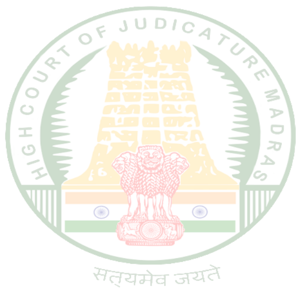

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 10.12.2024
PRONOUNCED ON : 14.03.2025

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.Nos.832, 833 and 836 of 2017

S.Hyder Ali
State General Secretary,
Tamil Nadu Muslim Munnetra Kazhagam,
No.7, North Maraikayar Street,
Chennai – 600 001. ...Petitioner in Crl.R.C.No.832/17

1. G.M.Sheik
   Authorised Signatory,
   Coimbatore Muslim Relief Fund and Member,
   S/o. LMS Gani Mohammed,
   No.25/3, Sulaiman Zachariah Avenue,
   Egmore, Chennai – 600 008.

2. Nalla Mohammed Kalanjiam,
   Authorised Signatory,
   Coimbatore Muslim Relief Fund and Member,
   S/o. Mohammed Abdul Cader,
   No.27, Devaraja Mudali Street,
   Park Town, Chennai – 600 003. ...Petitioners in Crl.R.C.No.833/17

M.H.Jawaharulla

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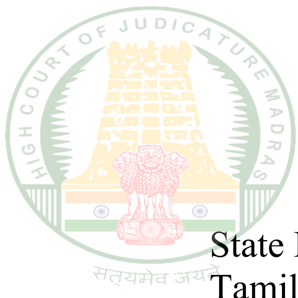
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State President,
Tamilnadu Muslim
Munnetra Kazhagam ...Petitioner in Crl.R.C.No.836/17

Vs.

The Inspector of Police
Central Bureau of Investigation,
(SPE:CBI:ACB:Chennai)
Government of India,
Shastri Bhavan, Chennai – 600 006. ...Respondent in all the RCs

All the Criminal Revision Cases filed under Section 397 read with Section 401 of Cr.P.C. to set aside the judgment of the learned VI Additional City Civil Judge, Chennai, passed in Crl.A.No.217 & 218 of 2011 dated 16.06.2017, confirming the conviction and sentence imposed on the petitioners by the learned Additional Chief Metropolitan Magistrate, Chennai, in C.C.No.1123 of 2004, dated 30.09.2011.

For Petitioner : Mr.P.V.Balasubramanian, Senior Counsel for Mr.Rahul M.Shankhar in Crl.R.C.No.832/17

Mr.Abudu Kumar Rajaratnam, Senior Counsel for Mr.S.S.Ashok Kumar in Crl.R.C.No.833/17

Mr.J.Sivanandaraj, Senior Counsel for Mr.Akhil Ahmed Akbar Ali in Crl.R.C.836/17

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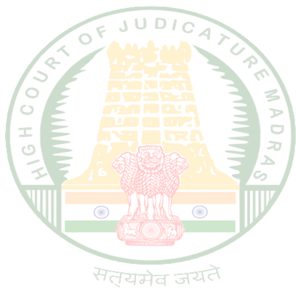

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Respondent : Mr.K.Sinivasan, Special Public Prosecutor for CBI Cases – in all the RCs

******

COMMON ORDER

All these criminal revisions have been filed against the concurrent judgment of conviction and sentence passed by the learned Additional Chief Metropolitan Magistrate, Chennai, in C.C.No.1123 of 2004, dated 30.09.2011, confirmed by the learned VI Additional City Civil Judge, Chennai, in Crl.A.No.217 & 218 of 2011 dated 16.06.2017.

2 Originally the respondent police registered a case in R.C.No.53A/2001 against the petitioners herein viz. A1 the State President, A2 General Secretary, A3 State Deputy President and A4 and A5 the members of Tamilnadu Muslim Munnetra Kazhagam (in short "TMMK") stating that from 15.12.1997 to 20.06.2000, A1 to A5 entered into a criminal conspiracy at Chennai to commit illegal acts by forming an Association to accept the foreign contributions without registering the Association with the Government of India and without obtaining prior permission from the

