IN THE COURT OF XVIII ADDITIONAL CITY CIVIL COURT CHENNAI

Present: Thiru.N.S.Srivathsan, M.L.,

XVIII Additional Judge

Wednesday, the 10th day of December, 2025

Criminal Appeal No.34/2025 & Criminal Appeal No.5/2025

Against

CC.No.2882/2010

CNR.No.TNCH01-000630-2025

Criminal Appeal No.34/2025

1.Ethiraj, M/36, S/o.Mr.Kannan
No.28/1135, 19th Centre Cross Street,
Maga Kavi Bharathi Nagar,
Chennai – 600 039.

2.Babu, M/35, S/o.Janakiraman,
No.70, Old Attu Thotti,
Choolai, Chennai.

3.Chandrasekar M/36, S/o.Kumar Viatheshwaran,
No.2/78, Kannadhasan Nagar, Chennai.

...Appellants/Accused - 1to3

//Vs.//

State by:
Inspector of Police,
Central Crime Branch,
Vepery, Chennai.

...Respondent/Complainant

Appeals against the Judgment passed by the Learned Metropolitan Magistrate, Additional Court for Exclusive Trial of CCB Cases, Egmore, Chennai on 06.12.2024 in CC.No.2882/2010.

Between :-

State by:

Inspector of Police,

Central Crime Branch,

Vepery, Chennai.

...Complainant

//Vs.//

1.Ethiraj, M/36, S/o.Mr.Kannan
No.28/1135, 19th Centre Cross Street,
Maga Kavi Bharathi Nagar,
Chennai – 600 039.

2.Babu, M/35, S/o.Janakiraman,
No.70, Old Attu Thotti,
Choolai, Chennai.

3.Chandrasekar M/36, S/o.Kumar Viatheshwaran,
No.2/78, Kannadhasan Nagar, Chennai.

...Accused 1to3

Criminal Appeal No.5/2025

Esakiyappan, S/o.Thanislass

No.231/B Type MMDA

Mattur, Chennai.

...Appellant/Accused No.4

//Vs.//

1.State by:
Inspector of Police,
Central Crime Branch,
Vepery, Chennai.
Crime No.2882/2010

...Respondent/1st Respondent/Complainant

2.Ethiraj, S/o.Mr.Kannan
No.28/1135, 19th Centre Cross Street,
Mahakavi Bharathi Nagar, Chennai.

3.Babu, S/o.Janakiraman,
No.70, Old Attu Thotti Street,
Choolai, Chennai.

4.Chandrasekar, S/o.Kumar Viatheeswaran,
No.2/78, Kannadasan Nagar, Chennai.

...Respondents/Accused 1,2,3

Appeals against the Judgment passed by the Learned Metropolitan Magistrate, Additional Court for Exclusive Trial of CCB Cases, Egmore, Chennai on 06.12.2024 in CC.No.2882/2010.

Between :-

State by:
Inspector of Police,
Central Crime Branch,
Vepery, Chennai.

...Complainant

//Vs.//

1.Ethiraj, M/36, S/o.Mr.Kannan

No.28/1135, 19th Centre Cross Street,
Maga Kavi Bharathi Nagar,
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2.Babu, M/35, S/o.Janakiraman,
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3.Chandrasekar M/36, S/o.Kumar Viatheshwaran,
No.2/78, Kannadhasan Nagar, Chennai.

4.Esakiyappan, S/o.Thanislass
No.231/B Type MMDA
Mattur, Chennai. ...Accused 1to4

1.**Criminal Appeal No.34/2025:** This criminal appeal coming before this court for final disposal in the presence of M/s.P.Ponbalaji, P.Pongowthamkumar, S.Manojprabakaran, J.Andrea Anjalinj, V.Vasanth and N.Karthik Raja, Counsels for Appellant/Accused- 1to3 and of Thiru.N.Jaisankar, Additional Public Prosecutor, counsel for the Respondent/Complainant and having heard the arguments on behalf of the appellants sides and having perused the case records and documents relating thereto and having stood over the same till date for consideration, this court has passes the following:

