

**T.Selvaraj vs Central Government Through on 25 November, 2008**

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25/11/2008

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THE HONOURABLE MR. JUSTICE A.C.ARUMUGAPERUMAL ADITYAN

Crl.A.Nos.639 to 645 of 1998

T.Selvaraj ... Appellant / Accused  
(in all the above Crl.As.)

Vs.

Central Government Through  
Inspector of Police,  
Special C.B.I.,  
A.C.B, Chennai,  
in R.C.No.44(A) of 1995 ... Respondent / Complainant  
(in all the above Crl.As)

Prayer

These Criminal Appeals have been preferred under [Section 374](#) of Cr.P.C., against the judgment in C.C.Nos.49,48,46,51,47, 50 & 52 of 1996 respectively, on the file of the Special Judge for CBI Cases, Madurai.

For Appellant ... Mr.J.R.K.Bhavanantham, Advocate

For Respondent ... Mr.S.Rozario Sundaraj, Special Public Prosecutor

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: COMMON JUDGMENT these appeals have been preferred against the common judgment in C.C.Nos.46 to 52 of 1996 on the file of the Special Judge for CBI Cases, Madurai. The accused is an Electrical Fitter, Grade-I in Electrical Millwright Shop, Central Workshop, Southern Railway, Golden Rock, Trichy, who has been charged under [Sections 467, 468, 471, 420](#) IPC and also under [Section 13\(2\)](#) r/w 13(1)(d) of the [Prevention of Corruption Act](#), 1988, in all the above said seven cases.

2. CrI.A.No.641 of 1998 (C.C.No.46 of 1996):-

2(a)The specific charges, according to the prosecution, is that the accused while working as an Electrical Fitter, Grade-I in Electrical Millwright Shop, Central Workshop, Southern Railway, Golden Rock, Trichy, dishonestly and fraudulently filled up the Provident Fund Final Withdrawal Application in the name of his coworker Sri.D.Antony, Ticket No.404 on 29.12.1994 without his knowledge by forging his signature and dishonestly and fraudulently certified on the forged application as if the particulars mentioned are correct and forged the signature of Sri.S.Chinnasamy and falsely represented and got the application of Sri.D.Antony and fraudulently and dishonestly forged his signature without his knowledge and falsely certified that the payment was made to the applicant Viz., Sri.D.Antony in the presence of Sri.N.Gopala Krishnan, Deputy Shop Superintendent, and forged his signature to make it appear as if the above certificate was made by the Deputy Shop Superintendent. Hence, the accused has been charged under [Section 467](#) IPC.

2(b)In the course of the above said transaction the accused had fraudulently and dishonestly forged certain documents knowing fully well that it will be used for the purpose of cheating. Hence, the accused has been charged under [Section 468](#) IPC.

2(c)In the course of the above said transaction, the accused had dishonestly and fraudulently executed as genuine certain documents referred to above and hence, he has been charged under [Section 471](#) IPC. 2(d)During the course of the said transaction, the accused had induced the Railway to part with a sum of Rs.8,500/- by submitting a final withdrawal application in the name of Sri.D.Antony by forging the signature of the said S.Chinnasamy, Deputy Shop Superintendent, as if the contents of the applications are correct and forged signature of Sri.D.Antony in the column of payee's signature on the revenue stamp, and forged signature of Sri.S.Chinnasamy on the certificate that the payment was made to Sri.D.Antony in the presence of Sri.M.Gopalakrishnan, Deputy Shop Superintendent, and allowed the amount by fraudulent means. Hence, he has been charged under [Section 420](#) IPC. 2(e) During the said transaction, the accused as a public servant by corrupt or illegal means and by abusing his position as public servant obtained pecuniary advantage of Rs.8,500/- for himself in the way mentioned above. Hence, the accused has been charged under [Section 13\(2\)](#) r/w 13(1) (d) of [Prevention of Corruption Act](#), 1988.

3. CrI.A.No.643 of 1998 (C.C.No.47 of 1996):-

3(a)The charge leveled against the accused is that the accused while working as an Electrical Fitter, Grade-I in Electrical Millwright Shop, Central Workshop, Southern Railway, Golden Rock, Trichy, dishonestly and fraudulently filled up the Provident Fund Final Withdrawal Application in the name of his coworker Sri.D.Antony, Ticket No.404 on 30.01.1995 without his knowledge by forging his signature and dishonestly and fraudulently certified on the forged application as if the particulars mentioned are correct and forged the signature of Sri.S.Chinnasamy, Deputy Shop Superintendent, and falsely represented and got the application of Sri.D.Antony and fraudulently

and dishonestly forged his signature without his knowledge and falsely certified that the payment was made to the applicant Viz., Sri.D.Antony in the presence of Sri.S.Chinnasamy, Deputy Shop Superintendent, and forged his signature to make it appear as if the above certificate was made by the Deputy Shop Superintendent. Hence, the accused has been charged under [Section 467](#) IPC. 3(b)In the course of the above said transaction the accused had fraudulently and dishonestly forged certain documents knowing full well that it will be used for the purpose of cheating. Hence, the accused has been charged under [Section 468](#)IPC.

3(c)In the course of the above said transaction, the accused had dishonestly and fraudulently executed as genuine certain documents referred to above and hence, he has been charged under [Section 471](#) IPC. 3(d)During the course of the said transaction, the accused had induced the Railway to part with a sum of Rs.8,500/- by submitting a final withdrawal application in the name of Sri.D.Antony by forging the signature of the said S.Chinnasamy, Deputy Shop Superintendent, as if the contents of the applications are correct and forged signature of Sri.D.Antony in the column of payee's signature on the revenue stamp, and forged signature of Sri.S.Chinnasamy on the certificate that the payment was made to Sri.D.Antony in the presence of Sri.S.Chinnasamy, Deputy Shop Superintendent, and allowed the amount by fraudulent means. Hence, he has been charged under [Section 420](#) IPC. 3(e) during the said transaction, the accused as a public servant by corrupt or illegal means and by abusing his position as public servant obtained pecuniary advantage of Rs.8,500/- for himself in the way mentioned above. Hence, the accused has been charged under [Section 13\(2\)](#) r/w 13(1)(d) of [Prevention of Corruption Act, 1988](#).

4. CrI.A.No.640 of 1998 (C.C.No.48 of 1996):-

4(a)The specific charges, according to the prosecution, is that the accused while working as an Electrical Fitter, Grade-I in Electrical Millwright Shop, Central Workshop, Southern Railway, Golden Rock, Trichy, dishonestly and fraudulently filled up the Provident Fund Final Withdrawal Application in the name of his coworker Sri.S.Srinivasan, Ticket No.608 on 02.03.1995 without his knowledge by forging his signature and dishonestly and fraudulently certified on the forged application as if the particulars mentioned are correct and forged the signature of Sri.S.Chinnasamy, Deputy Shop Superintendent, and falsely represented and got the application of Sri.S.Srinivasan and fraudulently and dishonestly forged his signature without his knowledge and falsely certified that the payment was made to the applicant Viz., Sri.S.Srinivasan in the presence of Sri.S.Chinnasamy, Deputy Shop Superintendent, and forged his signature to make it appear as if the above certificate was made by the Deputy Shop Superintendent. Hence, the accused has been charged under [Section 467](#) IPC. 4(b)In the course of the above said transaction the accused had fraudulently and dishonestly forged certain documents knowing fully well that it will be used for the purpose of cheating. Hence, the accused has been charged under [Section 468](#) IPC.

