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IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
VIKRAM NATH; J., SANDEEP MEHTA; J., VIJAY BISHNOI; J.
CRIMINAL APPEAL NO(S). 5141 OF 2025; MAY 20, 2026
SRI versus STATE REP. BY THE INSPECTOR OF POLICE, Q BRANCH,
RAMANATHAPURAM, TAMIL NADU

Unlawful Activities (Prevention) Act, 1967 – Sections 10(a)(i), 10(a)(iv) and 38(1) – Criminal Conspiracy – Mistaken Identity – Appreciation of Evidence – Material Improvements – Test Identification Parade (TIP) – Conduct of Accused - Glaring contradictions, material improvements, and lack of Test Identification Parade (TIP) render the prosecution's identification of the accused wholly doubtful – Consequent conviction based on flawed identification cannot be sustained - The Supreme Court allowed the appeal of a Sri Lankan national convicted for offences under the UAP Act, 1967, the IPC, the Poisons Act, 1919, the Foreigners Act, 1946, and the Passport Act, 1967 - The prosecution alleged that the appellant was the absconding accused named "Sri" (A-5) who had conspired to rejuvenate the banned LTTE organization by supplying cyanide capsules and equipment - The appellant maintained a consistent defense of mistaken identity, asserting his true identity as "Ranjan." - Key Principles Established by the Supreme Court – i. Material Improvements in Testimony Deconstruct Credibility - The star prosecution witnesses (PW-8 and PW-9) introduced the appellant's name ("Ranjan") as an alias for the absconding accused ("Sri") for the very first time during the current trial - Their complete silence on this aspect during the investigation and previous split-up trials of co-accused constitutes a substantive and material improvement that severely dents their credibility - Such deep-rooted improvements cannot be brushed aside as inconsequential lapses of memory; ii. Inapplicability of the Abuthagir Principle to Improvements - The principle that a mere belated disclosure of a fact by a witness cannot solely discard their testimony applies strictly to a delay in the examination of witnesses during investigation. It cannot be extended to cover cases featuring substantive material improvements over distinct prior judicial depositions; iii. Absence of Corroborative Material and TIP - Where the identity of an accused is heavily disputed and the accused is tied to an alias post-arrest, the absence of a Test Identification Parade (TIP) combined with a complete lack of contemporaneous official or police records linking the two identities prior to the arrest invalidates the identification process; iv. Inconsistency of Innocent Conduct with Absconding Status - The open residence of the appellant at a registered refugee address for years and his active engagement with a foreign embassy to secure a visa and local police clearance are wholly inconsistent with the behaviour of an absconding accused fleeing a serious UAPA charge. [Relied on *Vishwanatha v. State of Karnataka*, 2024 INSC 482; Para 47 – 61]

For Appellant(s): Mr. T.S. Nanda Kumar, AOR Mr. S. Jayakumar, Adv. Mr. S. Rajendra Kumar, Adv. Mr. T.s. Suresh, Adv. Mr. N.j. Nakeeran, Adv. Mr. Dishant Vashisht, Adv. Ms. Seema Sindhu, Adv. Ms. Kulsum Nisha, Adv.

For Respondent(s): Mr. Sabarish Subramanian, AOR Mr. Vishnu Unnikrishnan, Adv. Mr. Veshal Tyagi, Adv.

J U D G M E N T

Mehta, J.

1. Heard.

2. The appellant herein was arraigned as an accused in connection with FIR being Crime No. 1 of 2015, registered at Q Branch Police Station, Ramanathapuram, Tamil Nadu for the offences punishable under Section 120B of the Indian Penal Code, 1860¹, Sections 10(a)(i), 10(a)(iv) and 38(1) of the Unlawful Activities (Prevention) Act, 1967², Section 6 of the Poisons Act, 1919; Section 14(c) of the Foreigners Act, 1946; and Section 3 read with Section 12(1)(a) of the Passport Act, 1967. He was subjected to trial before the learned Principal Sessions Judge, Ramanathapuram³ in Sessions Case No. 02/2018. *Vide* judgment of conviction and order of sentence dated 18th July, 2024, the appellant was convicted and sentenced as below: -