2.**Criminal Appeal No.5/2025:** This criminal appeal coming before this court for final disposal in the presence of M/s.R.Anbu, R.Vetrivel and Jaiyam E.Pushparaja, Counsels for Appellant/Accused No.4 and of Thiru.N.Jaisankar, Additional Public Prosecutor, counsel for the Respondent/Complainant and having heard the arguments on behalf of the appellants sides and having perused the case records and documents relating thereto and having stood over the same till date for consideration, this court has passes the following:

COMMON JUDGMENT

The Appellants/accused -1to4 have filed this appeal against the judgment dated 06.12.2024 passed by the Learned Metropolitan Magistrate, Additional Court for Exclusive Trail of CCB Cases, Egmore, Chennai in CC.No.2882/2010.

2. **The brief facts leading to filing of this appeal is as follows:-**

The appellants are the accused. The State represented by the Inspector of Police, Central Crime Branch is the respondent. The case of the prosecution is that the accused 1 to 4 in a joint conspiracy to cheat the bank have allegedly got credit cards of the customers namely Saravanan, Rukmangathan, Ajees and Dillibabu by giving false address and having misused the said credit cards they had cheated to the tune of Rs.1,65,726/- by purchasing jewels and new cloths. Therefore the accused were charged under Section 419, 420, 468, 471 r/w 34 IPC. The necessary charges were also framed against all the four accused after furnishing copies to them u/s.207 Cr.PC. The bank manager and the customers of the bank namely Narotham Kumar, Saravanan, Ajees, Dillibabu, Prabhalatha, Rajeshkumar, Subhani, Thangaraj, Dilipkumar, Kadharbasha, Lakshmanan, Muthu were examined as PW1 to PW12 as prosecution witness and the Investigation Officer namely Saravanan was examined as PW13 and Ex.P1 to Ex.P11 were marked. The complaint was given by one Narotham Kumar. It is stated in the charge sheet that accused have misused the credit card by showing fake driving license. The gist of the charges against is that all the four accused have cheated the said bank in the year 2009.

3. After taking consideration the entire evidence adduced by the prosecution along with the exhibits, the trial court has came to the finding that all the four accused were found guilty and convicted and sentenced as follows:

a)1st accused was found guilty under Section 419, 420, 468, 471 of IPC and convicted for offence under Section 419 of IPC and sentenced to undergo 6 months simple imprisonment and convicted for the offence under Section 420 of IPC and sentenced to undergo 1 year simple imprisonment and to pay a fine of Rs.2000/- in default of payment of fine to undergo 3 months simple imprisonment and convicted for the offence under Section 468 of IPC and sentenced to undergo 1 year simple imprisonment and to pay a fine of Rs.2,000/- in default of payment of fine to undergo 3 months simple imprisonment and convicted for the offence under Section 471 and sentenced to undergo 6 months and to pay a fine of Rs.2000/- and in default of payment of fine, to undergo a further period of simple imprisonment for a term of one month;

b) The 2nd and 3rd accused were found guilty and convicted under Section 419 r/w 34, 420 r/w 34, 468 r/w 34, 471 r/w 34 of IPC and sentenced as follows: The 2nd and 3rd accused were convicted for the offence u/s.419 r/w 34 of IPC and sentenced to undergo 6 months simple imprisonment. The 2nd and 3rd accused were convicted for the offence u/s.420 r/w 34 of IPC and sentenced to undergo 1 year simple imprisonment and to pay a fine of Rs.2000/- each in default of payment of to undergo simple imprisonment of 3 months. The 2nd and 3rd accused were committed an offence u/s.468 r/w 34 of IPC and convicted and sentenced to undergo 1 year simple imprisonment and to pay a fine of Rs.2000/- each in default of payment of to undergo simple imprisonment of 3 months. The 2nd and 3rd accused were convicted for the offence u/s.471 r/w 34 of IPC and sentenced to undergo 6 months simple imprisonment and to pay a fine of Rs.2000/- each in default of payment of to undergo simple imprisonment of 1 month;