4(c)In the course of the above said transaction, the accused had dishonestly and fraudulently executed as genuine certain documents referred to above and hence, he has been charged under [Section 471](#) IPC. 4(d)During the course of the said transaction, the accused had induced the Railway to part with a sum of Rs.4,800/- by submitting a final withdrawal application in the name of Sri.S.Srinivasan by forging the signature of the said Sri.S.Srinivasan and by forging the signature of the S.Chinnasamy, Deputy Shop Superintendent, as if the contents of the applications are correct and forged signature of Sri.S.Srinivasan in the column of payee's signature on the revenue stamp, and forged signature of Sri.S.Chinnasamy on the certificate that the payment was made to Sri.S.Srinivasan in the presence of Sri.S.Chinnasamy, Deputy

Shop Superintendent, and allowed the amount by fraudulent means. Hence, he has been charged under [Section 420](#) IPC.

4(e) During the said transaction, the accused as a public servant by corrupt or illegal means and by abusing his position as public servant obtained pecuniary advantage of Rs.4,800/- for himself in the way mentioned above. Hence, the accused has been charged under [Section 13\(2\)](#) r/w [13\(1\)\(d\)](#) of [Prevention of Corruption Act, 1988](#).

5. CrI.A.No.639 of 1998 (C.C.No.49 of 1996):-

5(a) The charge leveled against the accused is that the accused while working as an Electrical Fitter, Grade-I in Electrical Millwright Shop, Central Workshop, Southern Railway, Golden Rock, Trichy, dishonestly and fraudulently filled up the Provident Fund Final Withdrawal Application in the name of his coworker Sri.A.Periyasamy, Ticket No.1502 on 02.03.1995 without his knowledge by forging his signature and dishonestly and fraudulently certified on the forged application as if the particulars mentioned are correct and forged the signature of Sri.S.Chinnasamy, Deputy Shop Superintendent and falsely represented and got the application of Sri.A.Periyasamy and fraudulently and dishonestly forged his signature without his knowledge and falsely certified that the payment was made to the applicant Viz., Sri.A.Periyasamy in the presence of Sri.S.Chinnasamy, Deputy Shop Superintendent, and forged his signature to make it appear as if the above certificate was made by the Deputy Shop Superintendent. Hence, the accused has been charged under [Section 467](#) IPC. 5(b) In the course of the above said transaction the accused had fraudulently and dishonestly forged certain documents knowing full well that it will be used for the purpose of cheating. Hence, the accused has been charged under [Section 468](#) IPC.

5(c) In the course of the above said transaction, the accused had dishonestly and fraudulently executed as genuine certain documents referred to above and hence, he has been charged under [Section 471](#) IPC. 5(d) During the course of the said transaction, the accused had induced the Railway to part with a sum of Rs.1,180/- by submitting a final withdrawal application in the name of Sri.A.Periyasamy by forging the signature of the said Sri.A.Periyasamy and by forging the signature of S.Chinnasamy, Deputy Shop Superintendent, as if the contents of the applications are correct and forged signature of Sri.A.Periyasamy in the column of payee's signature on the revenue stamp, and forged signature of Sri.S.Chinnasamy on the certificate that the payment was made to Sri.A.Periyasamy in the presence of Sri.S.Chinnasamy, Deputy Shop Superintendent, and allowed the amount by fraudulent means. Hence, he has been charged under [Section 420](#) IPC.

5(e) During the said transaction, the accused as a public servant by corrupt or illegal means and by abusing his position as public servant obtained pecuniary advantage of Rs.1,180/- for himself in the way mentioned above. Hence, the accused has been charged under [Section 13\(2\)](#) r/w [13\(1\)\(d\)](#) of [Prevention of Corruption Act, 1988](#).

6. CrI.A.No.644 of 1998 (C.C.No.50 of 1996):-

6(a) The charge leveled against the accused is that the accused while working as an Electrical Fitter, Grade-I in Electrical Millwright Shop, Central Workshop, Southern Railway, Golden Rock, Trichy, dishonestly and fraudulently filled up the Provident Fund Final Withdrawal Application in the name of his coworker Sri.S.Swaminathan, Ticket No.417 on 23.03.1995 without his knowledge by forging his signature and dishonestly and fraudulently certified on the forged

application as if the particulars mentioned are correct and forged the signature of Sri.S.Kailasa Nathan, Deputy Shop Superintendent and falsely represented and got the application of Sri.S.Swaminathan and fraudulently and dishonestly forged his signature without his knowledge and falsely certified that the payment was made to the applicant Viz., Sri.S.Swaminathan in the presence of Sri.M.Gopala Krishnan, Deputy Shop Superintendent, and forged his signature to make it appear as if the above certificate was made by the Deputy Shop Superintendent. Hence, the accused has been charged under [Section 467](#) IPC. 6(b)In the course of the above said transaction the accused had fraudulently and dishonestly forged certain documents knowing fully well that it will be used for the purpose of cheating. Hence, the accused has been charged under [Section 468](#) IPC.

6(c)In the course of the above said transaction, the accused had dishonestly and fraudulently executed as genuine certain documents referred to above and hence, he has been charged under [Section 471](#) IPC. 5(d)During the course of the said transaction, the accused had induced the Railway to part with a sum of Rs.10,560/- by submitting a final withdrawal application in the name of Sri.S.Swaminathan by forging the signature of S.Kailasanathan, Deputy Shop Superintendent, as if the contents of the applications are correct and forged signature of Sri.S.Swaminathan in the column of payee's signature on the revenue stamp, and forged signature of Sri.S.Kailaswanathan on the certificate that the payment was made to Sri.S.Swaminathan in the presence of Sri.M.Gopalakrishnan, Deputy Shop Superintendent, and allowed the amount by fraudulent means. Hence, he has been charged under [Section 420](#) IPC.

6(e)During the said transaction, the accused as a public servant by corrupt or illegal means and by abusing his position as public servant obtained pecuniary advantage of Rs.10,560/- for himself in the way mentioned above. Hence, the accused has been charged under [Section 13\(2\)](#) r/w 13(1)(d) of [Prevention of Corruption Act, 1988](#).

7.CrI.A.No.642 of 1998 (C.C.No.51 of 1996):-

7(a)The charge leveled against the accused is that the accused while working as an Electrical Fitter, Grade-I in Electrical Millwright Shop, Central Workshop, Southern Railway, Golden Rock, Trichy, dishonestly and fraudulently filled up the Provident Fund Final Withdrawal Application in the name of his coworker Sri.G.Palaneeswaran, Ticket No.467 on 10.04.1995 without his knowledge by forging his signature and dishonestly and fraudulently certified on the forged application as if the particulars mentioned are correct and forged the signature of Sri.M.Gopalakrishnan, Shop Superintendent and falsely represented and got the application of Sri.G.Palaneeswaran and fraudulently and dishonestly forged his signature without his knowledge and falsely certified that the payment was made to the applicant Viz., Sri.G.Palaneeswaran in the presence of Sri.S.Chinnasamy, Deputy Shop Superintendent, and forged his signature to make it appear as if the above certificate was made by the Deputy Shop Superintendent. Hence, the accused has been charged under [Section 467](#) IPC.

7(b)In the course of the above said transaction the accused had fraudulently and dishonestly forged certain documents knowing full well that it will be used for the purpose of cheating. Hence, the accused has been charged under [Section 468](#) IPC.

