JUDICIAL MAGISTRATE COURT NO.1, PERAMBALUR

PRESENT: TMT.V.C.THAARINI, B.A., B.L.(HONS), M.L.,
Judicial Magistrate No.1, Perambalur.

Monday, 10th day of August, 2026

<u>CC No. 236 of 2017</u>
(CNR No.TNPB020014662017)

(Original CC No. 32/2010 on the file of Judicial Magistrate, Ariyalur.)

Name of the Police Station and the Crime Number of the offence	:	State of Tamilnadu, Rep. by Inspector of Police, CCIW- CID, Perambalur, Cr. No.3/2009 u.ss.467, 418, 471, 409, 477(A) of IPC r/w 120B, 34, 109 of IPC
Name of Accused	:	1.K.Rajagopal (60/2009), (Special Officer) S/o. Kuppusamy, 9/129, Kanchi Nagar, Seelanayakanpatty, Salem. 2.M.Kalyanasundaram (54/2009),(Supervisor) S/o. Meenakshisundaram, No.28, Sambasivam Pillai Street, Ariyalur. 3.V.Sugumar (60/2009), (Supervisor) S/o.Veeraragavan, No.266, Venkatajalapathy Nagar, New Bus Stand, Perambalur. 4.M.Devendiran (30/2009), (Junior Assistant) S/o.Muthusamy, Keela Arusur Post,
Father's Name of Accused	:	
Residence	:	
Occupation	:	
Age	:	

		Keelaperambalur, Perambalur District. 5.R.Rajendiran (45/2009), (Junior Assistant) S/o.Rethinam, Kavadi Street, Keelaperambalur, Perambalur District. 6.R.Manikandan (29/2009), (Harini Traders Manager) S/o.Rajagopal, 9/129, Kanchi Nagar, Seelanayakanpatty, Salem. 7.G.Arunagiri (56/2009), (Manager, Sri P.P.P. Anna Lakshmi Marriage Hall), ***(Died)*** S/o.Ganesan, 105, Big South Street, Perambalur. 8.Sathiyanarayanan (42/2009), (Owner, Sri Venkateshwara Suppliers) S/o.Chinnachennaiah, Trichy Main Road, Settiyar Street, Perambalur.		
Date of occurrence	:	1995-2003		
Remand period of accused	:	**Accused**	**Remanded on**	**Released on**
		A1, A4	--	--
		A2, A3, A5, A7, A8	28.04.2009	11.05.2009
		A6	Abscond	Abscond
Date of filing Final Report	:	02.02.2010		

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<tr><td>Date of cognizance</td><td>:</td><td>12.02.2010</td></tr>
<tr><td>Commitment</td><td>:</td><td>--</td></tr>
<tr><td>Date of questioning of Accused u/s.228, 240, 246 and 251 of Cr.PC.</td><td></td><td>16.02.2017</td></tr>
<tr><td>Date of examination of witnesses</td><td>:</td><td>
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<tr><th>Witnesses</th><th>Chief</th><th>Cross</th></tr>
<tr><td>PW1</td><td>09/03/2023
24/02/2025</td><td>09/03/2023
24/02/2025</td></tr>
<tr><td>PW2</td><td>25/07/2019</td><td>25/07/2019</td></tr>
<tr><td>PW3</td><td>10/11/2022</td><td>10/11/2022
08/12/2022</td></tr>
<tr><td>PW4</td><td>05/01/2023</td><td>05/01/2023</td></tr>
<tr><td>PW5</td><td>19/01/2023</td><td>19/01/2023</td></tr>
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<tr><td>PW7</td><td>19/01/2023</td><td>19/01/2023</td></tr>
<tr><td>PW8</td><td>02/03/2023</td><td>02/03/2023</td></tr>
<tr><td>PW9</td><td>02/03/2023</td><td>02/03/2023</td></tr>
<tr><td>PW10</td><td>02/03/2023</td><td>02/03/2023</td></tr>
<tr><td>PW11</td><td>17/08/2023</td><td>17/08/2023</td></tr>
<tr><td>PW12</td><td>24/08/2023</td><td>24/08/2023</td></tr>
<tr><td>PW13</td><td>24/08/2023</td><td>24/08/2023</td></tr>
<tr><td>PW14</td><td>07/09/2023</td><td>07/09/2023</td></tr>
<tr><td>PW15</td><td>05/10/2023</td><td>05/10/2023</td></tr>
<tr><td>PW16</td><td>21/12/2023</td><td>31/01/2024
08/02/2025</td></tr>
<tr><td>PW17</td><td>18/10/2024</td><td>18/10/2024</td></tr>
<tr><td>PW18</td><td>05/05/2025</td><td>05/05/2025</td></tr>
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<tr><td>Date of questioning u/s. 313(1)(b) of Cr.PC</td><td></td><td>24.10.2024 & 12.05.2025</td></tr>
<tr><td>Filing of all Misc. petitions and their results including the ones on challenge before Superior Courts, except routine petitions like S.317 of Cr.P.C.</td><td>:</td><td>
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<tr><th>Crl. MP No.</th><th>u/s.</th><th>Result</th><th>Appeal, if</th></tr>
<tr><td>1)2396/2024</td><td>311Cr.P.C</td><td>Allowed</td><td>-</td></tr>
<tr><td>2)346/2025</td><td>311Cr.P.C</td><td>Allowed</td><td>-</td></tr>
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Sentence or Order	:	10.08.2026
Service of copy of Judgment or finding on Accused	:	No. Acquittal
Explanation of delay	:	--

This case came before me on 13.07.2026 in the presence of Gr.I-Assistant Public Prosecutor for Prosecution, and Mr.Ravi Daniel Raj, Advocate for the accused A1, A6 and Mr. T.Senthilraja, Advocate for the accused A2, A3 and Mr.S.Manivannan, Advocate for the accused A4, A5, A7 and A8 and upon perusal of records and hearing the arguments on both sides and having stood over this day for consideration, this Court delivers the following.

JUDGMENT

This case is arising out of a final report filed under Section 173 of the Code of Criminal Procedure, 1973 (hereinafter referred as "Cr.P.C"), by the CCIW- CID, Perambalur, against the accused persons, for offences punishable under Sections 467, 418, 471, 409, 477(A) of IPC r/w 120(b), 34, 109 of the Indian Penal Code, 1860 (hereinafter referred as "IPC").