c) The 4th accused was found guilty under Section 419 r/w 34, 420, 468, 471 r/w 34 of IPC and sentenced as follows: The 4th accused was convicted for the offence u/s.419 r/w 34 of IPC and sentenced to undergo 6 months simple imprisonment. The 4th accused was convicted for the offence u/s.420 of IPC and sentenced to undergo 1 year simple imprisonment and to pay a fine of Rs.2000/- in default of payment of to undergo simple imprisonment of 3 months. The 4th accused was convicted for the offence u/s.468 of IPC and sentenced to undergo 1 year simple imprisonment and to pay a fine of Rs.2000/- in default of payment to undergo simple imprisonment of 3 months. The 4th accused was convicted for the offence u/s.471 r/w 34 of IPC and sentenced to undergo 6 months simple imprisonment and to pay a fine of Rs.2000/- in default of payment of to undergo simple imprisonment of 1 month.

The judgment of conviction was passed by the trial court on 06.12.2024. Aggrieved by the said judgment dated 06.12.2024 the appellants who were the 1st to 4th accused in the above case in CC.No.2882/2010 on the file of the Learned Metropolitan Magistrate, Additional Court for Exclusive Trial of CCB Cases, Egmore, Chennai have preferred this appeal for the following among other grounds:-

4.<u>Grounds of Appeal in Crl.Appeal No.34/2025</u>:-

i) The conviction and sentence imposed against the appellants are improper, unjust and illegal and is liable to be set aside.

ii)The reasons given by the Learned Metropolitan Magistrate, Additional Court for Exclusive Trial of CCB Cases, Egmore, for convicting the appellants are unsound and they are unsustainable in law.

iii)The trial court has failed to see that the prosecution has not proved their case by legal, reliable and unimpeachable evidence.

iv)The trial court failed to consider the deposition of PW1 which is a crucial piece of evidence in the case. The deposition of PW1 clearly establishes that the appellants did not commit the alleged offense. This failure to consider the deposition of PW1 has resulted in a miscarriage of justice.

v)The trial court failed to consider the deposition of PW1 is a clear violation of the principles of natural justice and the appellants' right to a fair trial.

vi)The trial court ignored the contradictions in the testimonies of the prosecution witnesses, which raises doubts about the prosecution case. The contradictions in the testimonies of PW2 and PW3 clearly establish that the prosecution's case is not reliable. This ignorance of contradictions has resulted in a wrongful conviction of the appellants.

vii)There is no material evidence to support the prosecution's case. The prosecution's case is based on mere suspicion and conjecture, which is not a sufficient basis for conviction.

viii)The trial court, erred in convicting the appellants without considering the lack of material evidence.

ix)The trial court had misinterpreted the evidence and drew incorrect conclusions, which resulted in the wrongful conviction of the appellant.

x)The appellant was denied a fair and the trial court failed to consider the depositions, contradictions, and lack of material evidences which resulted in a miscarriage of justice. The trial court's decision was based on incomplete and misleading of evidence.

xi)The appellants/accused 1-3 were wrongly implicated and the court also miserably failed in adjudicating the evidences and documents and wrongly corroborated the same and wrongfully punished the victims, the appellants/accused 1-3.

xii)The final report filed by the respondent indicates that the date of occurrence falls between 21.01.2009 and 17.03.2009. However, as per the statements of PW2 marked through PW1 and the transactions related to the City Bank credit card fraud, it shows that the address change for the credit card bearing No.4054500020111015, held by Mr.D.Saravanan, was recorded by City Bank on 31.12.2008. The address was changed to No.13/7, Old Slaughterhouse Street, Choolai, near Angalamman Koil, and later changed again on 05.03.2009 to No.1, Ayya Mudhali Street, Sowcarpet, Chennai – 600079. The prosecution relied on the first address change to prove that the address belonged to A2. However, the second change occurred between the time of the incident, and this new address was not mentioned in the case. The prosecution and the learned trial court failed to give proper consideration to the document provided by PW2, and instead, the learned trial court convicted the accused 1-3 based solely on the second address change, as presented by PW1 through Ex.P2.