7(c)In the course of the above said transaction, the accused had dishonestly and fraudulently executed as genuine certain documents referred to above and hence, he has been charged under [Section 471](#) IPC. 7(d)During the course of the said transaction, the accused had induced the Railway to part with a sum of Rs.4,820/- by submitting a final withdrawal application in the

name of Sri.G.Palaneeswaran by forging the signature of the said Sri.G.Palaneeswaran and by forging the signature of M.Gopalakrishnan, Deputy Shop Superintendent, as if the contents of the applications are correct and forged the signature of Sri.G.Palaneeswaran in the column of payee's signature on the revenue stamp, and forged signature of Sri.M.Gopalakrishnan on the certificate that the payment was made to Sri.G.Palaneeswaran in the presence of Sri.S.Chinnasamy, Deputy Shop Superintendent, and allowed the amount by fraudulent means. Hence, he has been charged under [Section 420](#) IPC. 7(e) During the said transaction, the accused as a public servant by corrupt or illegal means and by abusing his position as public servant obtained pecuniary advantage of Rs.4,820/- for himself in the way mentioned above. Hence, the accused has been charged under [Section 13\(2\)](#) r/w 13(1)(d) of [Prevention of Corruption Act, 1988](#).

8.CrI.A.No.645 of 1998 (C.C.No.52 of 1996):-

5(a) The charge leveled against the accused is that the accused while working as an Electrical Fitter, Grade-I in Electrical Millwright Shop, Central Workshop, Southern Railway, Golden Rock, Trichy, dishonestly and fraudulently filled up the Provident Fund Final Withdrawal Application in the name of his coworker Sri.S.Srinivasan, Ticket No.608 on 15.05.1995 without his knowledge by forging his signature and dishonestly and fraudulently certified on the forged application as if the particulars mentioned are correct and forged the signature of Sri.S.Chinnasamy, Deputy Shop Superintendent and falsely represented and got the application of Sri.S.Srinivasan and fraudulently and dishonestly forged his signature without his knowledge and falsely certified that the payment was made to the applicant Viz., Sri.S.Srinivasan in the presence of Sri.S.Chinnasamy, Deputy Shop Superintendent, and forged his signature to make it appear as if the above certificate was made by the Deputy Shop Superintendent. Hence, the accused has been charged under [Section 467](#) IPC. 8(b) In the course of the above said transaction the accused had fraudulently and dishonestly forged certain documents knowing fully well that it will be used for the purpose of cheating. Hence, the accused has been charged under [Section 468](#) IPC.

8(c) In the course of the above said transaction, the accused had dishonestly and fraudulently executed as genuine certain documents referred to above and hence, he has been charged under [Section 471](#) IPC. 8(d) During the course of the said transaction, the accused had induced the Railway to part with a sum of Rs.3,000/- by submitting a final withdrawal application in the name of Sri.S.Srinivasan by forging the signature of the said Sri.S.Srinivasan and by forging the signature of S.Chinnasamy, Deputy Shop Superintendent, as if the contents of the applications are correct and forged signature of Sri.S.Srinivasan in the column of payee's signature on the revenue stamp, and forged signature of Sri.S.Chinnasamy on the certificate that the payment was made to Sri.S.Srinivasan in the presence of Sri.S.Chinnasamy, Deputy Shop Superintendent, and allowed the amount by fraudulent means. Hence, he has been charged under [Section 420](#) IPC.

8(e) During the said transaction, the accused as a public servant by corrupt or illegal means and by abusing his position as public servant obtained pecuniary advantage of Rs.3,000/- for himself in the way mentioned above. Hence, the accused has been charged under [Section 13\(2\)](#) r/w 13(1)(d) of [Prevention of Corruption Act, 1988](#).

9. The learned trial Judge after framing the charges under [Sections 467, 468, 471](#) and [420](#) IPC and under [Section 13\(2\)](#) r/w 13(1)(d) of the [Prevention of Corruption Act](#), against the accused,

had furnished copies under [Section 207 Cr.P.C.](#), and when questioned the accused pleaded not guilty in all the above seven cases.

10. On the side of the prosecution, P.W.1 to P.W.30 were examined and Ex.P.1 to Ex.P.69 were marked on the side of the prosecution.

11. P.W.1, the then Deputy Chief Electrical Engineer of the Railways, Southern Railway, Trichy, would depose that the accused was working as Fitter in the Railways, who had been empowered with the power to appoint and remove from service the employees come under Group-C of the Railways. Ex.P.1 is the Xerox copy of the Disciplinary Rules applicable to the Railway employees. After receiving the file from the Vigilance of Railways, he went through the entire records and after getting himself satisfied and after perusing the records, had come to a conclusion that there is a prima facie case has been made out against the accused, had issued sanction for prosecution, Ex.P.2, after perusing the records and also after going through the oral testimony of the witnesses, on 18.04.1996.

12. P.W.2 is the Assistant Labour Welfare Officer. He had joined as clerk in Railways in the year 1975 and gradually he got his promotion in the year 1985 and subsequently in the year 1995 and thereafter, he was promoted as an Assistant Personal Officer and was transferred to Trichy Ponmalai Workshop in the year 1995 and the General Manager of the Southern Railway is the head of Ponmalai workshop and there are about 30 small workshops and the said 30 workshops are under the control of Principal officer of the said workshops. He would further admit that there is one Electrical Millwright Shop and there is a separate staff superintendent for each of the above said workshops and there are about 190 to 200 labours are working in the Millwright Shop and there is a Labour Welfare Office working separately. He would speak about the procedure for availing temporary advances of General Provident Fund of an employee of the Railway and also for withdrawal of the GPF amount. According to him, there are two forms for the GPF application, and the number of the forms are G3 and 76A, and that the above said forms were received from Rayapuram. According to him, the filled up application forms are containing the particulars the name of the employee, designation, Office number, GPF number, for what amount sanction is required etc., and the employee must also sign in the said form and along with the chellan the said application is forwarded. Thereafter, the said forms are sent to Receiving Section and the concern clerk therein will check those forms and thereafter he will segregate the forms into two portion after comparing the particulars mentioned in the service register with regard to the loan application preferred by him. According to him, in the Office there are 300 to 400 GPF applications received every day from the employees. He was examined by CBI Officer.

13. P.W.3 is the Assistant Accounts Officer of Railway Workshop, Golden Rock, Trichy. P.W.3 in his evidence would depose that he has put in 34 years of service in the said cadre and the GPF applications filed by the employees will be processed through sanction authority after ascertaining the balance of amount in the GPF Account and thereafter if the application is proper, it will be passed by him (P.W.3). He has further deposed that the said GPF applications filed by the employees will be sent to his branch and there is a Despatch Register maintained for the said purpose and those applications were received by the Receiving Clerk of their branch after signing in the despatch register and there also another separate branch is functioning in the account branch for passing those provident fund applications. Thereafter, the GPF applications will be computerised in their office and a separate statement will be prepared for each of the application noting GPF A/c. Number, applicant's date of birth & date of joining service, and the balance amount in his GPF account. Thereafter, the said application was sent

to PF Section wherein the concerned clerk after checking the particulars therein would put his initial and thereafter the applications will be forwarded to Section Officer for his scrutiny, who after checking the applications and the particulars furnished therein would put his initial and forward the same to the Account Officer (P.W.3), who will put his signature and then send the same to PF Section. Thereafter, the applications will be sent once again to the Computer Section to prepare a statement by name Cash Order -7. Thereafter, the amount was withdrawn from the Bank, and the Account Officer will draw the cheque and the said Section Officer himself will pass the same for withdrawing the amount, if the amount is upto Rs.500, and if the amount exceeds RS.500/- then the applications will be placed before the Accounts Officer, who will pass the same and if any amount exceeds Rs.10,000/- it will be disbursed only by way of cheque. If the amount is below Rs.10,000/-, after receiving the amount from his strong room, the Cashier will disburse the same after entering all particulars in a separate ledger and thereafter he will send the same to the Inspector of Cashiar, who will after verification authorise the Cashiar to withdraw the amount from the strong room. P.W.3 has further deposed that Ex.P.3-application was submitted by D.Antony for Ticket No.404 on 29.12.1994, which was sanctioned by the Personal Officer on 30.12.1994, which was received from the Accounts Officer on 4.1.1995 and he had passed the same on 5.1.1995 for a sum of Rs.8,500/-. The said order of sanction was Ex.P.3. Ex.P.4 is the Provident Fund application filed by D.Antony. In the said application sanction was accorded by Personal Officer of Workshop on 1.2.1995 and the amount was passed by him (P.W.3) on 3.2.1995.

