10 it is noted that the cheque in the name of A3 was issued but according to PW5 the same was not properly acknowledged. PW5 testified further that bearer cheque was issued in the name of the 3rd accused also. PW5 stated that the genuineness of the employment certificates and the sureties were not properly verified by the 1st accused. According to him there were no witnesses in the agreement. The confirmation was given by A1 - Manager though PW5 could not find any records to show that Ext. P1(a) and P3(b) confirmation letters were sent by registered post to the Head of Office, who issued the same. PW5



added that they made enquiries regarding the Govt. Upper Primary School, Karavaram, Attingal with the A.E. Attingal, Kilimanoor and Varkkala. They found that there was no such school in existence. So according to PW5 the sureties and the employment certificates produced are bogus and forged and the same were the overt acts of A1 to A3. He further stated during cross-examination that the ledger extract was taken and submitted with audit report to show that A2 and A3 were defaulters in other chitty transactions and the same not seen produced in Court. According to PW13 Exts. P8 and P9 reports were prepared by him as he was the chief of the said audit team. The details of the loan application etc. are mentioned in pages 3



and 4 of Ext.P8. PW13 added that forged documents viz employment certificates and sureties were produced for availing chitty loans by A1 to A3. According to him, as per Ext.P9, it is clear that the loanees were defaulters. He added during cross-examination that at the first instance he personally inspected and conducted audit for three days along with the audit team and submitted Ext.P8 report and he requested for a detailed audit enquiry. Later, again detailed audit was conducted and he submitted Ext.P9 report. He added that the sureties were bogus and the bogus sureties were described as genuine by Al-Manager.



13. In this case, PWs 7, 8, and 9 were examined by the prosecution to prove that there was no school by name 'Government Upper Primary School, Karavaram, Attingal' under its name Exts.P1(c), P1(d), P3(e), and P3(d) employment certificates were issued. PW7, the Post Master of Attingal Head Post Office during June 1999 deposed that Ext.P15 letter addressed to Smt. P K Sarasamma at the instance of the Vigilance Inspector, was returned with endorsement 'addressee not known' and Smt. P K Sarasamma is relating to Ext.P3(c) employment certificate. Similarly, he deposed that as per Ext.P16 letter to Sri.N Ramachandran Assari, in whose name Ext.P1(c) employment certificate was issued also returned with



endorsement 'addressee not known'. He deposed about the procedure in case when the addressee is not known, on testifying that such letters would be kept for seven days, and thereafter the Postman would entrust the same to the Postmaster and would be returned to the sender after seven days. Similarly, in regard to Ext.P3(d) and P(1)(d) in the name of Smt.K.Ambikapathy and K.Krishnankutti letters issued by the Vigilance Inspector as Ext.P17 and P18 were also returned with endorsement 'addressee not known'. Ext.P19 is the list of upper Primary Schools 1992-1993 published by the Department of Education from the office of the Director of Public Instruction, Thiruvananthapuram tendered in evidence through PW9 who



was the Research Officer of the Directorate of Public Instruction from 1998 to 06.2001 and according to PW9 she worked in the Statistic Wing which was entrusted with the work of preparation of the list of Schools and Ext.P19 is the list so prepared. According to PW9, the list was prepared for five years and in pages 16 and 17 of Ext.P19, the lists of schools in Attingal are mentioned. But no school by the name 'Government Upper Primary School, Karavarm, Attingal', could be found in Ext.P19.

14. Here, availing of loan by putting applications by the 2nd and 3rd accused from the chitti they had subscribed is proved by the prosecution, rather the said fact is admitted, since the said fact is not disputed by the accused as already stated.



Subsequently the loans were repaid as stated by DW1 based on Ext.D1, though after initiation of coercive steps in the form of revenue recovery proceedings.

15. As far as the legal position regarding forgery is concerned, the argument advanced by the learned counsel for the appellant/accused Nos. 1 to 3 would hold the field, and the same is not in dispute. The question arises for consideration is when employment certificates in the name of a school, which is not in existence in the names of four persons who were not in existence would find a place in the loan file pertaining to the 2nd and 3rd accused in the custody of the 1st accused, and in the said employment certificates the 1st accused certified that “the teacher



working in the school is a person personally known to him and the particulars given in the employment certificates are correct” whether the same is sufficient to hold that 1st accused himself forged the employment certificates for the purpose of availing loan and thereafter the loan kept in arrears, though the same were repaid at subsequent stage on coercive process of recovery.