xiii)The trial court failed to consider that Ex.P3, provided by the prosecution witness, contains the alleged fake driving license bearing No.TN002006302-2004. However, the report submitted by PW8, Thangaraj, in document Ex.P5 shows that the said driving license actually belongs to Mr.A.Muthukrishnan. The trial court concluded that the driving license in Ex.P3 was fake and the accused 1-3 used this fake license to commit the credit card fraud. This finding by the learned trial court was inappropriate, as it failed to recognize that the fake driving license was marked by PW-1, Mr.Narothamkumar, the complainant. The trial court should have questioned the prosecution witnesses about how the complainant obtained a copy of the fake driving. license, especially since it had not been provided to him. The trial court overlooked this crucial document, upon which the prosecution made false charges against the accused 1-3 in relation to the offences.

xiv)The trial court failed to note the crucial fact that the respondent did not recover the original fake driving license, which was allegedly used by the accused. However, the respondent marked the alleged fake driving license as Ex-P3, implying that it had been recovered from the accused. It is important to note that the respondent received Ex-P6 from prosecution witness-9, Dileepkumar, and this document was marked as Ex-P3, which was claimed to be the alleged fake driving license, without any actual recovery from the accused 1-3. The trial court failed to observe this crucial point and instead, convicted the accused based on false charges.

xv)PW2 denied in his cross examination that during police investigation he had not informed about Al visited him and stated that he informed during police investigation. However, in police statement, there is no such findings of PW2 stating about Al visit.

xvi) The trial court wrongly concluded that the CSIS recovery of Rs.25,000/- and Rs.4,115.10/- was solely made by the accused 1-3. However, this decision was made without verifying any documentary evidence, without confirming how these amounts were recovered, and without the recovery of the original credit cards. As a result, the trial court incorrectly determined that the accused 1-3 were responsible for the CSIS recovery.

xvii)The trial court failed to note that no documents were presented to prove that the address mentioned in Ex.P6 belonged to A2 Babu. The respondent did not inquire into the address or submit any evidence confirming that it was associated with A2 Babu. Despite this, the Court erroneously concluded that the address in Ex.P6 belonged to A2 Babu.

xviii)The Learned Trial Court overlooked the fact that the main witness, Rukmangadan, did not testify and neither did Neelakandan, the owner of Revathy Readymades where the credit card of rukmangadan was used. Since both were involved in the initial stages of the complaint, their absence and failure to provide evidence raises suspicion regarding the present allegations against the accused. Additionally, the courier personnel, who are crucial witnesses in this case, were not questioned by the respondent police regarding the delivery of the credit card to the addresses which was allegedly changed by the accused 1-3.

xix)The trial court erroneously held that the accused 1-3 were involved in cheating by creating a fake driving license and committed credit card fraud using it. It is important to note that the original fake driving license was not recovered from the accused 1-3, despite their long remand and investigation. The Court, without any documentary evidence or statements to prove that the accused 1-3 prepared the fake driving license, relied only on the use of Al's photo on the license and assumed that the address in the fake license belonged to A2 Babu, mistakenly concluding tht the accused were responsible for its preparation.

xx)The trial court, relying on the incorrect statements given by the prosecution witnesses, wrongly assumed that the accused prepared the fake driving license with a false address for credit card fraud. Without properly analyzing the witnesses' statements, the Court erroneously held that the accused committed credit card fraud.

xxi)The trial court failed to note that the respondent had not recovered the jewelry and clothing allegedly purchased using the credit cards. Additionally, no property evidences were presented to prove that the accused used the cards to make those purchases. The failure to submit this crucial evidence resulted in an unjust decision against the accused 1-3.

xxii)The trial court erred in convicting accused 1 to 3 for the offences despite contradictions in the statements of PWs 2,3 and 4 during both police investigations and chief examination. Although the contradictions were recorded in the judgment, the court failed to consider them when deciding the case against the accused 1-3.

xxiii)Although the trail court acknowledged the contradictions in the prosecution witnesses' statements between the chief examination and police investigation, the trial court neglected these inconsistencies and erroneously convicted the accused.