13(a)On 2.3.1995 Mr.S.Srinivasan, bearing Ticket No. EM 608 had filed an application dated 7.3.1995, which was passed for Rs.4,800/- on 9.3.1995 by him (P.W.3)/ The said order is Ex.P.5. The withdrawal application submitted by S.Srinivasan is Ex.P.6. The Workshop Personal Officer has sanctioned the same and passed the sanction order for Rs.3,000/- on 18.5.1995 and a sum of Rs.3,000/- was passed for disbursement by him (P.W.3).

13(b)One A.Periyasamy, Ticket No.1502, had filed GPF final withdrawal application on 2.3.1995 under Ex.P.7. Only a sum of Rs.1,180/- was ordered to be sanctioned by Workshop Personal Officer on 7.3.1995, which was passed by him (P.W.3) on 9.3.1995.

13(c)One S.Swaminathan, Ticket No.417, had filed GPF final withdrawal form under Ex.P.8 on 23.3.1995, which was accorded sanction by the Workshop Personal Officer on 27.3.1995 and a sum of Rs.10,560/- was ordered to be disbursed by him (P.W.3) on 3.4.1995.

13(d) On 10.4.1995 one G.Palaneeswaran, Ticket No.467, had filed GPF final withdrawal application under Ex.P.9, in which the Workshop Personal Officer had accorded sanction for Rs.9,000/- on 12.4.1995 and on the basis of the said application a sum of Rs.4,820/- was ordered to be disbursed by him on 17.4.1995. 13(e)During 1995 he came to know that some of the employees have not applied for final withdrawal from their GPF account and he had received a telephone call in this regard from the Deputy Chief Executive Engineer viz., Mr.T.Kannaiyan, who had informed that two employees without making any application for GPF were dispersed with GPF advance by Cashiar and immediately he had stopped the payment and conducted an enquiry. In the enquiry those employees have denied the alleged signature in the application forms and the Officer, who had forwarded the applications also had denied his signature in the said forms and the person, who has signed as a witness for the disbursement of cash by the cashier also denied his signature in the application forms and so, he came to a conclusion that both the applications were forged one. He has further deposed to the effect that in both the said applications the work "electrical" was spelt as "electcel" instead of "electrical" and in the certificate the word "including" was misspelt as "inculting". Since those mistakes were



also seen in both the applications, he came to the conclusion that both the applications were filled up by one and the same person. Thereafter, he has also thoroughly checked the GPF applications received for the past one year only to find whether all the applications are genuine or any application was forged. The result of the check revealed that 8 GPF applications apart from the two GPF applications mentioned above, were also found to be forged one. So all the 10 applications were sent to Workshop Personal Officer for taking further action in the matter. He was examined by the CBI Police before whom the accused had filed a confession statement along with his friends and in the confession statement dated 16.11.1995 filed by the accused he had admitted that he had illegally withdrawn provident fund amount to the tune of Rs.41,360/- and out of the said amount he had repaid a sum of Rs.28,000/- on 13.11.1995 and also sought the permission to repay the balance of Rs.13,360/- by 16.11.1995. The said letter of the accused is Ex.P.10, which was forwarded to the Chief Accounts Officer on 16.11.1995. The Workshop Personal Officer in Ex.P.10 has endorsed that the accused Selvaraj was permitted to repay Rs.28,000/- already and he may be permitted to repay the balance of Rs.13,360/- also. Further there is an endorsement by the Workshop Personal Officer in Ex.P.10 itself as to the effect that if the interest due is also informed then the accused will also be permitted to pay the same, Ex.P.10 was forwarded to Shop Superintendent Mr.Gopala Krishnan. On the basis of endorsement made by the Shop Superintendent Mr.Gopala Krishnan in EM.1/95 dated 16.11.1995 on the recommendations made by the Workshop Personal Officer on it, as the Accounts Officer he (P.W.3) had directed to receive Rs.13,360/- from the accused under Account No.8445-08 and to issue receipt for the same. The said letter is Ex.P.11. Ex.P.12 is the letter written by the accused Selvaraj to the Senior Accounts Officer, Golden Rock, dated 13.11.1995. In the said letter also the accused had admitted that he had received Rs.41,500/- by forging the signatures of co-employees and that he is prepared to repay Rs.28,000/- on 13.11.1995. The said letter was forwarded by Shop Superintendent Mr.Gopala Krishnan to the Workshop Personal Officer, who in turn had forwarded the same to the Senior Accounts Officer, Golden Rock. Senior Accounts Officer Mr.Manikkam had also directed to receive Rs.28,000/- from the accused Selvaraj under Account No.8445- 08 and directed to issue receipt for the same. The said letter is Ex.P.13.

14.P.W.4 - S.Srinivasan had joined in the Railway service in the year 1961 and during 1995 he was working as a Fitter at Golden Rock Workshop, Trichy. He would admit that Ex.P.5 dated 2.3.1995 is the application filed by him for final withdrawal of GPF amount. But he would deny his signature contained over the revenue stamp on the back of Ex.P.5. He would categorically state that he had not received Rs.4,800/- as per the endorsement on the back of Ex.P.5. He would further depose that the signature contained on the back of Ex.P.6 does not belong to him and that he has not received Rs.3,000/- under Ex.P.6 - receipt. Even after his retirement from service, according to him, he is yet to receive Ex.P.5 amount. He would admit that S.481 to 500 are his specimen signatures, which are Ex.P.14 (series).

15.P.W.5 - Antony would state that he joined in the railway service on 3.10.1973 and during 1995 he was working in the Electrical Millwright Workshop, Golden Rock, Trichy. According to him, he has so far not withdrawn any amount from his GPF account. During 1995 in March pay slip it was shown that a sum of Rs.8,500/- was withdrawn from the GPF account. When he enquired about this with the accused Selvaraj, he informed that it may be a mistake committed by the Computer, which will be rectified in April bill. But in the April bill also there was no rectification made. When this was enquired with the accused once again, he had stated that in the annual statement the mistake will be rectified. In the mean time, P.W.3 had sent word for him (P.W.5) and that he enquired whether any GPF withdrawn was made by him (P.W.5). P.W.5 informed P.W.3 that he had not withdrawn Rs.8,500/- from his GPF account. He has further deposed to the effect that as per Ex.P.3 he has not applied for any final withdrawal of GPF amount. He

would deny his signature in Ex.P.3 as well as the signature contained on the back of it over the revenue stamp. He would further depose that Ex.P.4 - application also does not contain his signature. He had received the annual accounts slip for the GPF account on 3.8.1995, according to which, he is said to have withdrawn the amount from GPF account in the month of January and also in February 1995. He has further deposed to the effect that the accused Selvaraj was putting up construction in the year 1993 and he used to borrow Rs.1,000/- or Rs.2,000/- on very many occasions from him (P.W.5). When he asked, he is going to repay the said loan, the accused Selvaraj replied that by creating mortgage on his house he will repay the same and that he had lent Rs.8,000/- to the accused out of which during February 1995 the accused had repaid Rs.4,000/- and also informed that he had withdrawn Rs.4,000/- from his GPF account and also made a request to return the said sum of Rs.4,000/- and he has also obtained written acknowledgement for the repayment of the said sum of Rs.4,000/-. He has also assured that the said sum of Rs.4,000/- will be added to the existing loan borrowed by him. He would admit that Ex.P.15 (series) (S.441 to S.550) are his specimen signatures.