2. Gist of the facts of the case as per the final report:-

The 1st accused (Special Officer) along with the accused persons 2, 3 (Supervisors), 4 and 5 (Junior Assistants) was working with the Perambalur District Consumer Cooperative Wholesale Store. These accused persons were given the duty of preparation of sweets for Diwali festival for the year 2006. They recorded a purchase of 7,826.950 kg of raw materials for the same purpose. Whereas, the final output revealed an actual production of 5,602.712 kg only. Even after making allowance of 10% for wastage, there is an unexplained deficit of 1,441.75 kg. The accused persons 1 to 5 conspired with accused persons 6, 7 (private business managers) and 8 (private business owner), intentionally used low-grade and cheap ingredients to manufacture substandard and underweight sweets while wrongfully gaining an amount of Rs.4,18,650/- from the funds allocated for premium materials, by forging records for the same purpose. Details of the alleged misappropriation done for the sake of preparation of sweets, as tabulated below:-

S.No	Date of the disputed invoice	Vendor details	Material/service	Alleged misappropriation
1	06.10.2006	6th accused	700 kg of cashew nut	Rs.1,40,000
2	06.10.2006	6th accused	254 liters of ghee	Rs.70,625
3	06.10.2006	6th accused	Plastic containers for sweets	Rs.30,616
4	06.10.2006	7th accused	Place for preparation of sweets-rental advance, electricity bill, salary for one employee	Rs.1,43,825
5	06.10.2006	8th accused	Rental utensils and cylinder	Rs.33,800
				Total Rs.4,18,650

Hence this case as against the accused persons for offences under Sections 467, 418, 471, 409, 477(A) r/w 120(b) of IPC and as against the accused persons 2 to 8 for offences under Sections 467, 418, 471, 409, 477(A) r/w 120(b), 34, 109 of IPC.

3. Proceedings before the Court:-

On perusal of records, cognizance was taken and summons were ordered to be issued to the accused persons. On their appearance, copies were furnished free of cost. The accused persons were questioned with regard to the substance of accusation, for which they pleaded “not guilty” and stated that a false case has been concocted as against them. Charges were framed under Sections 467, 418, 471, 409, 477(A)(5 counts) r/w 120(b) of IPC against the 1st accused and charges were framed under Sections 467, 418, 471, 409 r/w 34, 109 of IPC, 477(A)(5 counts) r/w 120(b) of IPC against the accused persons 2 to 8. These charges were read out and explained to them in Tamil.

4. Gist of the case of the prosecution as seen from the evidence submitted:-

(a) Summons were ordered to be issued to the witnesses on the side of the prosecution. On the side of the prosecution, PW1 to PW18 were examined and Exhibits P1 to P45 were marked. PW16 and PW17 are the investigating officers of the present case.

(b) Mr.Sivasenthilkumar, Sub-Inspector of Police (PW16), deposed that on 28.04.2009, he received a complaint in Letter No.15/2009 from the Superintendent, CCIW-CID and registered a FIR in Crime No.3/2009, under Sections 409, 408, 477-A IPC (Exhibit P13B). He allegedly enquired the complainant Mr.Ganesan (PW1) on the same day, recorded his statement and obtained the Inquiry Report under Section 81 of the Act (Exhibit P45) from him. He allegedly enquired Mr.Sivagnanam, Inquiry Officer, who narrated about the alleged happening and recorded his statement.

(c) He further stated that he proceeded to arrest the accused persons on coming to know that the complaint was true, remanded them to judicial custody and then enquired the other witnesses (Mr.Jayaraman-PW12, Mr.Chinnathambi-PW7, Mr.Veerabaskar, Mr.Kesavan-PW11, Mr.Selvaraj-PW15, Mr.Dakshinamoorthy-PW8, Mr.Sakthivel, Mr.Subramanian-PW9, Mr.Selvaraj, Mr.Somasundaram-PW5, Mr.Manivannan-PW4, Mr.Govindaraj, Mr.Jayaraj-PW6, Mr.Velusamy, Mr.Lakshmi, Mr.Ranganathan and Mr.Kasinathan-PW10).

(d) He then stated that he seized the following documents concerning the case:-

i) Bill No. 22 dated 06.10.2006 of the 6th accused- Exhibit P14

ii) Bill No. 272 dated 07.10.2006 of the 6th accused- Exhibit P15

iii) Bill No. 273 dated 07.10.2006 of Suresh Traders- Exhibit P14

iv) Bill No.1 dated 07.10.2006 of Sri Meenakshi Stores- Exhibit P17

v) Bill No.97 dated 03.10.2006 of Kairasi Agency- Exhibit P18

vi) Bill No.6531 dated 03.10.2006 of Nandhu Dalmils- Exhibit P19

vii) Bill No. 123 dated 06.10.2006 of the 6th accused- Exhibit P20

viii) Bill No. 124 dated 06.10.2006 of the 6th accused- Exhibit P21

ix) Bill No. 302 dated 15.10.2006 of Suresh Traders- Exhibit P22

x) Bill No. 297 dated 12.10.2006 of Suresh Traders- Exhibit P23

xi) Bill No. 298 dated 12.10.2006 of Suresh Traders- Exhibit P24

xii) Bill No. 6157 dated 10.10.2006 of Surya Baking- Exhibit P25

xiii) Bill No.6302 dated 10.10.2006 of Surya Marketing- Exhibit P26

xiv) Bill No.6303 dated 10.10.2006 of Surya Marketing- Exhibit P27

xv) Bill No.Nil dated 19.10.2006 of Balaji Travels- Exhibit P28

xvi) Bill dated 21.10.2006 of Sri P.P.P.Annalakshmi Thirumana Mahal- Exhibit P29

xvii) Bill No.781 dated 21.10.2006 of Sri Venkateshwara Suppliers- Exhibit P30

xviii) Office Order and documents 1 to 13 of the Perambalur District Consumer Cooperative Wholesale Store- Exhibit P31

xix) Voucher obtained by the 3rd accused before the Superintendent and cheque-deposit voucher dated 20.10.2006- Exhibit P32

xx) Receipt Nos.151 to 155 dated 12.10.2006 showing handover of sweets to the 3rd accused- Exhibit P33