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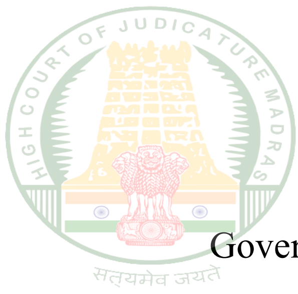
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Government of India. In pursuance of the conspiracy, on 15.12.1997 A3 to A5 opened an Account No.3953 with Bank of India, Sowcarpet, Chennai, in name and style of Coimbatore Muslim Relief Fund (CMRF), with the address of Association as No.7, North Mariakauyar Street, Chennai, as that of TNMMK. Between 15.12.1997 to 20.06.2000, CMRF received foreign contributions of Rs.1,54,88,508.07 from foreign sources and the same were deposited in the account of CMRF maintained at the Bank of India, Sowcarpet Branch, Chennai, without the registration of prior permission from Government of India and Reserve Bank of India as required under Section 6 and 11 of Foreign Contributions (Regulation) Act, 1976, (in short “the Act”). Even after the inquiry conducted by Government of Tamil Nadu, the accused did not stop the receipt of the foreign contributions, did not even take any steps to get permission from the Government of India and did not register the Association and thereby A1 to A5 violated the provisions of Section 22 of the Act. Neither TMMK nor CMRF was registered as an Association with Government of India for receiving the above foreign contributions of Rs.1,54,88,508.07/- as required under Section 6 of the Act and hence the accused 1 to 5 committed the offences punishable under

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Sections 120B IPC r/w 4(1)(e), 23 r/w 6 & 11 and 22 and 25 of the Act.

3 To bring home the charges levelled against the accused 1 to 5, the prosecution examined P.Ws.1 to 9 and marked 23 documents as Ex.P1 to P23. On completion of examination of prosecution witnesses and when incriminating evidence culled out from the evidence of the prosecution witnesses was put before the accused, they denied the same as false and pleaded not guilty. On the side of the defense, D.W.1 was examined and 7 documents were marked as Exs.D1 to D7.

4 The learned Additional Chief Metropolitan Magistrate, Egmore, Chennai, on completion of trial and hearing of arguments advanced on either side, by judgment dated 30.09.2011, found the accused guilty and (i) convicted A1 to A5 for the offence under Section 120-B IPC r/w Section 4(1)(e) r/w 23, Section 6 r/w 23 and Section 11 r/w 23 of the Act, and sentenced them to undergo rigorous imprisonment for a period of one year each and to pay fine of Rs.10,000/- each in default, to undergo simple imprisonment for a further period of three months each, (ii) convicted A3 to

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A5 for the offence under Section 4(1)(e) r/w 23 of the Act and sentenced them to undergo rigorous imprisonment for a period of two years each and to pay a fine of Rs.10,000/- each in default, to undergo simple imprisonment for a further period of six months each, (iii) convicted A3 to A5 for the offence under Section 6 r/w 23 of the Act and sentenced them to undergo rigorous imprisonment for a period of two years each and to pay a fine of Rs.10,000/- each, in default, to undergo simple imprisonment for a further period of six months each, (iv) convicted A3 to A5 for the offence under Section 11 r/w 23 of the Act, and sentenced them to undergo rigorous imprisonment for a period of two years each and to pay fine of Rs.10,000/- each, in default, to undergo simple imprisonment for a further period of six months each. The learned trial Judge ordered the above sentence to run concurrently.

5 Aggrieved against the said judgment of conviction and sentence passed by the trial Court, A1 and A2 preferred appeal in C.A.No.217 of 2011 and A3 to A5 have filed an appeal in C.A.No.218 of 2011. The learned VI Additional Judge, VI Additional City Civil Court, Chennai, after hearing

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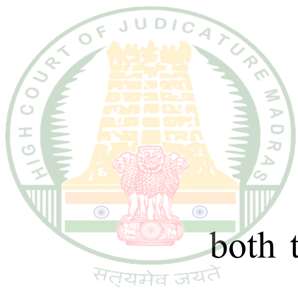
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both the parties, by a common judgment dated 16.06.2017 dismissed both the appeals and confirmed the judgment of conviction and sentence passed by the trial Court. Being not satisfied with the concurrent judgments of both the Courts below, the accused are now before this Court with the present criminal revision cases.

6 The first accused has filed Crl.R.C.No.836 of 2017, the second accused has filed Crl.R.C.No.832 of 2017, the third accused has filed Crl.R.C.No.837 of 2017 and fourth and fifth accused have filed Crl.R.C.No.833 of 2017. Pending revision, the third accused died and hence the revision in Crl.R.C.No.837 of 2017 was dismissed as abated vide order of this Court dated 22.11.2024.