16.P.W.6 - Ganapathy would depose that he retired from Railway service on 30.6.1995 and that he joined in service on 1.4.1957. according to him, he received Ex.P.6 - GPF application of Srinivasan on 15.5.1995 and that he had accorded sanction for Rs.3,000/- on 18.5.1995 and that he had received a complaint from one P.Chandrasekaran that he has not applied for any GPF temporary advance, but some amount was disbursed to him. In the said application, he had endorsed that the said matter shall be brought to the notice of Chief Works Manager and he should enquire into it.

16.P.W.7 - Periyasamy in his evidence would state that he joined in the Railways in the year 1960 as a Fitter and he is due for retirement in the month of March-1999 and during December-1994 he has applied for final withdrawal of GPF amount. But in 1995 he has not applied for any GPF advance and that Ex.P.7

- application dated 2.9.1995 was not filed by him for final withdrawal of GPF amount and that the signature found on the revenue stamp on the back of Ex.P.7 for Rs.9,000/- does not belong to him. From the statement he came to know that in 1995 also it was falsely entered that he had taken GPF advance in the year 1995. So he preferred a complaint to the Account Section along with 5 or 6 employees. Ex.P.16 is his Specimen Writings and Ex.P.17 is the specimen signatures and that before the CBI Official, he had put Ex.P.16 & Ex.P.17.

17.P.W.8 - Swaminathan would state that he joined in the Railway service at Golden Rock Workshop, Trichy on 21.5.1962 and from 1.3.1993 he is working as a Master Craft Man at Golden Rock and during June and December 1994, he had applied for final withdrawal from his GPF Account, for Rs.10,000/- on each occasion. He would state that on 23.3.1995 he had not applied for GPF final withdrawal for a sum of Rs.10,560/-. He would deny his signature contained over the revenue stamp on the back of Ex.P.8, for having received Rs.10,560/-. Ex.P.18 is his specimen writings and Ex.P.19 is his specimen signatures. He would further state that Ex.P.18 and Ex.P.19 were obtained from him in the presence of Bank Officials and Officials of New India Assurance Company.

18.P.W.9 - S.Jayaraj had joined in the Railway service as Senior Clerk on 17.9.1990 and from 31.12.1992 he was working as Head Clerk in Electrical Millwright Workshop, Golden Rock, Trichy. According to him, the accused was working as an Electrical Fitter, Grade -I, at Electrical Workshop, Golden Rock, Trichy and he used to learn work relating to privilege pass, issuance of medical identity card etc., from him (P.W.9). He has further admitted that the stamps

contained in Ex.P.4 to Ex.P.9 applications belong to his office. He would further admit that as a social worker the accused used to bring the GPF files to him and he immediately called for the concerned employee and after obtaining the signature from Shop Superintendent, entrusted the same to the said applicant, who in turn produce the same before the Cashier for encashment. He came to know from the CBI Officials that the accused had borrowed Rs.28,000/- from his co-sharers and remitted the same on 13.11.1995 (Rs.4,000/- from Antony, Rs.10,000/- from Thiyagarajan, Rs.5,000/- from Phylomin Raj, Rs.5,000/- from Venkatachalam and Rs.4,000/- from Christyan, totaling Rs.28,000/-). He has further deposed that the part final withdrawal applications Ex.A.3 to Ex.A.9 contain the signature of the accused Selvaraj. After the said fraud came to light, the GPF applications were forwarded to the Shop Superintendent through proper channel and not through individuals like accused.

19.P.W.10 - Arogiyasamy, had joined in Railway service as sweeper-cum- porter of Agasthiyan Palli Railway Station in the year 1987. During 1992 he was transferred to electrical Millwright Shop, Golden Rock, as Kalasi. He would depose that he used to do the work allotted to him by workshop superintendent and head clerk and that he became good friend of the accused since he was also working along with him in the same section and that leave applications, final withdrawal applications of GPF amount are all prepared only by the accused. The accused had repaid the amount he got after forging the signature of the employees and that the said repayment was made by the accused in the presence of Shop Superintendent Soundarajan and Gopala Krishnan and others. He had borrowed the said amount from Venkatesan, Thiyagarajan, Antony, Phylomin Raj and Chirstyan. The signatures contained in Ex.P.3 and Ex.P.9 both in the front and in the back belong to the accused.

20.P.W.11 - Chinnasamy would state that he was working as Deputy Shop Superintendent of Railway Workshop, Golden Rock, Trichy, from 1993 to 1995 and that he has not signed in Ex.P.3 to Ex.P.7 and that he knows the accused, who had used to help his co-workers by preparing the withdrawal forms for PF , overtime arrears, bill, increment arrears etc., Ex.P.20 (series) contains his signature and that he had put those signatures before the CBI official in the presence of one Krishnamoorthy, official of the Syndicate Bank.

21.P.W.12 - Kailasanathan, Deputy Shop Superintendent would depose that in Ex.P.8 part final withdrawal application he has not signed. Ex.P.21 (series) are his signatures put in the presence of CBI Officials and before a Clerk of Syndicate bank.

22.P.W.13-Gopla Krishnan, Deputy Shop Superintendent during the year 1985 to 1996 at Golden Rock Wrokshop Trichy, would admit that the accused Selvaraj had worked under him and before the CBI enquiry the accused Selvaraj had admitted the offene and gave a confession statement. The accused had repaid the amount to the persons from whom he had borrowed the amount. The application filed by the said purpose of repayment by the accused was forwarded by him to the Cash office after borrowing from five person viz., Venkatechallam, Christyan, Phylomin Raj, Thiyagarajan and Antony. He had repaid Rs.28,000/- as first instalment on 13.11.1995 and as second instalment was paid by the accused on 16.11.1995. He would further state that Ex.P.3 & Ex.P.4 were not sent by him and that Ex.P.8 & Ex.P.9 do not contain his signature. Ex.P.22 (series) are rubber stamps and Ex.P.23(series) also another set of sepecimen rubber stamps. Ex.P.24 (series) are his specimen writings.

23.P.W.14 - Muthaiya would state that he was working as Junior Cashier from 10.3.1985 at Railway Workshop, Golden Rock, Trichy, and that during disbursement of GPF withdrawal the accused used to receive the amounts on behalf of his co-workers and through the accused the

provident fund final withdrawal for D.Antony, Srinivasan and periyasamy were disbursed by him (P.W.14). But he is not aware whether those amounts were actually received by the above said persons. He has also identified the accused Selvaraj before the CBI officials. He would further admit that there were 13 persons appointed to disburse the amount to the employees. He has further stated that only after verification in the signature of the applicant as well as the witnesses the amount will be disbursed.

