



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A. BADHARUDEEN

TUESDAY, THE 23RD DAY OF SEPTEMBER 2025 / 1ST ASWINA, 1947

CRL.A NO. 1685 OF 2010

AGAINST THE JUDGMENT DATED 27.07.2010 IN CC NO.81 OF
2008 OF ENQUIRY COMMISSIONER & SPECIAL JUDGE, KOTTAYAM

APPELLANT/ACCUSED NO.2:

V.G.USHA DEVI, AGED 50 YEARS,
PALIYIKUDIYIL HOUSE, THOKKUPARA.P.O., PALLIVASSAL,
CHITHIRAPURAM, IDUKKI, PIN-685 565., (FORMERLY
OVERSEER, MUNNAR GRAMA PANCHAYAT)

BY ADVS.

SRI.B.RAMAN PILLAI (SR.)

SRI.ANIL K.MUHAMED

SRI.R.ANIL

SRI.T.ANIL KUMAR

SRI.JOSEPH P.ALEX

SHRI.SUJESH MENON V.B.

SRI.SHYAM ARAVIND

RESPONDENT/COMPLAINANT:

STATE OF KERALA

REP.BY THE PUBLIC PROSECUTOR, HIGH COURT OF
KERALA, ERNAKULAM.

BY SPL.PUBLIC PROSECUTOR ADV.SRI.RAJESH.A., VACB

SR.PUBLIC PROSECUTOR ADV.SMT.REKHA.S., VACB

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON
23.09.2025, ALONG WITH CRL.A.1686/2010, THE COURT ON THE
SAME DAY DELIVERED THE FOLLOWING:



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A. BADHARUDEEN

TUESDAY, THE 23RD DAY OF SEPTEMBER 2025 / 1ST ASWINA, 1947

CRL.A NO. 1686 OF 2010

AGAINST THE JUDGMENT DATED 27.07.2010 IN CC NO.80 OF
2008 OF ENQUIRY COMMISSIONER & SPECIAL JUDGE, KOTTAYAM

APPELLANT/ACCUSED NO.2:

V.G.USHA DEVI, AGED 50 YEARS,
PALIYIKUDIYIL HOUSE, THOKKUPARA P.O., PALLIVASSAL,
CHITHIRAPURAM, IDUKKI, PIN-685 565. (FORMERLY
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THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON
23.09.2025, ALONG WITH CRL.A.1685/2010, THE COURT ON THE
SAME DAY DELIVERED THE FOLLOWING:



CR

COMMON JUDGMENT

Dated this the 23rd day of September, 2025

These appeals have been filed by the 2nd accused in C.C.Nos.81/2008 and 80/2008 on the files of the Enquiry Commissioner and Special Judge, Kottayam, challenging the common judgment, dated 27.07.2010 in the above case. The respondent herein is the State of Kerala, represented by the Vigilance and Anti-Corruption Bureau, through the learned Public Prosecutor.

2. Heard the learned counsel for the appellants/2nd accused in both these appeals as well as the learned Public Prosecutor, in detail. Perused the common judgment under challenge and the evidence available.

3. The prosecution case in C.C.No.80/2008 is that the 1st accused, while serving as Secretary of Konnaithadi Grama Panchayat, the 2nd accused, while serving as 2nd Grade Overseer of Munnar Grama Panchayat, and the 3rd accused, while serving as Junior Superintendent in Konnaithadi Grama Panchayat, entered into a criminal conspiracy and created false and forged



documents in the execution of works. These works included the Homoeopathy Dispensary building in Konnathadi Panchayat, a store-cum-latrine attached thereto, using untied funds for the period 1993-1994, and a culvert on Parathodu–Thellithodu road near Krishibhavan. They allegedly recorded false measurements in the M-Books, issued cheques, and prepared vouchers with forged signatures, thereby causing payment of excess amounts and resulting in a wrongful loss of Rs.79,242.36/- to the Panchayat and a corresponding wrongful gain to themselves or others. By abusing their official positions as public servants, performing their duties without regard to public interest, and dishonestly and fraudulently misappropriating the said amount, they allegedly had committed criminal breach of trust, forgery for the purpose of cheating, use of forged documents as genuine, and falsification of accounts.

4. The prosecution case in C.C.No.81/2008 is that the 1st accused, while serving as Secretary of Konnathadi Grama Panchayat, and the 2nd accused, while serving as 2nd Grade Overseer of Munnar Grama Panchayat, entered into a criminal conspiracy and created false and forged documents in the



execution of works. These works included the Homoeo Dispensary building in Konnathadi Panchayat, a store-cum-latrine attached thereto, using untied funds during the year 1995, and a culvert on Parathodu–Thellithodu road near Krishibhavan. They allegedly recorded false measurements in the M-Books, issued cheques, and prepared vouchers with forged signatures, thereby causing payment of excess amounts and resulting in a wrongful loss of Rs.6,000/- to the Panchayat and a corresponding wrongful gain to themselves or others. By abusing their official positions as public servants, performing their duties without regard to public interest, and dishonestly and fraudulently misappropriating the said amount, they allegedly had committed criminal breach of trust, forgery for the purpose of cheating, use of forged documents as genuine, and falsification of accounts. On this premise, the prosecution alleges commission of offences punishable under Sections 13(2) r/w Section 13(1)(c) of the Prevention of Corruption Act, 1988 (for short, ‘the PC Act, 1988’ hereinafter) and under Sections 409, 465, 471, 477A and 120B of the Indian Penal Code (for short, ‘the IPC’ hereinafter), by the accused.