xxi) Receipt Nos.1 to 14 concerning sale of sweets

xxii) Bill Nos.1 to 27 concerning sale of sweets from Ariyalur branch

xxiii) Bill Nos.1 to 27 concerning sale of sweets from Jeyamkondan branch

xxiv) Register entries in pages 1 to 25 concerning sale of sweets- Exhibit P34

xxv) Register entry concerning sale of sweets in Perambalur branch- Exhibit P35

xxvi) Register entry concerning sale of sweets in Jeyamkondan branch- Exhibit

P36

xxvii) Register entry concerning sale of sweets in Ariyalur branch- Exhibit P37

xxviii) Report of the Principal, State Institute of Hotel Management and Catering Technology dated 16.08.2007

xxix) Day book from 01.09.2006 to 01.10.2006 of Perambalur District Consumer Cooperative Wholesale Store- Exhibit P38

xxx) Day book from 01.11.2006 to 28.12.2006 of Perambalur District Consumer Cooperative Wholesale Store- Exhibit P38

xxxi) Voucher showing that the 3rd accused obtained the cheque on 20.10.2006- Exhibit P40

xxxii) Cheque deposit slip dated 29.09.2006 of Perambalur District Consumer Cooperative Wholesale Store- Exhibit P41

xxxiii) Cheque deposit slip dated 09.10.2006 and 11.10.2006 of Perambalur District Consumer Cooperative Wholesale Store- Exhibit P42 and Exhibit P43

(e) Mr.Selvam, Deputy Superintendent of Police (PW17), continued the investigation of the case after PW17 got transferred. He stated that he did not record the statement of the witnesses as they reiterated the statements given by them to PW16. The order dated 25.06.2007 by the Deputy Registrar of the Cooperative Societies appointing late Mr.Sivagnanam as the Inquiry officer was marked as Exhibit P44.

(f) *He further narrated the case as follows:*

(i) The 1st accused passed an order dated 29.09.2006 for preparation of sweets for the purpose of sale and entrusted the 3rd accused with the same task. The 3rd accused obtained an advance of Rs.1,00,000/- for this purpose, on sanction of the 1st accused, who ordered preparation of 10,000 kg sweets. The 3rd accused additionally obtained an amount of Rs.3,92,000/- for this purpose and procured raw materials for the sake of preparation of sweets from Perambalur and Salem. The procurement of raw materials was done by the accused persons 1 to 3 and the 3rd accused rented Annalakshmi Marriage hall for the purpose of preparation of sweets.

(ii) The weight of the raw materials was 7826.950 kg, but the weight of the sweets prepared was 5602.500 kg. An opinion was sought from the Principal of State Institute of Hotel Management and Catering Technology, Trichy, was obtained with regard to the deficit of 2224.450 kg. The Principal had given a report that after the permitted wastage of 10%, the weight of the sweets had to be 7044.255 kg, that there is a deficit of 1441.755 kg and that the accused persons 1 to 3 are responsible for this deficit.

(iii) As per Bill No.22 dated 06.10.2006, 700 kg of cashew nuts were obtained from Harini Traders, at the rate of Rs.200 per kg. The 4th accused is the author of this bill. It was found out from the enquiry of the 4th accused that no raw materials were actually procured from Harini Traders. Thus an amount of Rs.1,40,000/- came to be misappropriated through the above-mentioned bill. The accused persons 1, 2 and 4 are responsible for this.

(iv) As per Bill No.123 dated 06.10.2006, ghee was obtained from Harini Traders, at the rate of Rs.2825/- per tin. The 5th accused is the author of this bill. It was found out from the enquiry of the 5th accused that no raw materials were actually procured from Harini Traders. Thus an amount of Rs.70,625/- came to be misappropriated through the above-mentioned bill. The accused persons 1, 2 and 5 are responsible for this.

(v) As per Bill No.124 dated 06.10.2006, plastic sweet boxes were obtained from Harini Traders. The 5th accused is the author of this bill. It was found out from the enquiry of the 5th accused that no boxes were actually procured from Harini Traders. Thus an amount of Rs.30,400/- came to be misappropriated through the above-mentioned bill. The accused persons 1, 2 and 5 are responsible for this. Details were obtained from the Assistant Commissioner of Commercial Taxes Department, Salem in Exhibit P11 that the 6th accused is the Manager of Harini Traders. Thus the 6th accused has created false bills that the materials mentioned-above were sold.

(vi) It was found out from the enquiry of the 7th accused who was the Manager of Anna Lakshmi Marriage Hall that bills were created to show expenditure of Rs.1,43,825/- in total (for rent of the marriage hall, electricity charges, salary of cook). The accused persons 1, 2, 3 and 7 are responsible for this. And it was found out from the enquiry of the 8th accused, the owner of Sri Ventateshwara Suppliers, that bills were created to show expenditure of Rs.33,800/- for taking rent of utensils and Rs.15,300/- for gas cylinders. The accused persons 1, 3 and 8 are responsible for this.

(vii) The signatures of the accused persons were sent for comparison to the Forensic Department in Chennai and the statement of Mrs.Vasantha Sundari (Expert) was also obtained. The statement of the other witnesses were recorded and the final report was later filed as against the accused persons under Sections 467, 418, 471, 409, 477(A) of IPC r/w 120(b), 34, 109 of IPC.

5. Questioning under Section 313 of Cr.P.C:-

On closure of the evidence on the side of the prosecution, the accused persons 1 to 8 were questioned with regard to the incriminating circumstances in the evidence as against them, as per Section 313 of Cr.P.C. They denied the evidence as false and stated that there is no evidence on the side of the defence.

6. Arguments:-

The 7th accused passed away at the stage of arguments. The counsel for the accused persons 1, 6, 4, 5, 7, 8 argued that a false case has been concocted as against the accused persons, the real culprits were left scot free and some have been named as witnesses, the Inquiry report that was submitted is improper and cannot be relied upon. They also pointed out that the discrepancies in the investigation. The case laws relied by them shall be discussed below.

7. Point for determination:-

Whether the prosecution proved the guilt of the accused persons 1 to 6 and 8 beyond reasonable doubt?