24.P.W.15- Thiyagarajan was working as an Electrical Fitter, Grade-II, in the Railway Workshop at Golden Rock, Trichy and that during 1992, the accused had borrowed Rs.10,000/- from him to meet the building construction expenses and also small amounts on various occasions amounting to Rs.4,000/- and during April 1995, the accused had returned Rs.10,000/- and on 13.11.1995, the said amount was seized from him by CBI officials by saying that the said amount was illegally obtained by the accused.

25.P.W.16 - S.Venkatachalam in his evidence would state that he joined in the Electrical Millwright Workshop at Golden Rock, in the year 1973 as a Kalasi and that he knows the accused Selvaraj, who in the year 1993 had borrowed a sum of Rs.5,000/- and in May 1995 he had returned the same. On 11.11.1995 the CBI officials have enquired the accused Selvaraj on the ground that he had cheated the provident fund amount of the railway employees. He had returned the sum of Rs.5,000/- in the presence of Shop Superintendent Gopala Krishnan, Soundaraj, Thiyagarajan, Head Clerk Jayaraj, Phylamin Raj, Antony, who in turn remitted the same in the cash section. The accused had also gave a receipt to him for the return of Rs.5,000/-.

26.P.W.17-Christyan, who had joined in Electrical Millwright Workshop, Golden Rock, in the year 1973 as a Kalasi and now working as a crane operator has deposed that he knows about the accused Selvaraj, who used to borrow money 2 or 3 time from him to the tune of Rs.4,000/- and that the accused had returned the same in May 1995 and the CBI Officials have asked him to repay the said sum of Rs.4,000/- on 13.11.1995 in the presence of Shop Superintendent Gopala Krishnan, Soundaraj, Venkatachalam, Thiyagarajan and Phylamin Raj, which was remitted with the Cashier Department by Shop Superintendent Gopala Krishnan.

27.P.W.18-Selvanayagam, Senior Vigilance Officer in the Sourthern Railway, has deposed that he has received the documents relating to this case in September 1995 from Chief Workshop Manager, Golden Rock, and as per the directions of the Chief Vigilance Officer, he took up investigation in this case and thereafter, he entrusted the documents relating to this case to the CBI.

28.P.W.19-C.Rajasekara Muthaiya had joined as a Kalasi in Golden Rock Workshop in the year 1988 and has become Store Clerk in the year 1993. He would depose that he knows the accused Selvaraj, who is also a co-worker and that he is a social worker and that at the requisition of the accused he furnished the computer statement containing the particulars regarding the name of all the railway employees working under the said Railway Workshop, Golden Rock, Trichy, including their address, Ticket number, date of increment, date of birth, date of joining the duty, their pay, PF number, society number, etc., Ex.P.25 is a copy of the said statement furnished to the accused in the month of April 1993.

29.P.W.20, a clerk in the Syndicate Bank, in his evidence would state that in the year 1995 as per the instructions of his Manager, he went along with the CBI Officials on 07.11.1995 and also on 08.11.1995 and in the computer centre at Golden Rock Workshop the CBI Officials have

obtained the specimen signature of Swaminathan, Antony, Periyasamy and Chinnasamy and that on 07.11.1995, the specimen signature of Chinnasamy, on 8.11.995 the specimen writings and specimen signatures of , Antony, Periyasamy and Swaminathan and on 7.11.1995 the specimen writings of Kailasanathan and Gopala Krishan and on 8.11.1995 the specimen seals were obtained by the CBI Officials in his presence.

30.P.W.21 - S.Phylomin Raj, who had also joined as Kalasi in the Railway Workshop, Golden Rock on 16.12.1981, would depose that the accused, is a co- employee and during August 1994 the accused had borrowed Rs.3,000/- and during January 1995, he returned the amount. On 11.11.1995 CBI Officials enquired and asked him to return the said sum of Rs.3,000/- to the accused on the ground that the accused had realised the said amount dishonestly and illegally by committing fraud on the provident fund amount of the employees and that on 13.11.1995 he returned the said sum of Rs.5,000/- on the basis of Ex.P.26-letter given by the accused, in which one Ramachandran had signed as a witness.

31.P.W.22 -S.Natarajan has joined as a Typist in the New India Assurance Company, who is now working as an Assistant Administrative officer, Trichy. At the request of the CBI, he accompanied them on 10.11.1995, 25.11.1995, 27.11.1995 and that on 10.11.1995 the accused had admitted the offence before the CBI and gave Ex.P.27 - confession statement. Ex.P.28 is the list furnished by the accused containing the particulars of the borrowers from whom he had borrowed money. Ex.P.29 is the specimen signature of the accused. Ex.P.30(series) is the specimen seals of the Personal Branch Receipt Section, Central Southern Railways, Golden Rock. Ex.P.31 (series) is the specimen writings of the accused. Ex.P.32 (series) is the applications filled up by the accused. Ex.P.33(series) is the paper containing the signatures of Palaneeswaran, Chinnasamy, put up by the accused. Ex.P.34(series) is the applications forms filled up by the accused so as to appear that the said applications were filled up by Swaminathan. Ex.P.35 (series) is the applications forms filled up by the accused as to show that the said applications were filled up by Antony. Ex.P.36 (series) is the withdrawal forms filled up in the name of Periyasamy. Ex.P.37 (series) is sample writings of the accused so as to appear that they were written by Periyasamy. Ex.P.38 (series) is the signatures of Periyasamy put up by the accused. Ex.P.39 (series) is the withdrawal forms filled up by the accused so as to appear that the same were filled up by Antony. Ex.P.40 (series) is the writings of the accused containing the numerical numbers and letters so as to appear in the handwriting of Antony. Ex.P.41 (series) is the specimen signature of Periyasamy. Ex.P.42 (series) is the specimen signature of Srinivasan. Ex.P.43 (series) is the specimen signatue of Palaneeswaran.

32.P.W.23 - G.Selvaraj, an official of the New India Insurance Company, has deposed that he has accompanied the CBI officials on 9.11.1995, 11.11.1995 and 24.11.1995 to Railway Workshop at Golden Rock and that he has signed in Ex.P.14 and Ex.P.44 (series) specimen signatures of S.S.Nathan was obtained from the accused Selvaraj. Ex.P.45 is the specimen signature of Kailasanathan. Ex.P.46 (series) is the specimen signatures of M.Gopala Krishnan, put up by the accused. Ex.P.47 (series) is the specimen signature of Antony, put up by the accused. Ex.P.48 (series) is the specimen signature of Chinnasamy put up by the accused Selvaraj. Ex.P.45 (series) is the specimen signature of Palaneeswaran put up by the accused Selvaraj. Ex.P.50 (series) is the specimen signature of Periyasamy put up by the accused Selvaraj.

33.P.W.24 - R.Manikkam, is the former senior account officer of the Railway Workshop at Golden Rock, who retired from service in April 1996. The accused appeared before him with two letters dated 13.11.1995 stating that he is willing to remit the amount mentioned therein. On

seeing the letter dated 13.11.1995 Ex.P.12, he had directed the Railway Cash Office to receive the said sum of Rs.28,000/- and to issue a receipt. Ex.P.13 is the letter issued by him to the accused and in the other letter the accused had stated that he had borrowed Rs.41,360/- from various persons. The said letter is Ex.P.51. Under the said letter he had requested to remit Rs.28,000/- as first instalment and after paying Rs.28,000/- in the Cash Office, he had produced the receipt along with another letter Ex.P.52. Again on 16.11.1995 the accused appeared before him and handedover two letter viz. Ex.P.10 and Ex.P.53, under which he had sought the permission to remit Rs.13,360/- and had made an endorsement in the said letter directing the Cash Officer to receive Rs.13,360/- and to issue a receipt. Ex.P.11 is the letter issued by him. Ex.P.4 is the letter of the accused along with the receipt for the payment of Rs.13,360/- and that on 4.3.1996, he handedover those documents to the CBI Officials.