S. No.	Charged Offence	Sentence	Default Sentence
1.	Section 120B of the IPC	Rigorous Imprisonment for 5 (Five) years and to pay a fine of Rs. 10,000/-	15 months Simple Imprisonment
2.	Section 120(B) IPC r/w Sections 10(a)(i) and 10(a)(iv) and 38(1) of the UAP Act	Rigorous Imprisonment for 5 (Five) years and to pay a fine of Rs. 10,000/-	15 months Simple Imprisonment
3.	Section 6 of the Poisons Act, 1919	Rigorous Imprisonment for 3 (Three) months and to pay a fine of Rs. 1,000/-	1-month Simple Imprisonment
4.	Section 120B IPC r/w Section 14(c) of the Foreigners Act, 1946	Rigorous Imprisonment for 3 (Three) years and to pay a fine of Rs. 1,000/-	1-year Simple Imprisonment
5.	Section 120B IPC r/w Section 3 r/w Section 12(1)(a) of the Passport Act, 1967	Rigorous Imprisonment for 2 (Two) years and to pay a fine of Rs. 1,000/-	8 months Simple Imprisonment

3. The appeal being Criminal Appeal (MD) No. 698 of 2024 preferred by the appellant for assailing the judgment of the trial Court stands rejected by the learned Single Judge of the Madurai Bench of the Madras High Court⁴ *vide* judgment dated 3rd April, 2025 which is subjected to challenge in this appeal by special leave.

Brief Facts: -

4. Succinctly stated, facts relevant and essential for disposal of the appeal are noted hereinbelow.

5. The appellant is a Sri Lankan national, who in the year 2009 came to India along with his wife Smt. Archana and his son Pavalan, holding a legally valid Sri Lankan passport issued by the Government of Sri Lanka and a valid tourist visa granted by the Government of India. Before departing from Sri Lanka, the appellant received clearance from the Sri Lankan law enforcement authorities confirming that he did not have any criminal antecedents. The name of the appellant as recorded in the passport is Ranjan.

6. Upon arriving in India, the appellant, along with his wife and son registered themselves with the Shankar Nagar Police Station, Chennai, Tamil Nadu as non-camp

¹ For short, "IPC"

² For short "UAP Act"

³ Hereinafter, referred to as "trial Court".

⁴ Hereinafter, referred to as "High Court"

refugees. In the year 2012, they cancelled their registration with the Shankar Nagar Police Station, Chennai, and re-registered themselves with the K.K. Nagar Police Station at Trichy, Tamil Nadu. The appellant stayed in Trichy for more than a decade without any criminal conduct or complaint against his name.

7. In the intervening period, the wife of the appellant, and his son were granted a visa by the Government of Switzerland in the year 2014. Both of them accordingly left for Switzerland where they sought asylum and were granted citizenship. The appellant also applied for a Swiss visa through his wife, which was granted to him by the Switzerland Embassy at New Delhi *vide* letter dated 14th July, 2021, subject to police clearance in Tamil Nadu, India.

8. The appellant claims that while he was waiting for police clearance, to his utter shock and surprise, he came to be arrested by the Q Branch Officers of Ramanathapuram on 16th December, 2021 with the allegation that his actual name was “Sri” alias “Ranjan” and that he was an accused in a pending case on the file of the learned Principal District and Sessions Judge, Ramanathapuram arising out of FIR bearing Crime No. 1/2015. He was accordingly taken into judicial custody and was confined at the Puzhal Prison, Chennai.

9. It may be mentioned here that the appellant has throughout maintained that he is in no way connected with the said accused named “Sri” mentioned in the FIR. The appellant has always been known by and identified himself as “Ranjan” son of Mr. Gunabalasingam. In support of his contention, the appellant has placed reliance on his passport and various other documents.