7 To avoid repetitions, the submissions of all the learned Senior Counsel appearing for the accused in the above respective Criminal Revisions are summed up as follows:

7.1 There was bomb blast occurred in November 1997, a riot broke

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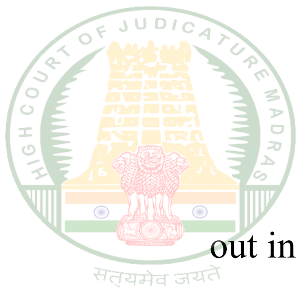
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out in Coimbatore and other places and thousands of innocent belonging to a particular community was targeted and suffered and many lost their lives and homes. To aid with rehabilitation of those victims, A3, A4 and A5 started a relief fund in the name of Coimbatore Muslim Relief Fund on 10.12.1997 and they received donations from Indian Muslims living in India as well as abroad through banking channel viz. at the Bank of India, Sowcarpet Branch, Chennai, and distributed to the victims. However, the Government of Tamilnadu maliciously seemed to have sent a letter dated 12.10.1998 to the Director (FCRA), Ministry of Home Affairs to investigate the violations of the Act, by TMMK, and the Assistant Director of FCRA was authorised to visit the offices of CMRF and TMMK. But he only visited TMMK and called for the documents of CMRF at the TMMK office on 08.10.1999 and the case was recommended to CBI.

7.2 P.W.7 registered the case on the basis of the complaint given by Dutta on 16.06.2000. As alleged by the prosecution, the amounts were collected by CMRF, but the case was registered against TMMK, which clearly proves motive to prosecute TMMK. Subsequently the case was

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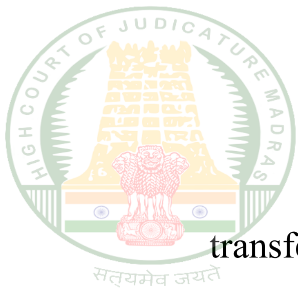
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transferred to P.W.9, the Inspector of Police, who conducted further investigation and he did not examine A1 to A5 to prove the conspiracy.

7.3 A perusal of Sections 4(1)(e), 6, 11, 23 of the Act shows a common element of "foreign contribution" across all sections. Foreign Contribution defined under Section 2(1) (c), which exclusively indicates the contribution has to be received from foreign source. Definition of Foreign Source is limited to foreign entities and citizens and does not include Indian citizens living abroad. Therefore contribution from Indian citizens is not an offence under the Act and in this case, the fact has been admitted by P.Ws.1, 2, 4 and 7. In this case, prosecution failed to verify the nationality of the donors with the aid of Section 166-A Cr.P.C.

7.4 It is relevant to note the political climate surrounding at the time of complaint. The Tamil Nadu Government maliciously wanted to prosecute TMMK. The letter dt.12.10.1998 issued by the Tamilnadu Government to Mr. Dutta links TMMK and CMRF when TMMK had not collected money. P.W.4 in his statement stated that he was not aware of the

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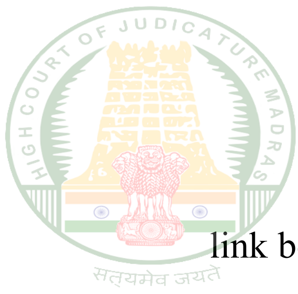
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link between CMRF and TMMK except for this letter. P.W.1 despite having authorisations to inspect both offices, only visited TMMK office and calls for CMRF documents to be produced in TMMK office. None of the accused viz. A1 to A5 has been examined by P.W.7 or P.W.9 and they have admitted to the same as well. Therefore prosecution against the accused was malafide, predetermined and motivated one.

7.5 Section 27 of the Act mandates that a court shall take cognizance of an offence under the Act, only if the officer is authorized by the Central Government. Hence, the officer has to prove that he has been authorized to this regard by the Central Government. P.W.6 accepts in his cross-examination that he has not produced any authorisation letter in terms of his empowerment to issue a Sanction Order. As per the decisions rendered in the case of *Mansukhlal Vithaldas Chauhan v. State of Gujarat reported in (1997) 7 SCC 622* validity of sanction would depend upon the materials placed before the sanctioning authority and that all the relevant facts, materials and evidence have been considered by the sanctioning authority. P.W.6 admitted that he has enclosed only the FIR and has only gone through FIR and statement of witness. Furthermore, it is important that the sanction

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has to be granted with an independent mind and not under pressure. In this case the sanction order manifests non-application of mind. P.W.6 admitted that sanction granted against Al and A2 merely because the letter solicited by the Assistant Director, FCRA contained Al and A2, which is grossly in violation of the requirement of an independent mind.