34.P.W.25- Sivakumar is the Divisional Cashier of the Railway Cash Office at Railway Workshop, Golden Rock, Trichy. According to him, the accused Selvaraj appeared before him with Ex.P.3 - letter dated 13.11.1995 and he had permitted him to deposit Rs.28,000/- and the receipt is Ex.P.55.

35.P.W.26 - D.Ravichandran in his evidence would state that he is also a co-employee of the accused. He knows about the accused Selvaraj and that he took him to Personal Branch of Account Office for the purpose of getting his (P.W.26's) increment.

36.P.W.27 - H.Mahimai Dass, another co-employee, would state that the accused had taken him to Account Office in connection with excess payment in the recovery.

37.P.W.28 - S.Mana, Divisional Cashier of the Railway Workshop, Golden Rock, Trichy, would depose that on 16.11.1995, the accused had paid Rs.13,360/- and for that he had issued receipt Ex.P.56.

38.Ex.P.29 is the Investigating Officer, through whom Ex.P.57-FIR was exhibited. After the receipt of the connected records from the Railways, he enquired the witnesses and recorded their statements. He has also obtained specimen writings and specimen signatures of the witnesses and on suspicion he had enquired the accused Selvaraj in the presence of P.W.22, the accused had admitted the offence. Ex.P.27 is the confession statement. He has also obtained the specimen signatures of the witness and specimen seals and marked as S.1 to S.110 and marked the GPF applications as Q.1 to Q.108 and after obtaining the specimen signatures from the accused, he had sent the disputed signatures along with the admitted signatures to handwriting expert to get a report. Ex.P.58 is the requisition letter. Ex.P.59 is the opinion of the expert. After completing the investigation, he had filed seven charge sheets on 6.5.1995.

39.P.W.30 is the Handwriting Expert, who has filed his opinion under Ex.P.59 after comparing the disputed signatures with that of the admitted signatures.

40.When incriminating circumstances were put to the accused under [Section 313](#) of Cr.P.C., the accused would state that the witnesses are deposing falsehood against him and that the cases have been foisted against him.

41.The learned trial Judge on the basis of the evidence both oral and documentary finding the accused guilty under [Section 467](#) (7 counts) had convicted and sentenced the accused to undergo 3 months RI under each counts and a fine of Rs.100/- under each counts with default

sentence, and convicted and sentenced the accused under [Section 468](#) (7 counts) [IPC](#) to undergo 3 months RI under each counts and a fine of Rs.100/- under each counts with default sentence, and convicted and sentence the accused under [Section 471](#) (7 counts) [IPC](#) to undergo 3 months RI under each counts and a fine of Rs.100/- under each counts with default sentence, and convicted and sentenced the accused under [Section 420](#) [IPC](#) (7 counts) to undergo 3 months RI under each count and a fine of Rs.100/- under each count with default sentence, and convicted and sentenced the accused under [section 13\(1\)\(d\)](#) r/w [13\(2\)](#) of the [Prevention of Corruption Act](#) (7 counts), to undergo 1 year RI under each count, with a direction that the sentence shall run concurrently. Aggrieved by the findings of the learned trial Judge, the present appeals have been preferred by the accused.

42.The point for determination in these appeals is whether the conviction and sentence of the learned trial Judge in C.C.Nos.46 to 52 of 1996 on the file the Special Judge for CBI Cases, Madurai, is liable to be set aside for the reasons stated in the memorandum of appeals?

43.POINT:-

In all the above said seven Calender Cases, the accused is one and the same, who has been charged under [Sections 467, 468, 471, 420](#) I.P.C., and under [Section 13\(2\)](#) r/w [13\(1\)\(d\)](#) of [Prevention of Corruption Act](#), 1988. The learned trial Judge has convicted the accused under [Section 467, 468, 471, 420](#) I.P.C., and under [Section 13\(2\)](#) r/w [13\(1\)\(d\)](#) of [Prevention of Corruption Act](#), 1988 on the basis of evidence of Handwriting Expert, P.W.30, who had furnished his opinion, Ex.P.59. The charge against the accused is that he had forged the signatures of the co-employees, viz., D.Antony, (P.W.5), Periasamy (P.W.7), S.Swaminathan (P.W.8), Kailasanathan (P.W.12) in the G.P.F applications and also forged the signature of shop superintendent, (P.W.11), S.Chinnasamy, (P.W.4), S.Srinivasan and (P.W.13), S.Gopalakrishnan and after realising the Provident Fund amount had obtained pecuniary advantage of the same. The conviction and sentence of the learned trial Judge cannot stand for a moment for the following reasons:- the specimen signature for P.W.13, P.W.11, P.W.12, P.W.5, P.W.8, P.W.7 were obtained by the Investigating Officer, P.W.29 only in the presence of P.W.20. The specimen seals S1 to S10 and GPF Forms Q.1 to Q.108 were sent only by I.O. to the Handwriting Expert, P.W.30 Saxena to Simla. Admittedly, P.W.4, P.W.5, P.W.7, P.W.8, P.W.11, P.W.12 and P.W.13 are all Railway employees working at Railway Workshops Golden Rock, Trichy. Certainly, the admitted signatures could have been available in the files maintained in the Railway Workshop at Golden Rock, Trichy. But no files contained the signatures of those witnesses as well as the admitted signatures contained in the files maintained in the Railway Workshop at Golden Rock, Trichy, since the accused is also working as a Fitter in the Railway Workshop at Golden Rock, Trichy, were not taken as documents containing admitted signatures for sending the same to the Expert, P.30, for comparing the same with the disputed signatures of the accused and other witnesses like P.Ws.11, P.W.13, and P.W.4. Ex.P.62 is the letter written by the Chief Vigilance Officer, Southern Railway to the Superintendent of Police, Special Court for CBI cases. The letter reads that along with files documents in original connected with this case were also sent for further action and there was also an annexure to the letter containing the particulars of the documents. But, in the annexure the documents containing the admitted signatures of the witnesses or the accused were not found. P.W.29, I.O., in his cross-examination has also admitted that he has not received any document pertaining to the accused from the Railways. Originally, the First Information Report was lodged against the four other persons and in the First Information Report, the accused name does not find a place is also admitted by P.W.29, I.O. The learned counsel appearing for the appellant would contend that the formalities as per the provision of law was not followed by

the Investigating Officer, while collecting the specimen signatures from the witnesses as well as from the accused for sending the same to the Expert, P.W.30, to get his opinion. At this juncture, the learned Public Prosecutor would point out that the accused's leave letters along with annexure to Ex.P.62, the leave application of the accused was sent. But the signatures contained in the leave application of the accused was not taken into consideration by the Expert, P.W.30, for comparison and for furnishing his opinion under Ex.P.59.