10. As per allegations set out in FIR No. 1/2015 registered at Q Branch police station, Trichy, the police received secret information in the month of May, 2015 that a conspiracy was being hatched between Krishnakumar (accused No.1/A-1), Subhaskaran (accused No. 4/A-4), Sri (accused No. 5/A-5) and Kumaran (accused No. 6/A-6), along with two others, to rejuvenate the banned Liberation Tigers of Tamil Eelam⁵ organisation. The said conspiracy was allegedly hatched at Arasan Bakery, KK Nagar, Trichy.

11. It is alleged that, in furtherance of the said conspiracy, “Sri” (A-5) handed over 75 cyanide capsules and 60 grams of chemical GPS-4 used for making cyanide to Krishnakumar (A-1), with specific directions to proceed to Sri Lanka by ferry and hand over the same to one “Kavi”, a Sri Lankan national, so as to re-organise the LTTE cadres and to eliminate rival Tamil leaders.

12. Acting on the said tip off, the Q Branch police conducted a vehicle search on 20th July, 2015 at 20:30 hours at the Utchipuli Bus Stand on the Ramanathapuram-Rameshwaram Main Road. A Tata Indica car bearing Registration No. TN-07-BK-3574 was searched, wherein Krishnakumar (A-1), Sasikumar (accused No. 2/A-2) and Rajendran (accused No. 3/A-3) were found present. The following articles were seized from the said accused persons: 75 cyanide capsules; 60 grams of chemical GPS-4; 6 mobile phones; Indian currency amounting to Rs.46,200/-; Sri Lankan currency amounting to Rs.19,300/-; vehicle documents; and passport and other documents.

13. Upon interrogation, it was found that the recovered articles and currency were intended to be illegally smuggled out to Sri Lanka for reviving the banned terrorist organisation LTTE. On the basis of the confession of Krishnakumar (A-1), the involvement of Subhaskaran (A-4), Sri (A-5) and Kumaran (A-6) in the criminal conspiracy came to

⁵ For short “LTTE”

light. Subhaskaran (A-4), was thereupon arrested on 25th July, 2015, from whose possession a route map, a list containing names of certain Sri Lankan leaders, a SIM card, a pen drive, a cell phone and a bag were recovered. In a follow-up search made at A4's house in Chennai on 26th July, 2015, a hard disk, a SIM card and other documents were seized.

14. Q Branch completed the investigation by collecting the incriminating materials and chemical analysis reports, obtaining requisite sanction and examining a number of witnesses. Thereafter, a Final Report under Section 173(2) of the Code of Criminal Procedure, 1973 ⁶ was filed before the learned Principal Sessions Judge, Ramanathapuram, showing "Sri" (A-5) and Kumaran (A-6) as absconding accused. The learned trial Judge took the said Final Report on file as S.C. No. 7 of 2016.

15. On an application in Cr.M.P. No. 467 of 2016, the case was split up by order dated 15th February, 2016 against the absconding accused Nos. 5 and 6, and was re-numbered as S.C. No. 15 of 2016. Thereafter, trial was conducted in the said case against A-1, A-2, A-3 and A-4. After conclusion of trial, they were convicted for the charged offences *vide* judgment dated 28th April, 2018.

16. Kumaran (A-6) was arrested on 25th October, 2016, and a separate trial was conducted against him in S.C. No. 15 of 2016, wherein learned trial Court *vide* order dated 30th September, 2021, convicted him only for offence punishable under section 10(a)(iv) of the UAP Act and acquitted him for the remaining charges.

17. S.C. No. 15 of 2016 was further split up against "Sri" (A-5) by order dated 18th January, 2018, and was re-numbered as S.C. No. 2 of 2018.

18. Thereafter, the Q Branch Officers executed a non-bailable warrant issued against the absconding accused "Sri" (A-5) by arresting the appellant on 16th December, 2021. After his arrest, Q Branch Officers conducted searches at the appellant's rental house at Awaiyar Street, Subramaniapuram, Trichy on 4th January, 2022 and 15th January, 2022, and recovered certain suspected objects and documents which were exhibited during the trial.