5. While challenging the common judgment, whereby the 2nd accused was convicted and sentenced by the learned Special Judge, it is submitted by the learned counsel for the 2nd accused that mainly finding commission of offences under Sections 465 and 120B of the IPC r/w Section 13(2) of the PC Act, 1988, the appellant was convicted and sentenced in both these cases. According to the learned counsel for the 2nd accused, the Special Court has given heavy reliance on the evidence of PW4 to find that M-Book was corrected by the accused, who did not work during period, as admitted by PW4, since PW4 given evidence that the entries therein were in the handwriting of the 2nd accused. According to the learned counsel for the 2nd accused, the Investigating Officer did not collect the specimen or admitted handwriting of the appellants, nor did he attempt to obtain an expert opinion to establish that the handwriting in Exts.P10, P13, P37, and P8, as identified by PW4, is that of the appellants. It is pointed out by the learned counsel for the appellants further that, going through the evidence of PW4, the only evidence given by PW4 is that he was familiar with the 2nd accused, as he worked along with him and he knew the handwriting and signature of the



2nd accused. It is also pointed out by the learned counsel for the 2nd accused, relying on a decision of this Court in **Manmadhan v. State of Kerala** reported in [2025 KHC 937] that the evidence of PW4 is quite insufficient to act upon the same to hold that the entries in Exts.P10, P13, P37, and P8 are written by the 2nd accused to find commission of the offences alleged against her. According to the learned counsel for the 2nd accused, in **Manmadhan's** case (supra), this Court addressed this question with reference to the explanation to Section 47 of the Indian Evidence, Act, 1872.

6. Whereas, it is submitted by the learned Public Prosecutor that the evidence of PW4, supported by the evidence of PW1, who spoke about the conspiracy between the accused and misappropriation of the amount alleged by the prosecution, mainly at the instance of the 1st accused with the assistance of the 2nd accused, the Special Court is justified in finding that the accused committed offences punishable under Sections 13(2) r/w Section 13(1)(c) of the PC Act, 1988 and under Sections 409, 465, 471, 477A and 120B of the IPC, in both these cases. Therefore, no interference in the common judgment is necessary and therefore,



these appeals are liable to be dismissed.

7. Now, the question arises for consideration are:

(i) *Whether the Special Court was right in holding that the 2nd accused committed offences punishable under Section 120B r/w Section 13(2) of the PC Act, 1988, in both these cases?*

(ii) *Whether the Special Court was right in holding that the 2nd accused committed offence punishable under Section 465 of the IPC, in both these cases?*

(iii) *Whether the common verdict would require interference?*

(iv) *The order to be passed?*

8. Point Nos.(i) to (iv)

As pointed out by the learned counsel for the 2nd accused, the Special Court given much emphasis to the evidence of PW4 to hold that the entries in Ext.P8 UTF file, Ext.P10 - M-Book No.I of 1994 - 1995, Ext.P13 - M-Book No.II of Konnathadi Panchayat from 1994 to 1995 and Ext.P37 - M-Book of Latrine of store construction of Konnathady Panchayat, were written by the 2nd accused. On reading the evidence of PW4, he deposed that as per



Ext.P3 Attendance Register, the 2nd accused joined for duty in Konnathadi Panchayat in June 1993 and he worked there as UD Clerk during the period 1993-1994. He deposed that the construction of the Homoeopathy Dispensary building in Konnathadi Panchayat, a store-cum-latrine attached thereto, and a culvert near Krishi Bhavan, etc., were carried out using the untied funds of Konnathadi Panchayat, and the voucher file pertaining to the same is marked as Ext.P46. Ext.P47 tendered in evidence through PW4, is the voucher file pertaining to construction of culvert at Krishibhavan. As already pointed out, PW1 identified the writings alleged to be made by the 2nd accused in Exts.P10, P13, P37 and P8, as that of the 2nd accused. In fact, no attempt was made by the Investigating Officer to prove the handwritings of the 2nd accused in the above documents by getting assistance of an expert.