7.6 As per the decision of the Hon'ble Supreme Court, in the case of *Firozuddin Basheeruddin & Ors. V. State of Kerala, reportee in (2001) 7 SCC 596* to prove the conspiracy, evidence of accused is important, but, in the present case, A1 to A5 were not even examined. The judgement also stipulates that an agreement to conspire is essential, mere knowledge is insufficient to make out a case of criminal conspiracy and in the present case, the very knowledge of Al was non-existent. The learned Senior Counsel relying on the decision of the Hon'ble Supreme Court, in the case of *Kehar Singh v. State (Delh Admn.) reported in (1988) 3 SCC 609,* contended that irrelevant facts cannot be artfully arranged so as to give an appearance of coherence. The Hon'ble Supreme Court stipulates in the case of *K.R. Purushothaman v. State of Kerala reported in (2005) 12 SCC 631* that the meeting of minds is essential and mere knowledge and discussion is not

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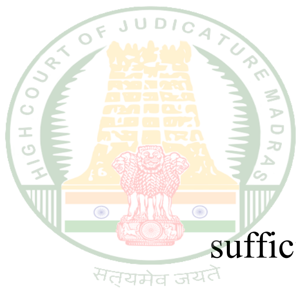

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sufficient. Meeting of mind to commit an offence / to do an illegal act can be established only by examining A1 to A5, which the prosecution in this case has failed to do so.

7.7 In the present case, the prosecution has attempted to allege conspiracy only because ledgers of CMRF were found in the office of TMMK on 18.02.2002 after the check period i.e. 15.12.1997-20.06.2000. In *State v. Nalini (1999) 5 SCC 253* para 583-586, the Hon'ble Supreme Court held that once the object of conspiracy has been achieved, any subsequent act, which may be unlawful, would not make the accused a part of the conspiracy like giving shelter to an absconder. Hence, finding the ledger of the CMRF in the office of TMMK, which is disputed, is totally irrelevant for the purpose of conspiracy. Further, if Books are found in the office of TMMK, that will not automatically implicate Al and A2 without any basis or material. Hence, there is no material or basis to convict Al and A2 for offences under Section 120B.

7.8 Section 2(1)(g) of the Act defines political party as a body / association registered with the Election Commission of India. The Trial

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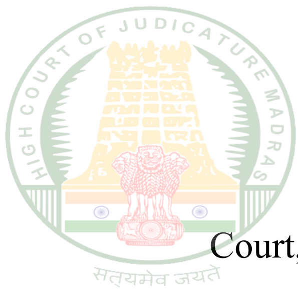
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Court, to conclude that TMMK is a political party, ought to have seen whether the prosecution has produced any document to show that TMMK is registered with the ECI. In a perverse manner, contrary to law, the Trial Court proceeded without any basis that TMMK is a political party. But, contrary to Section 103 of the Indian Evidence Act, the Trial Court has observed that the Auditor of CMRF and TMMK should have produced documents to show that TMMK is not a political party.

7.9 The Trial Court has pre-determined and proceeded that CMRF received foreign contributions without appreciating that the essential requirement of foreign contribution is a foreign source, and the prosecution ought to have proved beyond reasonable doubt that the monies received by CMRF are from a foreign source. In the present case, the prosecution has accepted that the monies have been received from Indian Muslims, and that will not be a violation of the Act. Further, they have also accepted that they have failed to verify the nationality of the contributors.

7.10 The Trial Court has observed that statutory documents have

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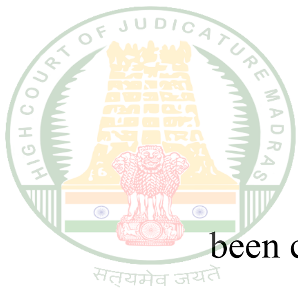
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been created for the present case which is absolutely perverse. The trial court has wrongly concluded that TMMK and CMRF exist in the same address, while prosecution documents Ex.P-4 clearly show the address of CMRF as No. 19. Ibrahimji Sahib St., 2nd Lane, Chennai. The Trial Court has wrongly concluded that CMRF has received foreign contributions not only from Indian Muslims who are working abroad but also from other nationals. This conclusion is totally perverse without any material, when the prosecution have themselves admitted that they have not investigated the nationality of the donors. The Trial Court has erroneously observed that Section 27 Sanction was obtained from the Central Government, when the witness himself has admitted that there is no proof of authorization. The Trial Court has erroneously concluded that Al and A2 have the chance to conspire, when the Court has to be convinced beyond reasonable doubt. Further, even the necessary requirements of criminal conspiracy was not proven.