5.Grounds of Appeal in Crl.Appeal No.5/2025:-

i) The order passed by the trial court is illegal and bad in law besides being erroneous and contrary to the materials available on record.

ii)The order of the trial court is contrary to the evidence and all probabilities of the case.

iii)The trial court miserably failed in placing the reliance under Sections 419, 420, 468 and 471 r/w 34 of IPC Act of namely the assumption in favour of the holder and had not considered the fact that the appellant had established a case against such assumption.

iv)The appellant by sentencing to undergo for under Section 419 of IPC r/w 34 offence 6 months imprisonment, under Section 420 offence one year simple imprisonment and Rs.2000/- if fails to pay the amount under goes to 3 months simple imprisonment, under Section 468 offence one year simple imprisonment and Rs.2000/- if fails to pay the amount undergoes to 3 months simple imprisonment, offence under Section 471 r/w 34 of IPC undergoes to 6 months simple imprisonment and Rs.2000/- if fails to pay the amount undergoes to one month simple imprisonment.

v)The trial court failed to consider the fact that the respondent/complainant had not produced any single scrap of paper pertaining to the alleged the created fake credit card based upon the involved to given customers details to the other accused's to the respondent/complainant and also failed to prove the dues towards the said mortgage by the appellant to the 1st respondent.

vi)The trial court failed to consider the fact that the respondent/complainant failed to prove the card holders liability and the created the fake driving license involved by this appellant as per the provisions of Sections IPC.

vii)The trial court failed to consider the appellant further submit that the trial court order is perverse and wrongly shifted the burden of proof on the shoulder of this appellant instead of the other respondents 2 to 4.

viii)The trial court is not considered unproven statement, any one of the list of witness and hostile witness, even though all of the facts and material records against this appellant and also the confession statement given of the co-accused in this appellant/A4.

ix)The trial court is not considered that this case there is no statement recorded under Section 161 of CrPC before this appellant and also nor send the co-accused 3 and this appellant not arrested till the proceedings.

x)The trial court failed to consider the appellant further submit that the trial court failed to consider evidence in a proper and prospective manner and passed mechanically.

xi)The trial court failed to consider evidence in a proper and prospective manner and passed mechanically without analyzing the principles of the involved by this appellant.

xii)The trial court failed to consider, the crime no. was registered by the crime number in the year of 2020, and also failed to properly conclude, in 14 years beyond the reasonable time to prove the witness.

6. <u>The point for consideration</u> :

i) Whether the judgment of conviction dated 06.12.2024 passed by the Learned Metropolitan Magistrate, Additional Court for Exclusive Trial of CCB Cases, Egmore, Chennai in CC.No.2882/2010 is liable to be set aside?

7. <u>Discussions</u>:-

i) The learned counsel for the appellant would submit that the judgment given by the trial court is not legally sound and bereftt of reasons. The trial court has given the judgment of basis of mere suspicion without any concrete evidence. The PW1 is the Manager of risk management unit in City Bank. The PW1 has not given clear evidence about verification of change of address for credit card holders. The PW1 has not also obtained any approval of preliminary enquiry with regard to alleged misuse of credit cards. It is relevant to point out that the main three credit card holders namely Rukmangathan, Ajees, Sarvanann have not given any complaint before the bank about the alleged misuse of their credit cards. There is also delay in registration of FIR. The PW1gave the complaint on 02.04.2009, but the FIR was registered on 27.05.2009. The PW2 who has allegedly got his credit card blocked did not inform the bank by way of giving complaint. It is also admitted by PW2 that he has given information to the bank that there is mistake in the statement of account. Similarly the PW4 has also not given about the alleged change of his address for the use of credit card. In this case the accused is said to have produced fake driving license for misusing credit card. The original of the said driving license was also not seized by the Investigating Officer. The PW9 Dilipkumar who is the owner of the Rajesh Jewelry has stated that he has not given the invoices for the gold jewelry allegedly purchased by the accused by misusing credit card. He has given only the copy of the fake driving license and not the original. Therefore it is necessary for the Investigation Officer to file it before the court and to verify the authenticity of the document. The copy of the driving license obtained by PW6 Rajeshkumar, owner of the Maharaja Gold Palace has also not been filed in this case. The PW6 has given contradictory statement with regard to keeping of documents in purchase of articles by using credit cards. The PW5 is RTO and to whom the copy of the fake driving license was handed over for examination, she has given opinion that only on the basis of the xerox copy of alleged fake driving license. There is no recovery of valuables from the accused. The trial court also failed to note that there was recovery of amount due under credit card in the case of Rukmangathan. The trial court has not properly considered the various contradictions crept in the evidence of prosecution witnesses with regard to change of address for credit card holders. Finally the learned counsel for the appellant has argued that the prosecution did not conduct ID parade for identification of the accused and the prosecution has not recovered gold jewels and clothing allegedly purchased using the credit cards. Additionally there is no proper documentary evidence and there is no material object to prove that there is element of cheating. Therefore the prosecution has failed to prove the charge beyond reasonable doubt. Accordingly the judgment of the trial court is liable to be set aside.