8. Discussion and reasoning:-

(a) The case of the prosecution is that the accused persons 1 to 5 conspired with accused persons 6, 7 (private business managers) and 8 (private business owner), intentionally used low-grade and cheap ingredients to manufacture substandard and underweight sweets while wrongfully gaining an amount of Rs.4,18,650/- from the funds allocated for premium materials, by forging records for the same purpose.

(b) First of all, the prosecution has to produce documents such as Resolutions and Bye-laws of the Society to show the duties and responsibilities fixed upon each accused. But, in this case, the prosecution failed to produce any such document to show the duties and responsibilities fixed upon the accused persons.

(c) Inquiry report:-

(i) PW17 narrated the case of the prosecution in his chief-examination. He stated in his cross-examination that he finalised the case of the prosecution not only on the basis of the final report filed by him, but also on the basis of Exhibit P45, the Inquiry report. Thus the Inquiry report plays a vital role in the present case.

(ii) The counsel for the accused persons raised a defence that the Inquiry report came to be filed after a long delay. The order dated 05.01.2022 of the Hon'ble Madras High Court in the case ***D.Chittaranjan v. State***, in Crl.R.C.No.554 of 2015 and the order of the Hon'ble Madras High (DB) dated 08.08.2024 (by the counsel for the accused persons 4, 5, 7 and 8) in ***PT-2 Perambalur District Consumer Co-operative Wholesale Stores Limited v. The Principal Secretary and others***, in W.A.No.1144 of 2022 (by the counsel for the accused persons 1 and 6) were relied upon.

(iii) In the present case, inquiry was ordered on 25.06.2007. The Inquiry officer ought to have completed the inquiry on 24.09.2007. But he filed the Inquiry report only on 12.08.2008. No extension of time was obtained for completion of the inquiry. Thus the procedure adopted as such is improper. However, in the case ***S.V.K.Sahasramam Vs. The Deputy Registrar,*** in Writ Appeal No.949 of 2008, the Divison Bench of Hon'ble Madras High Court held by order dated 29.08.2008 as follows:-

"12. We, therefore, affirm the order of the learned single Judge in this case. We

are of the view that in a case where there are allegations of embezzlement and misappropriation of public funds, the members of general public who have been cheated have no control over those who hold the enquiry in respect of the time limit. To hold that such an enquiry which has been continued beyond the time limit is bad would cause great injustice.

13. Therefore, if such enquiry is continued beyond the time limit mentioned in the relevant statute, the said time cannot be held to be mandatory in view of the principles laid down in Montreal Street Railway Company (supra), which has been affirmed by the Supreme Court."

(iv) Thus we can see that non-conformity to the stipulated time period will not render the enquiry void. Moreover, the Inquiry report is only a piece of evidence relied upon by the prosecution and the Investigating officer ought to have investigated the case independently to file the final report. In these circumstances, the defence that the entire proceedings will be vitiated as the Inquiry report has not been filed within time cannot be considered. The order dated 08.08.2024 relied by the counsel for the accused persons 1 and 6 is subsequent to the above-mentioned order and as per the law of precedents, the above-mentioned order shall be followed. The other order relied upon pertaining to this issue emanates from a Single Bench. While so, the above-mentioned order of the Division Bench of the Hon'ble High Court shall only prevail.

(v) The counsel for the accused persons 4, 5, 7 and 8 relied on the order dated 20.04.2023 of the Hon'ble Madras High Court in the case ***Narasimhan v. The Inspector of Police,*** *in Crl.R.C.(MD)No.758 of 2017* and argued that the Inquiry report came to be marked only in the end by recalling PW1, a copy of a copy has been marked and that the same is not admissible in evidence. The counsel also relied on the order dated 20.04.2024 of the Hon'ble Madras High Court in the case ***N.Subramaniyan v. The Joint Registrar*** and the order dated 04.09.2024 of the Hon'ble Madras High Court in the case ***G.Pandiyan v. State,*** in Crl.R.C.No.834 of 2021 and argued that the accused persons have been wronged as the Inquiry report was not supplied to them during compliance of Section 207 of Cr.P.C.

(vi) It is seen that after his examination on 09.03.2017, PW1 was recalled on 24.02.2025 and examined for marking of Exhibit P45 (certified copy). During his cross-examination, PW1 stated that he does not know where the original document of Exhibit P45 is. He further admitted that Exhibit P45 has not been certified on verification with the original. A certified copy can be relied upon only when it is certified on comparison with the original. Exhibit P45, which is the basis of the entire criminal proceedings, has not been certified from the original.

(vii) Mrs. Elanchelvi (PW18), Deputy Registrar of Cooperative Societies, deposed that she certified Exhibit P45 with the available office copy of the document. During her cross-examination, she affirmed that she certified a xerox copy after comparison with a copy of the same nature. She stated that a requisition was given by the police to issue a certified copy, as the original allegedly got lost. The said requisition has not been marked as a document. This confirms the fact that the Inquiry report has not been produced before this Court in a proper manner, making us question its admissibility as a document.

(viii) The counsel for the accused persons 4, 5, 7 and 8 relied on the order dated 25.03.2010 of the Hon'ble Madras High Court in the case ***G.Nagarajan v. State,*** in CrlA.No.1033 of 2022 and argued that there is no proof to show that the enquiry was conducted in the department in a fair manner as the supporting documents have not been filed along with the report. It is true that the contemporaneous records demonstrating the manner in which the enquiry progressed i.e., the original records examined, notices issued, statement of witnesses etc., have not been produced.

(ix) The counsel for the accused persons 4, 5, 7 and 8 relied on the order dated 01.06.2021 of the Hon'ble Madras High Court in the case ***D.Krishnamoorthy v. The Registrar of Co-operative Soceity*** in W.P.Nos.12476 and 12984 of 2021 and argued that PW1 did not come to any independent conclusion about forwarding of Exhibit P1, but rather acted in a mechanical manner. PW1 deposed during his cross-examination that he does not know if it is mandatory to take criminal action if surcharge proceedings have been initiated under the Act based on Exhibit P1. This shows that there is a possibility of him to have mechanically forwarded Exhibit P1 for initiation of criminal action also. Furthermore, PW16 admitted in his cross-examination dated 31.01.2024 that PW1 does not know about the details of the case and that the complaint in Exhibit P1 was forwarded by him only on the basis of the Inquiry report (Exhibit P45). This futher proves that PW1 did not come to any independent conclusion.