7.11 The Appellate Court clearly concludes that accepting money from Indian Muslims abroad does not attract the provisions of the Act and also finds that the prosecution has failed to prove that monies have been collected from foreigners. That being so, the learned Judge found that the

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accused should have taken steps to establish the fact that the contributors are Indians. This finding of the Appellate Court is contrary to Section 103 of the Indian Evidence Act, 1872, where the burden is upon the prosecution to prove its case. While considering the sanction order, the Trial Court has failed to appreciate that Section 27 of the Act requires the authorization of the Central Government. P.W.6 accepts in his cross-examination that he has not produced any authorisation letter in terms of his empowerment to issue a Sanction Order. The sanction order has serious mistakes on facts and evidence, but the Appellate Court with the non application of mind, came to the conclusion that it is valid one. After observing that A3 to A5 opened the bank account and received foreign funds, the Appellate Court found Al and A2 committed conspiracy only because the Account books of CMRF were found in TMMK, which is erroneous and perverse. P.W.1 asked for the books of CMRF while sitting in the TMMK office and never visited the CMRF office. P.W.7 on 18.02.2002 received the books from Mr. Haroon Rasheed subsequent to the check period i.e. 15.12.1997-20.06.2000. Therefore, in essence, without any material to evidence an agreement of conspiracy, the offence of criminal conspiracy against Al does not hold good

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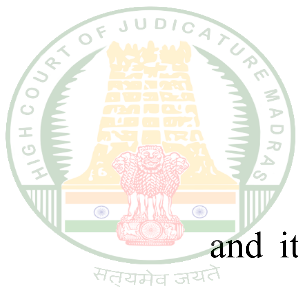
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and it cannot be said that the same has been established. To support the contentions, the learned Senior Counsel for the respective petitioners relied on the following decisions of the Hon'ble Supreme Court and the decision of the Delhi High Court:

1. (2022) 16 SCC 166 (Ram Sharan Chaturvedi vs. State of Madhya Pradesh)
2. 2021 SCC OnLine SC 1184 (Parveen @ Sonu vs. State of Haryana)
3. (2009) 17 SCC 92 (State of Punjab and another vs. Mohammed Iqbal Bhatti)
4. (2023) 5 SCC 522 (Premchand vs. State of Maharashtra)
5. 2014 SCC OnLine Del 1321 (Association for Democratic vs. Prashant Bhushan)

7.12 The learned Senior Counsel contended that in view of the above, the accused are entitled to acquittal and both the Courts below have committed an error in convicting the accused, which warrants interference of this Court.

8 Learned Special Public Prosecutor for CBI appearing for the respondent would submit that any foreign contribution received by any person, resident in India will attract the provisions of the Act. In this case receipt of money by way of foreign contribution by A3 to A5 has not been disputed and hence it is to be seen whether Section 4, 6 and 11 get attracted as against A3 to A5 or not. In Section 4(2)(a) of the Act the word 'foreign contribution' has been used distinctively. Section 2(c) of the Act defines the

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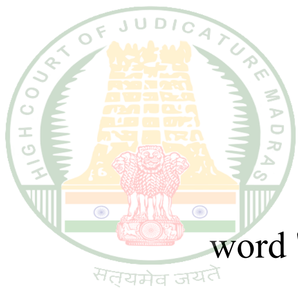

word 'foreign contribution' and Section 2(e) defines 'foreign source'.

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8.1 It is an admitted fact that CMRF has not been registered with the Central Government as required under Section 6(i)(a) of the Act and Section 6 uses the word only contribution. Hence, since the receipt of foreign contribution is proved by the prosecution, violation of Section 6 is clearly made out. No application has been made in the prescribed form by CMRF for obtaining prior permission to accept foreign contribution and hence violation of Section 7 is made out. Further it is to be noted that in Section 11, the word foreign contribution alone is mentioned and not foreign source and hence the offences under Sections 4, 6 and 11 of the Act are clearly made out.

8.2 The evidence of P.W.1 and Ex.P1 clearly proves the conspiracy to implicate A1 & A2. P.W.1, in cross examination, has stated that the address of CMRF has been shown as “C/o TMMK” and P.W.1 admits that the account books were brought to the room belonging to TMMK.

8.3 P.W.7, the Investigating Officer, who registered the case, has deposed that A3 to A5 are members of TMMK and has further deposed that A3 was functioning as Deputy President of TMMK and was holding the

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post of Treasurer of CMRF. P.W.8, who prepared statement of Accounts for CMRF has deposed that he prepared statement of Accounts for CMRF in the office of TMMK.

8.4 Even though A3 to A5 have started CMRF, but it issued receipts for the donations collected with the heading as C/o.TMMK, which was proved through Ex.P20 series. Exs.D1 to D3 and D7 proved the fact that CMRF was functioning in the address No.6, Vadamarakiyar Street, Chennai.