44. The learned counsel appearing for the appellant relying on the Judgment of the Apex Court in *Alamgir Vs. State* (NCT, Delhi) reported in 2003 (1) SCC 21 would contend that only on the basis of opinion of the handwriting Expert, P.W.30, without any corroboration cannot be solely relied upon for convicting the accused. Only the Inspector of Police, P.W.29, would corroborate the evidence of P.W.30, Handwriting Expert, as to the effect that he had collected the specimen signatures from the accused as well as from the above said P.Ws. But, the specimen signatures from the accused as well as from the witnesses were collected as per the provisions contained under Cr.P.C. The learned Public Prosecutor would also admit that as per Section 311(A) of Cr.P.C., only the Magistrate is competent to pass necessary orders for collecting specimen signatures or specimen handwriting, which is lacking in this case. Section 311(A) of Cr.P.C., runs as follows:-

"If a Magistrate of the first class is satisfied that, for the purposes of any investigation or proceeding under this Code, it is expedient to direct any person, including an accused person, to give specimen signature or handwriting, he may make an order to that effect and in that case the person to whom the order relates shall be produced or shall attend at the time and place specified in such order and shall give his specimen signatures or handwriting: Provided that no order shall be made under this section unless the person has at some time been arrested in connection with such investigation or proceeding"

Relying on the decision in 1990 SCC (Cri).330 (*Murari Lal Vs. State of M.P.*) the Apex Court in 2003 (1) SCC 21 (cited supra) has observed as follows:-

"In the present case no conviction is based on the opinion of the handwriting expert but admittedly, it can be relied upon when supported by other items of internal and external evidence. The handwriting expert's opinion simply corroborates the circumstantial evidence. Therefore, it is not possible to accept the contention that the handwriting expert's opinion being a weak piece of evidence ought not to be relied upon."

45. For the same proposition of law, the learned Public Prosecutor also produced another ratio in 2003 (1) CTC 223 (*K.Dhanasekaran Vs. State* by Inspector of Police, C.B., C.I.D., Erode), after admitting that in this case, the specimen signatures of the accused as well as from the witnesses were not collected by the I.O. in accordance with law. The relevant observations in the said judgment runs as follows:-

"7. Coming to the evidence of P.W.8-expert and his report-Ex.P13, first of all, admittedly though the Inspector of Police has obtained the specimen signatures of the accused in the presence of P.W.4, he has not made requisition to the Magistrate concerned under Section 5 of Identification of Prisoners Act to get the specimen signatures from the accused and also specimen signature from P.W.1 for comparison. Section 5 of the Identification of Prisoners Act, 1920 reads as follows:



"5. If a Magistrate is satisfied that, for the purpose of any investigation or proceeding under the Code of Criminal Procedure, 1898, it is expedient to direct any person to allow his measurements or photograph to be taken, he may make an order to that effect, and in that case the person to whom the order relates shall be produced or shall attend at the time and place specified in the order and shall allow his measurements or photograph to be taken, as the case may be, by a police officer"

The very same provision has been considered by the Supreme Court in [Mohd.Aman v. State of Rajasthan](#), 1997 SCC (Cri) 777. The following observation of Their Lordships in para 8 is relevant:

"8.... Even though the specimen finger prints of Mohd.Aman had to be taken on a number of occasions at the behest of the bureau, they were never taken before or under the order of a Magistrate in accordance with [Section 5](#) of the Identification of Prisoners Act. It is true that under [Section 4](#) thereof police is competent to take fingerprints of the accused but to dispel any suspicion as to its bona fides or to eliminate the possibility of fabrication of evidence it was eminently desirable that they were taken before or under the order of a Magistrate..."

[Section 5](#) of the identification of [Prisoners Act](#) which is parimateria to [Section 311\(A\)](#) of Cr.P.C., which I have extracted earlier. Yet another peculiar circumstance which glares at the evidence of Expert P.W.30, is that P.W.4, Srinivasan in his evidence would admit that Ex.P.5 is his signature, but, P.W.30, the expert has stated in his evidence that Ex.P.5, P.6 and P.14, the disputed documents are marked as Q.26 to 36 and Q.72 to Q.83 in 2 sheets as well as the specimen documents are marked as S.481 to S.500 in 20 sheets, S.601 to S.610 in 10 sheets. Under Ex.P.59 opinion, he has opined at paragraph 7, page 345 of the typed set as follows:-

"7.The person who wrote the blue enclosed writings stamped and marked S481 to S500 and S601 and S610 did not write the red enclosed writings similarly stamped and marked Q28, Q33, Q75 and Q80."

This part of the evidence of P.W.30, Handwriting Expert, cuts at the root of the case of the prosecution because according to the prosecution, Ex.P.5 is the admitted signature of P.W.4., but, according to the Expert, Ex.P.5 is not the signature of P.W.4, and the said signature in Ex.P.5 was forged by the accused. Further, the Handwriting Expert has not given any opinion regarding the disputed signatures of P.W.5, P.W.7 and P.W.8. According to the prosecution, the accused has forged the signatures of P.W.5, P.W.7, and P.W.8 in their G.P.F. Forms and received the amount and thus obtained pecuniary advantage. P.W.30, the Handwriting Expert's evidence cannot be taken as the basis for convicting the accused under [Sections 467, 468, 471 and 420](#) I.P.C., since the specimen signatures of the witnesses as well as the accused were not taken before the Judicial Magistrate as contemplated under [Section 311\(A\)](#) of Cr.P.C. The Conviction and sentence under [Section 13\(2\)](#) r/w [Section 13\(1\)\(d\)](#) of Prevention of Corruption Act also is not sustainable because even according to the Investigating Officer, the amount was paid back to the Railways. Under Ex.P.61, receipt for the payment of Rs.13,360/- (Ex.P.55) and another payment of Rs.28,000/- by the accused to the cashier of the Railway Workshop (Ex.P.56) were not produced by the Investigating Officer. P.W.24 is the Senior Accounts Officer, corroborates the evidence of P.W.29 in this regard. In Ex.P.59, the First Information Report, the accused name does not find a place. Charge sheet was filed on 6.5.1996. But, according to the evidence of Investigating Officer, P.W.29, and as per the evidence of P.W.24, the accused had paid the above sum of Rs.28,000/- as well as Rs.13,360/- to the Railways as early as on 13.11.1995 and on 16.11.1995 vide receipts Exs.P.55 and P.56.

So, it cannot be said that the accused had obtained pecuniary advantage to warrant conviction under [Section 13\(2\)](#) r/w [Section 13\(1\)\(d\)](#) of Prevention of Corruption Act, 1988.

46. Ex.P.27 is the confession statement of the accused, according to the prosecution. But, P.W. 24, then Senior Accounts Officer, Workshop and Stores of Ponmalai Railway Work Shop, in his evidence would state that the accused had returned Rs.13,360/- as per Ex.P.10 and another sum of Rs.28,000/- as per Ex.P.12 to the Railways. Both in Exs.P.10 and P.12, the accused has stated that as per the undertaking given before the C.B.I., he was tendering those amounts but in his confession statement Ex.P.27, there is no reference as to the undertaking given by the accused in respect of refund of Rs.28,000/- and 13,360/- to the Railways. So, under such circumstances, it cannot be said that the prosecution has proved the guilt of the accused beyond any reasonable doubt. Certainly, the doubt enures to the benefit of the accused. Point is answered accordingly.

47. In fine, these appeals are allowed and the conviction and sentence against the accused in C.C.No.46/96 to 52/96 on the file of the Court of CBI, Madurai / Special Judge for CBI cases is set aside and the accused is relieved from all the charges levelled against him. The fine amount if paid shall be returned to the accused. The bail bond shall stand cancelled.

ssv/mpk To,

1. The Special Judge for CBI Cases, Madurai.

2. Central Government Through Inspector of Police, Special C.B.I., A.C.B, Chennai, in R.C.No.44(A) of 1995