(d) Faulty investigation:-

(i) Mr. Ganesan (PW1) Deputy Registrar, deposed that the Inquiry officer completed his enquiry under the Act on 12.08.2008 and handed over the report (Exhibit P45) to him and that he sent the report through proceedings in Exhibit P1 to the Commercial Crime Investigation Wing. The date of Exhibit P1 is 27.01.2009. The date of registration of FIR is 28.04.2009. There is a delay in registration of the FIR and no proper explanation has been given for the same.

(ii) Mr. Syed Kamaal Batsha (PW2), deposed that he occupied the chair as the Special Office after the 1st accused, that he learnt that the spoilt sweets worth Rs.3,00,000/- were available in the Stores and that he submitted a report dated 25.05.2007 pertaining to this to the Assistant Registrar. He stated during his cross-examination that the sweets got spoiled as they could not be sent to the stores on time due to election. Importantly he revealed a fact that one Mr.Manivannan (PW4) was suspended from service on 16.07.2013 pertaining to the issue concerning preparation of sweets. But this person has not been named as an accused in the present case.

(iii) We can also see that the report allegedly submitted by PW2 is the genesis of the departmental proceedings. But this report has not been produced. In the absence of this report, this Court is unable to independently examine its contents, the precise allegations contained therein which formed the basis of the subsequent enquiry.

(iv) PW16 stated in his chief-examination that he enquired PW1 on the same day (i.e., on 28.04.2009) on which he registered the FIR and obtained the Inquiry report from him. But in his cross-examination, PW16 has stated that the Inquiry report was given to him by the Inquiry officer himself. This Inquiry report was neither marked by PW1 nor PW16, as discussed above. Moreover, PW16 stated that the Inquiry officer did not produce the statements of the witnesses he inquired. This makes us doubt as to whether PW16 perused the Inquiry report before registration of the FIR or not. The most shocking revelation happens during the cross-examination of PW16 dated 08.02.2024, wherein he states that he did not enquire witnesses before registration of FIR. This is against his statement in his chief-examination, wherein he has stated that he enquired PW1 and the Inquiry officer late Mr.Sivagnanam before registration of FIR.

(v) PW17 stated in his cross-examination that he enquired PW16. But the statement of PW16 has not been recorded by him.

(vi) PW16 admitted in his cross-examination that the quantum of misappropriation are stated differently in FIR, final report and in Exhibit P45.

(vii) The counsel for the accused persons 4, 5, 7 and 8 relied on the order dated 15.09.2021 of the Hon'ble Madras High Court in the case ***Sundaramoorthy and another v. State*** in Crl.R.C.Nos.12 and 39 of 2015 and argued that the investigation is not reliable as no opinion has been obtained from the handwriting experts. It is true that no document has been submitted concerning expert opinion on the signature or the handwriting of the accused persons.

(viii) PW16 further stated in his cross-examination dated 31.01.2024 that the accused persons 2 and 3 were not involved in the preparation of sweets. This is entirely against the case of the prosecution.

(ix) Another shocking revelation by PW16 during his cross-examination dated 31.01.2024 is that he did not bother to know about the departmental proceedings (surcharge proceedings) conducted. PW17 also stated the same during his cross-examination. He also feigned ignorance with regard to the fact that surcharge proceedings were conducted and that an order was passed against sixteen persons in total. If the order was passed as against sixteen persons in total, what made this prosecuting agency to cherry-pick only five persons from the department as accused in the present case, is a question that deserves to be answered. But the prosecution is unable to give any explanation for this bias, as the investigating officers PW16 and PW17 did not even bother to even learn about the surcharge proceedings.

(x) PW16 admitted in his cross-examination dated 31.01.2024 that PW11 stated during his enquiry that he was engaged in preparation of records for manufacture of sweets. It was further admitted by him that PW11 passed administrative orders pertaining to manufacture of sweets. He failed to give proper explanation as to why PW11 was not named as an accused in the present case. Mr.Kesavan (PW11), who worked as the Manager, deposed that he signed in Exhibit P9 (office order pertaining to the preparation of sweets) only because the 1st accused asked him to sign. He stated that he does not remember the facts concerning the surcharge proceedings initiated against him.

(xi) Though PW17 stated in his chief-examination that he came to a conclusion that the accused persons committed crimes only after examining them, he stated in his cross-examination that he never examined the accused persons. This statement of PW17 in his cross-examination makes this Court doubt as to how he came to a conclusion as against the accused persons.

(xii) PW16 also stated in his cross-examination dated 08.02.2024 that he never cared to learn about the varieties of sweets that were prepared. One of the allegation is that there the boxes as alleged for packing of sweets were not procured as alleged. During his cross-examination, PW16 stated that he did not enquire with regard to the details of the container in which the sweets were given.

(xiii) PW16 stated in his cross-examination dated 31.01.2024 that he did not enquire any independent witness regarding taking the marriage hall on rent. He further stated that no documents have been filed to show the guilt of the accused persons 7 and 8. He failed to give proper explanation as to why other private suppliers who were engaged in the process were not named as accused persons in the present case. PW17 stated in his cross-examination that he did not bother to enquire about the daily rent for the marriage hall, the number of persons engaged for preparation of sweets in the hall and about the number of days the hall was taken on rent.

(xiv) Objection was raised by the counsel for the accused persons while marking of Exhibits P14 to P43 by PW16. These are documents of the Society concerning transactions that took place with regard to sweet manufacture, bills of agencies outside the society and others. With regard to the documents of the Society, this Court is hard put to understand as to why they were marked through PW16, instead of the employees of the Society who deposed before the Court/who maintained those documents. Some of the documents are incomplete, as rightly pointed out by the counsel for the accused persons.

(xv) Moreover, as per the final report and the statements submitted before this Court, PW16 is seen to have enquired PW1 on 12.05.2009 only. There is no mention that the documents in Exhibit P14 to P43 were obtained from PW1 during enquiry. PW16 later contradicted his own statement in his cross-examination and stated that the above-mentioned exhibits were obtained by PW17 and not him. PW17 deposed that the documents were obtained by PW16 only. During his cross-examination dated 08.02.2024, PW16 stated that he does not know as to who maintained Exhibits P14 to P43. He was also unable to name even one witness who stated to him about the involvement of Exhibits P14 to P43. In this scenario, the reliability of these documents are in question.