8.5 To support the contentions, the learned Special Public Prosecutor for CBI, relied on the decisions of the Hon'ble Supreme Court reported in *2023 1 SCC 329* in the case of *Vijay Rajmohan vs CBI, 2012 9 SCC 460* in the case of *Amit Kapoor vs. Ramesh Chander and 2014 SCC OnLine Del 1321* in the case of *Association for Democratic Reforms vs. Mr.Prashanth Bhushan.*

8.6 Therefore all the accused have committed offence under Section 120 B IPC and A3 to A5 committed offence under suctions 4(1)(e) r/w 23, 6 r/w 23 and Section 11 r/w 23 of the Act, 1976 and the trial Court

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rightly convicted the accused and awarded sentence. The VI Additional Judge, CI Additional City Civil Court, Chennai, as an appellate Court, on proper appreciation of facts, has rightly confirmed the conviction and sentence passed by the trial Court, which does not call for any interference of this Court.

9 Heard the learned Senior Counsel appearing for the respective petitioners/accused and the learned Special Public Prosecutor for CBI appearing for the respondent and perused the materials available on record.

10 It is the case of the prosecution that A1 to A5 entered into a criminal conspiracy to do illegal acts and formed an Association viz. TNMMK to accept the foreign contributions without registering the Association with the Government of India and without obtaining prior permission from the Government of India. In pursuance of the conspiracy, on 15.12.1997 A3 to A5 opened an Account No.3953 with Bank of India, Sowcarpet, Chennai, in the name and style of CMRF, with the address as

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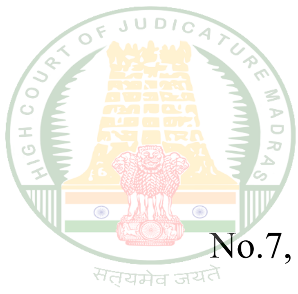
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No.7, North Mariakauyar Street, Chennai, as that of TNMMK. Between 15.12.1997 to 20.06.2000, CMRF received foreign contributions of Rs.1,54,88,508.07 from foreign sources and the same were deposited in account of CMRF without the registration or prior permission from Government of India and Reserve Bank of India as required under Section 6 and 11 of the Act and thereby A1 to A5 violated the provisions of Section 22 of the Act. Hence all the accused have committed offence under Section 120 B IPC and A3 to A5 committed offence under sections 4(1)(e) r/w 23, 6 r/w 23 and Section 11 r/w. 23 of the Act, 1976.

11 It is the main defence of the learned Senior Counsel for the petitioners/accused that the amounts were collected by CMRF, but the case was registered against TMMK, which clearly proves motive to prosecute TMMK. In this case admittedly contributions were received from Indian citizens, who are living in Foreign country, which is not an offence under the Act. To prove the conspiracy, evidence of accused is important, but, in the present case, A1 to A5 were not even examined and finding the ledger of CMRF in the office of TMMK, which is disputed, is totally irrelevant for the

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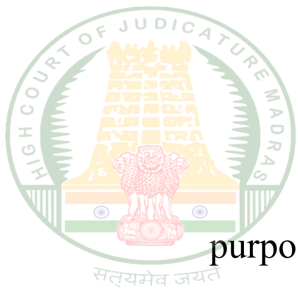
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purpose of conspiracy. Further the sanction order manifests non-application of mind. Prosecution has failed to prove that TMMK is a political party.

12 According to learned Senior Counsel for the respective petitioners TMMK is not a political party and the prosecution has failed to prove the same. But, it is to be noted that it is not the defence of the accused either before the trial Court or before the appellate Court that TMMK is not a political party and now before this Court, in the revisions, the accused have taken a different stand that TMMK is not a political party and even the prosecution witnesses was not cross examined on that aspect. The trial Court based on the oral and documentary evidence came to the conclusion that TMMK is a political party. Therefore the contention of the learned Senior Counsel that TMMK is not a political party cannot be accepted.

13 The other defence is that the amounts were collected by CMRF, but the case was registered against TMMK and the same clearly proved the motive to prosecute TMMK and to prove the conspiracy, evidence of accused is important, but, in the present case, A1 to A5 were not even

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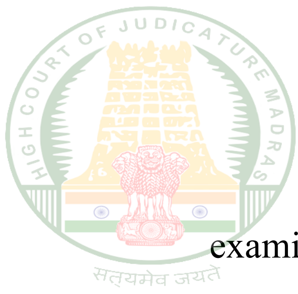
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examined and mere finding the ledger of CMRF in the office of TMMK, which is disputed, will not amount to conspiracy as alleged by the prosecution.