9. In the decision in **Manmadhan's** case (supra), this Court in paragraph Nos.7, 14 and 17 to 19 observed as under:

“7. On perusal of the explanation, the opinion of the court in the matter of handwriting, based on the evidence given by a person acquainted with the handwriting of the person whose handwriting is sought to be proved, the



person giving evidence regarding the acquaintance should have familiarity with one among the three modalities mentioned in explanation to S.47, they are,

- (1) Who has seen that person writes;*
- (2) or who has received documents written by that person in answer to documents written by himself or under his authority and addressed to that person or;*
- (3) who has in the ordinary course of business receives documents written by that person or such documents are habitually submitted to him.*

14. While addressing the question as to whether the evidence of PW2 and PW3 would satisfy the requirements of explanation to S.47 regarding the proof of handwriting and signatures, it is relevant to note that, as already observed, a person, who acquainted with the handwriting of another person, was examined in prosecution to prove the same, his evidence must be by deposing the manner in which he made acquaintance with the handwriting or the signatures by the 3 modes provided in explanation to S.47. They are, (1) Who has seen that person writes: (2) or who has received documents written by that person in answer to documents written by himself or under his authority and addressed to that person or; (3) who has in the ordinary course of business receives documents written by that person or such documents are habitually submitted to him. In the instant case, no such evidence forthcoming.

17. It is well settled law that in order to prove signature and handwriting, it may not be always necessary to get opinion evidence of an expert, though the same is one



among the modes prescribed for the same by way of corroborative evidence. The second mode is the mode provided by proving the handwriting and signature with that of a person, who had acquaintance with the handwriting and signature of the person who disputed it or not available and for which, conditions (1) to (3) in explanation to S.47 to be necessary. The third mode is one provided under S.73 of the Evidence Act, allowing the court itself to compare the signatures and form an opinion.

18. In the instant case, S.73 of the Evidence Act was not applied by the trial court may be for want of comparison of the disputed documents with admitted documents, and the mode adopted by the prosecution to prove that the signatures as well as the handwriting in the disputed loan application, vouchers and receipts etc. were entered by accused Nos.1 to 3 is by examining PW2 and PW3 who are familiar with the handwriting and signatures.

19. When the prosecution relies on the disputed handwriting of a person by examining those who are familiar with the handwriting and signatures, definitely three ingredients viz., (1) Who has seen that person writes; (2) or who has received documents written by that person in answer to documents written by himself or under his authority and addressed to that person or; (3) who has in the ordinary course of business receives documents written by that person or such documents are habitually submitted to him should be satisfied and without satisfying the ingredients, mere identification of



the disputed signature and handwriting of a person merely saying that they are familiar with same would not suffice the requirement.

10. Going by the decision in **Manmadhan's** case (supra), the opinion of the court in the matter of handwriting, based on the evidence given by a person acquainted with the handwriting of the person whose handwriting is sought to be proved, the person giving evidence regarding the acquaintance should have familiarity with one among the three modalities mentioned in Explanation to Section 47, viz.,

(1) *Who has seen that person writes;*

(2) *or who has received documents written by that person in answer to documents written by himself or under his authority and addressed to that person or;*

(3) *who has in the ordinary course of business receives documents written by that person or such documents are habitually submitted to him.*

11. It could be noticed that the 2nd accused worked in Konnathadi Panchayat for the period between June 1993 till March 1994. The prosecution case is that after relieving of her duties, she attended the office for getting some arrears of salary and Provident Fund and at this Juncture, she had done the entries



in Ext.P8 UTF file and in Exts.P10, P13 and P37 M-Books and thereby, accused Nos.1 to 3 (the 3rd accused was acquitted by the Special Court) misappropriated Rs.79,242.36/- during 1993 - 1994 and Rs.6,000/- during 1995. The prosecution records would not justify how the 2nd accused had opportunity to write the documents. In fact, the evidence available as that of PW4, in no way, would sufficiently prove that handwritings in the above documents were that of the 2nd accused in tune with the Explanation to Section 47 of the Indian Evidence, Act, 1872, as already discussed. That apart, PW4 further deposed that accused Nos.1 and 2 never worked together in the office, and the entries were allegedly made after she had been relieved from her duties. Thus, the allegation of conspiracy also not fully established against the 2nd accused in both these cases though the role of the 1st accused in these cases could be found. Therefore, it is held that the evidence available to find commission of the offences by the 2nd accused is either insufficient or not entirely free from doubts. Thus, the 2nd accused in both these cases deserve benefit of doubt. In view of the matter, the conviction and sentence imposed against the appellants herein in both these cases are



liable to be set aside.

In the result, these appeals succeed. The common verdict under challenge stands set aside and the appellants herein are acquitted for the offences punishable under Sections 465 and 120B of the IPC r/w Section 13(2) of the PC Act, 1988, and Section 409 of the IPC in C.C.Nos.81/2008 and 80/2008 and she is set at liberty forthwith. Her bail bonds stand cancelled.

Registry is directed to forward a copy of this judgment to the Special Court, forthwith.

Sd/-
A. BADHARUDEEN
JUDGE

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