ii)The learned Additional Public Prosecutor would submit that the trial court after taking into consideration of the entire evidence and exhibits marked on behalf of the prosecution rightly came to the finding that all the accused are found guilty. The accused have cheated the bank by misusing the credit card by way of giving wrong address, they have also used fake driving license to use the credit card. The above points have been clearly proved by the prosecution. There is no ground to interfere with the finding of the trial court. Therefore the learned additional public prosecutor prays for dismissal of the appeal.

iii)This court has given anxious consideration to the arguments adduced on either side. This is the case of cheating and impersonation and fraud. The case of the prosecution is that all the four accused in a joint conspiracy to cheat the City Bank have misused the credit card of bank customers by giving false information about the change of address and they have purchased jewels misusing the credit card on production of fake driving license. There is no evidence adduced in this case that all the accused had common intention. The charge also lacks specific particulars of the date, time, place on which and in which the credit card was allegedly used by all the accused and there was meeting of mind among them to share the profits derived by the alleged misusing of credit cards. The main accused is Ethiraj. The prosecution has failed to establish the link between the 1st accused namely Ethiraj and other three accused. The prosecution has also failed to adduce necessary evidence to convince this court that all the accused have produced credit card and produced the fake driving license and thereby got wrongful gain themselves by misusing the credit card. It is relevant to point out here that the PW1 who has given complaint to the police is none other than the Manager of the City Bank and none of the customers have given the complaint with specific allegation of misuse of their credit cards by all the four accused. The burden of proof lies on the prosecution to prove that the 1st accused along with three accused have fraudulently effected the change of address for the credit card owners. This aspect was not taken note of by the prosecution.

iv)The case of the prosecution is that Esakiyappan the 4th accused has given the documents to the 1st accused and the 1st accused had requested for issue of new credit cards to the customers by making call and accordingly new credit card were sent to the address situated at Kannadasan Nagar and Pulianthope. Even as per the evidence given by PW2 who is one of the customers Suresh has purchased valuable by misusing credit card. It is true that the bank has enquired with regard to the change of address. PW2 has informed the bank that he did not request for change of address. Similarly the PW3 has also given evidence that 4th accused and 1st accused has come to his office representing that they are agents of the bank and collected some document from them and promised to get credit card, but he did not receive any credit card. However subsequently he has got notice as if he used credit card to the tune of Rs.21,000/-. The PW4 Dilipkumar did not mention in his evidence that he has suffered any loss due to misuse of credit card. As per the evidence of PW4 Dilipkumar he was informed by the bank that his credit card was misused in his name as mentioned above. The PW5 Prabhalatha is RTO, she has given report only on the basis of xerox of the driving license. The PW6 is an important witness. As per evidence given by PW6 one Suresh had come to the shop on 21.01.2009 and purchased gold jewels, he did not specifically mention that any of the accused had come to his shop. The evidence given by the prosecution does not clearly establish the involvement of all the three accused in misuse of credit cards by producing fake ID card. As rightly pointed by the learned counsel for the appellants that the original DL was not seized by the Investigating Officer. The RTO has given opinion only on the basis of the xerox copy of the alleged fake ID card. There are a lot of contradictions crept in the evidence of prosecution witnesses.