14 A careful reading of the evidence of P.W.1 to 9, D.W1 and Exs.P1 to 23 and also Exs.D1 to D7, would show that prosecution clearly proved that TMMK is a political party, in which A1 is the State President, A2 is the General Secretary, A3 is the State Deputy President and A4 & A5 are the Members. P.W.8, the then Accountant of CMRF had clearly deposed that he had worked as an Accountant for CMRF at the premises of TMMK in the year 2002. During the said period, officials of CBI had seized the account books in the premises of TMMK for which they had issued a receipt memo dated 13.02.2002, which is marked as Ex.P21, where the accused put his signature. Thereafter on 26.02.2003, when the CBI officials had seized some accounts book Ex.P23 and issued receipt memo, which is marked as Ex.P22 and the accused had put his signature on the same. Evidence of P.W.8, Exs.P21 to P23, P12 and P13 proved the fact that CBI officials visited the premises of TMMK and conducted inspection and collected

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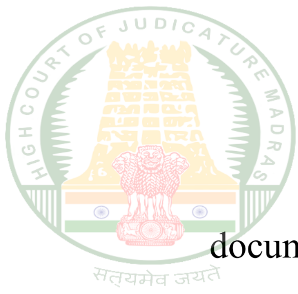
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documents relating to CMRF, which reveal that CMRF received foreign contribution under the care of TMMK. Even though CMRF was opened by furnishing address at No.19, Ibrahimiji Sahib Street, Second Lane, Mannadi, Chennai, but all the ledger account of CMRF were maintained at No.7, Marrikayar Street, Chennai, where TMMK is functioning. Ex.P20 series are the receipts issued by CMRF mentioning that CMRF is under the care of TMMK. Therefore evidence of P.Ws.3, 7, 8 and the documents Exs.P3 to 6, 14 to 23 proved the fact that A1 to A5 entered into criminal conspiracy and A3 to A5 opened account and received foreign contributions.

15 The other main defence of the petitioners/accused is that A3 to A5 have received foreign contribution only from Indian Muslims living in foreign, which would not amount to violations of provisions of the Act. But a careful perusal of the documents and evidence of P.W.9 proves that CMRF not only received contributions from Indian Muslims and it received contributions from individuals and association in India as well as from South Africa, Dubai, Singapore, Hong-Kong and UAE. To disprove the same, the petitioners/accused did not examine any victims, for whom they

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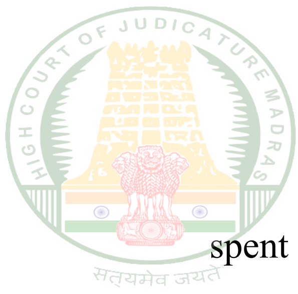
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spent the contributions received from foreign and did not mark any documents to prove that they received contributions only from Indian Muslims living in foreign countries. Therefore the trial Court came to the conclusion that accused committed offence under the Act.

16 Further the learned Senior Counsel contended that Ex.P9 Sanction Order is manifest violation of Section 27 of the Act and P.W.6 accorded sanction without application of mind. But, a careful perusal of Ex.P9 and evidence of P.W.6 shows that P.W.6, the Joint Secretary, Government of India, Ministry of Home Affairs, after perusing FIR and statement of witnesses, by applying his mind, has accorded sanction. It is useful to refer the decision of the Hon'ble Supreme Court reported in *(2023) 1 SCC 329* in the case of *Vijay Rajmohan vs. Central Bureau of Investigation (Anti Corruption Branch)* relied on by the learned Special Public Prosecutor, and the relevant portion of the same reads as follows"

> ***20.*** *Returning to the case facts, we have examined the correspondence and the long-drawn communications between CBI, the DoPT, and CVC. We found that the inquiry made by the*

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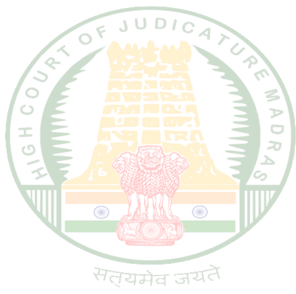
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appointing authority, the DoPT, was only for soliciting further information, and particularly the opinion given by CVC is also advisory. The sanction order of the DoPT dated 24-7-2017 is an independent decision of the department that was taken based on the material before it. Under these circumstances, we are not inclined to accept the first submission made on behalf of the appellant that the order of sanction suffers from illegality due to non-application of mind or acting under dictation."

17 Therefore once the prosecution has charged the accused for the offence under the provisions of the Foreign Contribution (Regulation) Act, 1976, and established through oral and documentary evidence, it is for the accused to prove that they received foreign contributions only from Indian Muslims and spent the same for the welfare of the victims, which was not done by the accused.