(xvi) PW16 stated during his cross-examination dated 08.02.2024 that the Stock Register that would show the details of the raw materials procured was not seized by him or PW17. The Stock Register is a crucial document as charges of embezzlement has been made concerning procurement of raw materials. No explanation has been given as to why this document was not seized. But PW17 has stated in his cross-examination that he seized the Stock Register. But the same has not been submitted before the Court. As held in the case ***Tomaso Bruno & Anr vs State Of U.P.***, reported in 2015 CRI. L. J. 1690, as per Section 114 (g) of the Evidence Act, if a party in possession of best evidence which will throw light in controversy withholds it, the court can draw an adverse inference against him notwithstanding that the onus of proving does not lie on him. The non-production of the Stock Register makes this Court draw an adverse inference that the prosecution has withheld the Stock Register only because the production of the same will go against their case.

Thus the above points will show that the investigation conducted by PW16 and PW17 is wholly unsatisfactory in nature.

(e)Oral and documentary evidence of the other employees of the department:

(i) Mr.Selvaraj (PW3), who retired as the General Manager (in-charge) in the Soceity, was then engaged in sales, deposed that he received the sweets for the purpose of sale (Exhibits P2 dated 19.10.2006 evidences the receipt of sweets) and sold all the sweets. He also stated that he assisted the Inquiry officer for the purpose of enquiry. During his cross-examination, PW3 stated that he received the sweets in good condition. Though PW3 stated that he assisted in the process of enquiry, no elaborate details given pertaining to the manner in which the enquiry was conducted.

Hence, the evidence of PW3 cannot at any rate be taken as a substitute for examination of the Inquiry Officer. He stated that he sold all the sweets that were received by him and that did he not get any complaint pertaining to the quality of the sweets that he sold.

(ii) Mr.Manivannan (PW4), working as the Junior Assistant in the Society deposed that he received the sweets for the purpose of sale (Exhibits 3 and P4, bills, evidence the receipt of sweets). The counsel for the accused raised an objection that departmental action was taken on PW4 that he forged Exhibits P3 and P4. No documents produced in support. But PW4 admitted this fact during his cross-examination. He stated that he proved his innocence before the Court later on. The date on which he proved his innocence is not known. But it can be seen that he has not been accused of any offence by the police. He further stated that he sold a portion of sweets given to him and that the remaining sweets got spoiled. During his cross-examination, he feigned ignorance about the facts concerning preparation of the sweets.

(iii) Mr.Somasundaram (PW5), who worked as a Supervisor in the Society, deposed that sweets were supplied to him through a bill (Exhibit P5) and that he found that the sweets were spoiled. During his cross-examination, he stated that he does not know about the details of the loss caused by the accused persons.

(iv) Mr.Jeyaraj (PW6), who worked as the Supervisor in the Society (Jeyamkondam branch), deposed that sweets worth Rs.2,13,000/- and Rs.46,840/-

were supplied on 01.10.2006 (through bills Exhibits P6 and P7). PW6 further stated that a portion of the sweets were only sold. During his cross-examination, PW6 stated that the accused persons are unrelated to the case. He also stated that he did not inform the police about the details concerning the corrections carried out in Exhibit P7. Rather, we can also understand that the police failed to probe into the same. PW6 stated in his cross-examination that he did not receive any complaint pertaining to the quality of the sweets sold. He further stated that the accused persons are unrelated to the case at hand.

(v) Mr.Chinnathambi (PW7), Branch Manager at Jeyamkondam branch, who was allegedly engaged in distribution, deposed during his cross-examination that the accused persons are unrelated to the alleged misappropriation and that he has been listed as a witness only due to pressure from higher officials.

(vi) Mr.Datchinamoorthy (PW8), who worked as the Sales Assistant, deposed that sweets worth Rs.3000/- was given to him for the purpose of sale, that he sold sweets worth Rs.580/- and could not sell the rest as they got spoiled. During his cross-examination, he stated that he does not know whether the procurement of raw materials and preparation of sweets happened in a proper manner.

(vii) Mr.Subramanian (PW9), who worked as the Salesman, deposed that sweets worth Rs.11,360/- were supplied on 17.10.2006 (through bill Exhibit P8). PW6 further stated he could not sell the sweets as they were found to be spoiled. During his cross-examination, he stated that the procurement of raw materials for the purpose of preparation of sweets and the sale of sweets happened in a proper manner. He also stated that he does not know the details pertaining to the acts of the accused persons pertaining to this case.

(viii) Mr.Kasinathan (PW10), who worked as the Junior Assistant, deposed that sweets worth Rs.22,800/- were handed over to him by PW6, that he sold a portion of those sweets worth Rs.2,704/- and could not sell the remaining as they got spoiled. During his cross-examination, he stated that he does not know whether the procurement of raw materials and sale of sweets happened in a proper manner. He also stated that the sweets were received by him in a good condition only.

(ix) Mr.Jayaraman (PW12), who worked as the Manager in Karur, deposed that sweets worth Rs.19,000/- were supplied through receipt in Exhibit P10, that all the sweets were sold and the amount on deduction of commission was paid thereafter. Mr.Selvaraj (PW15), who worked as the Salesman, deposed that he received sweets through Demand and Supply Form in Exhibit P13A, sold a portion of the sweets and could not sell the rest as they got spoiled. When interrogated as to how the sweets got spoiled, he stated that the shop was closed for two days for Diwali and the sweets were found to be spoiled when the shop was opened later on.

(x) We can thus see that the oral and documentary evidence submitted from the employees of the department do not support the case of the prosecution. PW2 stated during his cross-examination that the sweets got spoiled as they could not be sent to the stores on time due to election and PW15 stated that the sweets got spoiled as the shop remained closed for two days due to Diwali. Many have stated that no complaints were received pertaining to the quality of the sweets sold. PW16 also admitted in his cross-examination that none of the witnesses deposed about forgery of bills and that they only stated details about how the remaining sweets got spoiled after sale. Not even one witness supported the case of the prosecution.

(f) Opinion of PW14:-

(i) PW14 is the Principal of the State Institute of Hotel Management and Catering Technology. He deposed that a letter dated 16.08.2007 (Exhibit P12) was sent to him, asking for details concerning the wastage that would take place during the preparation of a specific four kinds of sweets. He allegedly sent a reply dated 07.09.2007 (Exhibit P13) that a maximum of 10% waste would be incurred.