v)In this case the credit cards which have been allegedly misused by the accused have also not been seized by the Investigating Officer: The relevant portion of the evidence given by PW13 is given below

“சரவணன், ருக்மாங்கதன், அசீஸ் மற்றும் டில்லிபாபு ஆகியோர்கள் பயன்படுத்தியதாக சொல்லப்படும் அவர்களுடைய பெயரில் உள்ள போலியான கிரெடிட் கார்டுகள் எதுவும் கைப்பற்றப்பட்டு இந்த வழக்கில் தாக்கல் செய்யப்படவில்லை என்றால் சரிதான்”

vi)Similarly the PW4 has stated that the bundle of fake credit cards was received in his address, but the said parcel was also not seized by the prosecution. As per the evidence given by PW6 one Suresh had purchased jewels and valuables for Rs.22,400/- on 21.01.2009. The PW13 also admitted that the documents relating thereto were not also seized and filed as documents in this case. Therefore the prosecution has failed to prove the foundation of the case. The accused cannot be convicted mere on suspicion. In this case, there is no clinching evidence to *primafacie* show the involvement of all the accused in the misusing of credit card by producing fake driving license. No individual has given specific complaint stating that all the accused have misused their credit card and they have suffered wrongful loss thereby.

vii) The learned counsel for the appellants has placed the judgment of "*Hon'ble Telangana High Court in Criminal Petition No.8340/2023 dated 29.11.2021*" and the judgment of "*Hon'ble Supreme Court in Criminal Appeal No.875/2019".* There is not specific allegation against the accused with regard to their involvement in the misuse of credit cards. There is no clinching and reliable evidence to show that all the accused have misused the credit card by producing fake driving license. The involvement of the accused in the commission of offence alleged against them has not been proved by the prosecution beyond the reasonable doubt. The trial court has given finding only on the basis of oral evidence without production of credit card which have been allegedly misused by the accused. The fake driving license has also not been produced by the prosecution and manner of seizure of the same is doubtful and it was not seized from the accused. The trial court has failed to consider the documentary evidence is very much necessary to prove the charge against the accused under Section 468 and 471 of IPC. The witnesses to confession namely Kadharbasha and Lakshmanan have not given any useful evidence about the confession allegedly given by the accused. They just put signature in the confession allegedly given by the accused. There is no recovery of jewels and other valuables allegedly purchased by the accused by misuse of credit cards. This aspects were not taken note of by the trial court. Therefore the judgment of the trial court is liable to be set aside.

In the result, this Appeal is allowed. The judgment of conviction and sentence passed by the Learned Metropolitan Magistrate, Additional Court for Exclusive Trial of CCB Cases, Egmore, Chennai in C.C.No.2882/2010 is hereby set aside. The 1st Appellant/Accused is acquitted from the charge under Section 419, 420, 468, 471 of IPC. The 2nd and 3rd Appellants/Accused are acquitted from the charge under Section 419 r/w 34, 420 r/w 34, 468 r/w 34, 471 r/w 34 of IPC. The 4th Appellant/Accused is acquitted from the charge under Section 419 r/w 34, 420, 468, 471 r/w 34 of IPC. The 1st to 4th Appellants/Accused are set at liberty in this case. The fine amount if any paid by the 1st to 4th appellants/accused is ordered to be refunded to the accused. The bail bond, if any, executed by the 1st to 4th Accused shall stand canceled after appeal time is over.

Dictated directly to the stenographer, directly computerized by her, corrected and pronounced by me in the open court this the 10th day of December 2025.

SRIVATHSAN NALLANCHAKRANARTHY
Digitally signed by SRIVATHSAN NALLANCHAKRANARTHY

XVIII Additional Sessions Judge,
City Civil Court, Chennai.

Copy to :-

Learned Metropolitan Magistrate, Additional Court for Exclusive Trial of CCB Cases, Egmore, Chennai.

Common Draft/Fair Judgment

C.A.No.34/2025 &
C.A.No.5/2025
Dt.: 10.12.2025
XVIII Additional City

Civil Court, Chennai.