18 The trial Court based on the oral and documentary evidence came to the conclusion that prosecution has proved its case and the accused violated the provisions of the Act and hence convicted the accused. The appellate Court also re-appreciated the entire evidence and confirmed the

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conviction recorded by the trial Court.

19 It is settled proposition of law that this Court being a Revisional Court, cannot interfere with the judgment of the Courts below, unless there exist perversity or illegality. The jurisdiction of the Revisional Court under Section 376 is very limited and it can only examine the legality, proprietary and correctness of the order passed by the Courts below. It is useful to refer the decisions of the Hon'ble *Supreme Court reported in (2012)9 SCC 460* in the case of *Amit Kapoor vs. Ramesh Chander* and another relied on by the learned Special Public Prosecutor for CBI Cases and the relevant portion of the decision is extracted hereunder:

> *"12. Section 397 of the Code vests the court with the power to call for an examine the records of an inferior court for the purposes of satisfying itself as to the legality and regularity of any proceedings or order made in a case. The object of this provision is to set right a patent defect or an error of jurisdiction or law. There has to be a well-founded error and it may not be appropriate for the court to scrutinise the orders, which upon the fact of it bears a token of careful consideration and appear to be in accordance with law. If one looks into the various judgments of this Court, it emerges that the revisional jurisdiction can be invoked where the decisions under*

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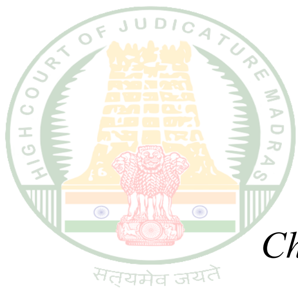
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Challenge are grossly erroneous, there is no compliance with the provisions of law, the finding recorded is based on no evidence, material evidence is ignored or judicial discretion is exercised arbitrarily or perversely. There are not exhaustive classes, but are merely indicative. Each case would have to be determined on its own merits."

20 Therefore Revisionsal Court, especially while dealing with Revision against concurrent findings of the Courts below, should exercise its jurisdiction, where the decisions under the challenge are grossly erroneous, there is no compliance with the provisions of law, the findings recorded are based on no material evidence and the judicial discretion has been exercised arbitrarily or perversely, however, it also requires justice to be done. The decisions relied on by the learned Senior Counsel for the respective petitioners are not applicable to the facts of the present case on hand. The decisions referred to by the learned Special Public Prosecutor are applicable to case on hand.

21 On reading of the entire materials and the legal provisions, this Court does not find any perversity in appreciation of evidence by both the

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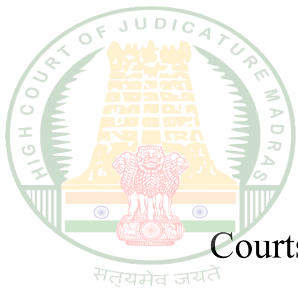
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Courts below and this Court does not find any patent error or illegality or infirmity in the judgments of the Courts below. There is no merit in the revisions.

22 Hence, all the criminal revisions shall stand dismissed. However, in lieu of Ramzan, 30 days time is granted for the accused to file an appeal, from today. After expiry of 30 days, if the petitioners could not obtain any fruitful order in their favour in the appeal, the trial Court is directed to secure the accused to serve remaining period of imprisonment, if any.

14.03.2025

Neutral Citation : Yes/No
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To

1. VI Additional City Civil Judge, Chennai.
2. The Additional Chief Metropolitan Magistrate, Chennai,
3. The Public Prosecutor, High Court of Madras.

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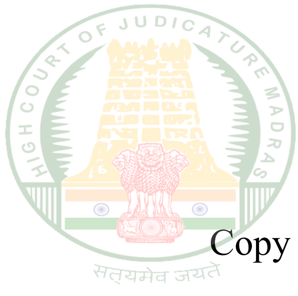

Copy to: 1) The Section Officer, Criminal Section, High Court Madras

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2) The Section Officer, ER Section, High Court Madras

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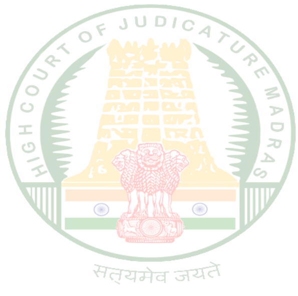

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P.VELMURUGAN, J.,

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Pre-Delivery Order in
Crl.R.C.Nos.832, 833 and 836 of 2017

14.03.2025

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