(ii) The opinion of PW14 would have carried a lot of weightage to the case of the prosecution. *But the following points would show as to why this Court is not inclined to take the opinion rendered into consideration:-* The reply given by PW14 does not contain any seal or sign. PW17 stated in his cross-examination that the report of PW14 does not contain details with regard to Special Cashew cake and that it only talks about Cashew cake. PW14 admitted in his cross-examination that he did not inspect the sweets in person and the details pertaining to the cooking procedure was also not informed to him through Exhibit P12. He also admitted that he did not mention about the methodology used by him to give the opinion. PW16 admitted in his cross-examination dated 31.01.2024 that the Inquiry officer never mentioned about PW14 to him. Thus the opinion rendered by PW14 cannot be considered.

(g)Initiation of proceedings as against the accused persons 6 to 8:-

(i) The accused persons 6 to 8 are private vendors. The counsel for the accused persons 4, 5, 7 and 8 relied on the order dated 05.07.2023 of the Hon'ble Madras High Court in the case ***Devi v. State*** in Crl.O.P.No.22642 of 2021 and argued that criminal proceedings cannot be initiated against persons who are not employees under the Society.

(ii) During his cross examination, PW1 admitted that there is no allegation as against the 8th accused that he misappropriated money. He also admitted that he did not complain as against the 6th accused. With regard to the 7th accused, PW1 admitted in his cross-examination that the 7th accused is unrelated to the Cooperative Society and that an order was passed by him that no action can be taken as against the 7th accused under the Act. Most importantly, he agreed that no loss was incurred to the Society by the actions of the 7th accused and that the said accused was not entrusted with any responsibility pertaining to the Society.

(iii) The 6th accused is the son of the 1st accused. According to the prosecution, the 6th accused was a part of the conspiracy as he supplied raw materials for preparation of sweets. But it is seen that PW16 stated in his cross-examination dated 31.01.2024 that the raw materials pertaining to preparation of the sweets were obtained from the business named M/s.Harini Traders, owned by Mrs.Hemalatha, the daughter-in-law of the 1st accused. She has not been enquired in this matter. Details were obtained from the Assistant Commissioner of Commercial Taxes Department, Salem (PW12) in Exhibit P11 regarding the business concern M/s.Harini Traders. It has been stated in Exhibit P11 that the business is owned by Mr.Hemalatha and that it has license for sale of biscuits, chocolates and other candies. PW16 admitted in his cross-examination dated 08.02.2026 that no details have been mentioned in the final report as to why the 6th accused was impleaded in the case.

(h)The provisions of law:-

(i)The counsel for the accused persons 4, 5, 7 and 8 relied on the order dated 14.02.2018 of the Hon'ble Madras High Court in the case ***R.Palanichamy v. State,*** in Crl.O.P.No.1874 of 2019 and argued that there is no need to take criminal action as against the accused persons. Section 120-A of IPC defines criminal conspiracy as an agreement between two or more persons to do either an illegal act as a legal act by illegal means. Section 120-B of IPC prescribes the punishment for such conspiracy.

(ii) The question before this Court is not whether irregularities occurred in transactions connected with preparation and distribution of sweets. It is essential to see if those irregularities establish an agreement among the accused persons to commit criminal offences. This Court finds that no prosecution witness has deposed to having witnessed any meeting, conversation, instruction or concerned decision demonstrating a prior agreement among the accused persons, nor has any witness spoken about any overt act unmistakably pointing towards the formation of a criminal conspiracy. The evidence on record does not disclose any circumstance demonstrating that each accused consciously participated in a common unlawful design.

(iii) Section 471 of IPC deals with using as genuine a forged document or electronic record. There is no evidence to show that the accused forged documents without executing work. Section 418 of IPC deals with cheating with knowledge that wrongful loss may ensure to person whose interest the offender is bound to protect. PW16 admitted in his cross-examination dated 31.01.2024 that there is no evidence to show that the accused persons 2 and 3 wrongfully gained. As discussed above, there is no proper evidence for any accused persons.

(iv) Section 467 of IPC deals with forgery of valuable security, will, etc. Section 409 of IPC deals with criminal breach of trust by public servant and 477-A of IPC deals with falsification of accounts. There is no evidence to show that auditing was done and that discrepancies were found out during the audit, to prove the above-mentioned provisions. In fact, as per law, audit is to be conducted in the Society regularly. PW1 admitted in his cross-examination dated 24.02.2025 that audit was not conducted before the enquiry was conducted by the Inquiry officer. No audit report came to be filed. This shows that the Society itself is not functioning in a proper manner.

(i) Conclusion:-

Suspicion, no matter how strong, cannot replace legal proof. It is essential for the prosecution to establish the guilt of the accused persons beyond all reasonable doubts, with concrete evidence that leaves no logical explanation other than the guilt of the accused. The discussion in the paragraphs above will show that the prosecution failed to prove the charges as against the accused persons beyond all reasonable doubts.

In the result, The 1st accused is not guilty for the offences under Sections 467, 418, 471, 409, 477(A)(5 counts) r/w 120(b) of IPC and the accused persons 2 to 6 and 8 are not found guilty for the offences under Sections 467, 418, 471, 409 r/w 34, 109 of IPC, 477(A)(5 counts) r/w 120(b) of IPC and hence they are acquitted as per Section 248(1) of Cr.P.C. The criminal proceedings as against the accused 7th shall stand abated.

No case property produced and therefore, no order passed concerning the same.