16. Here Ext.P1(c), P1(d), P3(e) and P3(d) employment certificates would show that the same were issued to teachers working in Government UP School Karavaram, Attingal. As per Ext.P19, the list of Upper Primary Schools during the year 1992-1993 published by the Department of Education from the office of the Director of Public Instruction tendered in evidence



through PW9 would show that no school as “Government Upper Primary School, Karavaram, Attingal” is in existence during the relevant period. Thus Ext.P19 would indicate that there is no scope for issuance of original employment certificates from a school which in fact not in existence. In this connection, it is relevant to note that when Exts.P3(d) and P1(d), Exts. P17 and P18 the letters issued by the Investigating Officer in the address as that of the persons who are alleged to have issued employment certificates were returned with endorsement ‘addressee not known’. PW7 the Postmaster, Attingal Head Post Office during June 1999 deposed this fact. Most importantly in Exts.P1(c), P1(d), P3(e) and P3(d) it was certified by the 1st



accused that “the teachers in whose name the above employment certificates were issued were personally known to him and the particulars given in the respective employment certificates are correct”. Thus, the evidence discussed would establish the fact that loans were availed in the names of the 2nd and 3rd accused, who are the wife and sister of the 1st accused, by forging employment certificates. It is relevant to note further that PW5 the auditor given evidence that the cheques in favour of the 2nd and 3rd accused towards the loan amounts were issued by bearer cheques in deviation from the normal practice of giving account payee cheques. Moreover, PW5 gave evidence that Exts.P1(a) and P3(b) confirmation letters not issued by registered post to



the head office instead the same were confirmed by the 1st accused himself as already discussed. When an officer in the status of the 1st accused who is having domain over the official records places employment certificates in a file and grants loan to his wife and sister and later those employment certificates were found as bogus that too issued from an institution which is not in existence, the said overt acts is nothing but forging employment certificates and using the same as genuine for the purpose of availing these loans particularly when the 1st accused certified its genuineness stating that he was familiar with the employees mentioned in the employment certificates. Therefore the prosecution succeeded in establishing that the 1st accused



forged Ext.P1(c), P1(d), P3(e) and P3(d) employment certificates and used the same as genuine and thereby granted loans to the 2nd and 3rd accused. On scrutiny of the evidence it appears that the 2nd accused wife and the 3rd accused, the sister though signed in the applications for loans and received the loans, the fact that whether they are aware about the creation of these forged employment certificates by the 1st accused is not fully established. The 2nd and the 3rd accused being the wife and sister of the 1st accused would very well trust upon the 1st accused for getting loan, deeming that the same would be granted as per law by the 1st accused, who is fully competent to do the said exercise. In view of the matter, it has to be held that by



giving benefit of doubt as to the involvement of the 2nd and the 3rd accused in the matter of forgery of employment certificates, the conviction and sentence against them are liable to be set aside while confirming the conviction imposed against the 1st accused.

17. Regarding the sentence imposed against the 1st accused, the special court imposed minimum sentence for the offence punishable under section 13(1)(d) r/w 13(2) of the PC Act for a period of one year and to pay fine of Rs.500/-. Since there is no scope for reduction in the substantive sentence imposed by the special court for the offence punishable under section 13(1) of the PC Act, the sentence imposed by the special court for the other offences for one year and less also is liable to be confirmed.



In the result the sentence imposed against the 1st accused is confirmed.

18. In the result, the appeal allowed in part. The conviction and sentence imposed against the 1st accused for the offences punishable under section 468, 471 of the IPC as well as under Section 13(1)(d) r/w 13(2) of the PC Act are confirmed. Accused Nos. 2 and 3 are acquitted for the said offences and they are set at liberty forthwith. Their bail bonds stands cancelled.

19. The order suspending sentence and granting bail to the 1st accused is cancelled and his bail bond also is cancelled. Accordingly, the 1st accused is directed to surrender before the special court forthwith to undergo the sentence. If the 1st



accused fails to surrender as directed, the special court is directed to execute the modified sentence without fail.

The Registry is directed to forward a copy of this judgment to the special court forthwith for information and compliance.

Sd/-

A. BADHARUDEEN, JUDGE

RMV