THAARINI V C

JUDICIAL MAGISTRATE No1
Digitally signed by THAARINI V C
Location: PERAMBALUR

Directly typed by me in my computer and after taking print out and after carrying out corrections wherever necessary and pronounced by me in the open court on 10th day of August 2026

Judicial Magistrate No.1
Perambalur

<u>List of Prosecution Side Witnesses:</u>

PW1	:	Mr. Ganesan, Deputy Registrar
PW2	:	Mr.Syed Kamal Basha, Special Officer
PW3	:	Mr. Selvaraj, Retired General Manager (in-charge)
PW4	:	Mr.Manivannan, Junior Assistant
PW5	:	Mr.Somasundaram, Supervisor
PW6	:	Mr.Jeyaraj, Supervisor
PW7	:	Mr. Chinnathambi, Branch Manager
PW8	:	Mr. Datchinamoorthy, Sales Assistant
PW9	:	Mr.Subramanian, Salesman

PW10	:	Mr.Kasinathan, Junior Assistant
PW11	:	Mr.Kesavan, Manager
PW12	:	Mr.Jeyaraman, Manager
PW13	:	Mr.Ganesamoorthi, Assistant Commissioner
PW14	:	Mr.Kumar, Principal
PW15	:	Mr.Selvaraj, Salesman
PW16	:	Mr.Siva Senthilkumar, Sub-Inspector of Police
PW17	:	Mr.Selvam, Inspector of Police
PW18	:	Mrs.Elanselvi, Deputy Registrar of Cooperative Societies

List Of Prosecution Side Exhibits:

Ex.P1	:	Complaint dated 22.01.2009 Vide ந.க. எண்.647/2007.
Ex.P2	:	Demand and Supply form dated 19.10.2006 for a sum of Rs.1,23,201/- (Bill No.164)
Ex.P3	:	Bill No.158 dated 17.10.2006
Ex.P4	:	Bill No.167 dated 19.10.2006
Ex.P5	:	Bill No.168 dated 19.10.2006
Ex.P6	:	Office copy of Bill No.47351
Ex.P7	:	Office copy of Bill No.163 dated 19.10.2006
Ex.P8	:	Bill No.3208 dated 27.11.2006
Ex.P9	:	Office Note
Ex.P10	:	Receipt dated 19.1.2006
Ex.P11	:	Letter in Naka. 38/2009/A2 of the Assistant Commissioner (in-charge) Bazaar Limit, Salem dated 08.01.2010
Ex.P1 2	:	Carbon copy of letter of the Enquiry Officer dated 16.08.2007
Ex.P13	:	Letter of Principal, State Institute of Hotel Management and Catering Technology, Trichy
Ex.P13A	:	Carbon copy of demand and suply form dated 17.10.2006

Ex.P13B	:	FIR in Cr.No.3/2009 dated 28.04.2009
Ex.P14	:	Bill No. 22 dated 06.10.2006 of the 6th accused
Ex.P15	:	Bill No. 272 dated 07.10.2006 of the 6th accused
Ex.P16	:	Bill No. 273 dated 07.10.2006 of Suresh Traders
Ex.P17	:	Bill No.1 dated 07.10.2006 of Sri Meenakshi Stores
Ex.P18	:	Bill No.97 dated 03.10.2006 of Kairasi Agency
Ex.P19	:	Bill No.6531 dated 03.10.2006 of Nandhu Dalmils
Ex.P20	:	Bill No. 123 dated 06.10.2006 of the 6th accused
Ex.P21	:	Bill No. 124 dated 06.10.2006 of the 6th accused
Ex.P22	:	Bill No. 302 dated 15.10.2006 of Suresh Traders
Ex.P23	:	Bill No. 297 dated 12.10.2006 of Suresh Traders
Ex.P24	:	Bill No. 298 dated 12.10.2006 of Suresh Traders
Ex.P25	:	Bill No. 6157 dated 10.10.2006 of Surya Baking
Ex.P26	:	Bill No.6302 dated 10.10.2006 of Surya Marketing
Ex.P27	:	Bill No.6303 dated 10.10.2006 of Surya Marketing
Ex.P28	:	Bill No.Nil dated 19.10.2006 of Balaji Travels
Ex.P29	:	Bill dated 21.10.2006 of Sri P.P.P.Annalakshmi Thirumana Mahal
Ex.P30	:	Bill No.781 dated 21.10.2006 of Sri Venkateshwara Suppliers
Ex.P31	:	Office Order and documents 1 to 13 of the Perambalur District Consumer Cooperative Wholesale Store
Ex.P32	:	Voucher obtained by the 3rd accused before the Superintendent and cheque-deposit voucher dated 20.10.2006.

Ex.P33	:	Receipt Nos.151 to 155 dated 12.10.2006 showing handover of sweets to the 3rd accused
Ex.P34	:	Register entries in pages 1 to 25 concerning sale of sweets
Ex.P35	:	Register entry concerning sale of sweets in Perambalur branch
Ex.P36	:	Register entry concerning sale of sweets in Jeyamkondan branch
Ex.P37	:	Register entry concerning sale of sweets in Ariyalur branch
Ex.P38	:	Day book from 01.09.2006 to 01.10.2006 of Perambalur District Consumer Cooperative Wholesale Store
Ex.P39	:	Day book from 01.11.2006 to 28.12.2006 of Perambalur District Consumer Cooperative Wholesale Store
Ex.P40	:	Voucher showing that the 3rd accused obtained the cheque on 20.10.2006
Ex.P41	:	Cheque deposit slip dated 29.09.2006 of Perambalur District Consumer Cooperative Wholesale Store
Ex.P42	:	Cheque deposit slip dated 09.10.2006 of Perambalur District Consumer Cooperative Wholesale Store
Ex.P43	:	Cheque deposit slip dated 11.10.2006 of Perambalur District Consumer Cooperative Wholesale Store
Ex.P44	:	The order dated 25.06.2007 passed by Mr.Sivagnanam under Section 82 of the Act
Ex.P45	:	The Certified copy of Inquiry Report dated 31.10.2007 under Section 82 of the Act

List of Defence Side witness : Nil

List of Defence Side exhibits : Nil

Material Objects : Nil

Note :

1. Accused 2, 3, 5, 7, 8 are on bail at the time of trial.
2. Result of the case is informed to prosecution.
3. No witness was detained for more than 3 days.
4. With regard to marking of exhibits, after PW14 marked Ex.P13, PW15 marked a document as Ex.P12 wrongly instead of marking it as Ex.P14. And PW16 marked a document as Ex.P13 instead of marking it as Ex.P15. Hence the Exhibits P12 and P13 marked by PW15 and PW16, respectively, are not re-numbered as Ex.P13A and Ex.P13B respectively in order to avoid confusion.

THAARINI V C

JUDICIAL MAGISTRATE No1
Digitally signed by THAARINI V C
Location: PERAMBALUR

Judicial Magistrate No.1
Perambalur.