19. At the trial, the prosecution examined 39 witnesses and exhibited 102 documents to prove its case. The appellant was questioned under Section 313 CrPC and upon being confronted with the circumstances appearing against him in the prosecution evidence, he denied the same and claimed to be innocent. A specific plea was taken by the appellant that he was not the accused known by the name "Sri" (A-5) and that it was a case of mistaken identity. However, no evidence was led in defence. Trial Court *vide* judgment dated 18th July, 2024 proceeded to convict the appellant for the charged offences and sentenced him as noted *supra*.

20. Being aggrieved, the appellant preferred criminal appeal before the High Court. The learned Single Judge dismissed the appeal and confirmed the conviction of the appellant *vide* impugned judgment dated 3rd April, 2025, which is subject matter of challenge in this appeal by special leave.

21. It is pertinent to note that, after hearing the counsel for the parties and considering that the appellant had undergone incarceration for a period short of one year of total sentence of 5 years, this Court *vide* order dated 1st December, 2025, suspended the sentence and directed his release on bail, subject to conditions to be imposed by the trial Court. Subsequently, when the appellant approached the trial court for bail, the Court, *vide*

⁶ For short "CrPC"

order dated 16th December 2025, granted bail with the stipulation that he be lodged in the Special Camp at Trichy in terms of G.O. (ID) No. 649 dated 11th December 2025 issued by the Government of Tamil Nadu. The appellant has assailed the said G.O. by bringing the same on record. However, we have heard the final arguments on the appeal itself.

Submissions on behalf of the appellant:

- 22.** Learned counsel appearing for the appellant advanced the following submissions.
- 23.** That it is a case of false implication by assigning identity of a different individual upon the appellant.
- 24.** That the appellant was never known by the name “Sri”, and there is no evidence to support the prosecution theory that the appellant answered to the name “Sri” as an alias in addition to his actual name “Ranjan”, as duly recorded in his passport, visa and other undisputed contemporaneous documents. It was submitted that the prosecution has come out with a categorical plea that pursuant to initial investigation, it came to light that the suspect identified as “Sri” being the prime accused in Crime No. 1/2015 had gone absconding. Learned counsel urged that the fact remains, that the appellant had all along continued to reside at his known address, *i.e.*, Avvayar Street, Subramaniapuram, Trichy, Tamil Nadu, which was well within the knowledge of the authorities. The appellant and his family members were registered initially with P.S. Shankar Nagar, Chennai and later with P.S. K.K. Nagar, Trichy. Not only this, but the appellant was also continuously and actively pursuing the grant of a Swiss visa in order to travel to Switzerland to join his wife and child who had already been granted asylum and citizenship in that country.
- 25.** That the witnesses on whose evidence the prosecution heavily relied, namely Balachandran (PW-8) and Kumar @ Dharma Kumar (PW-9), were themselves Sri Lankan citizens illegally staying in India on the basis of fabricated documents. It was urged that no reliance could have been placed on the testimony of such witnesses, who admitted in their testimony that they were staying in India on the strength of forged documents. It was further urged that the theory of the appellant being known as “Sri” alias “Ranjan” was, for the first time, introduced during the evidence of Mr. Balachandran (PW-8) when he was examined in S.C. No. 2/2018.
- 26.** He referred to the excerpts from the evidence of Balachandran (PW-8) and Kumar @ Dharma Kumar (PW-9) to urge that the evidence of the said witnesses is totally unreliable, and their own conduct is so suspicious that they ought to have been prosecuted under the relevant provisions of the Foreigners Act, 1946 and the Passport Act, 1967.
- 27.** Relevant excerpts from the deposition of Balachandran (PW-8) and Kumar @ Dharma Kumar (PW-9) referred by learned counsel are extracted hereinbelow for ready reference: -

“Deposition of Mr. Balachandran (PW-8) Examination-in-chief

I am working as a driver. I know the accused Sri alias Ranjan alias Rajan alias Pugazh alias Pugazhavan. He is also from Sri Lanka. I came to India from Sri Lanka in 1990 as a refugee and later registered as an external refugee and resided in Trichy, and sold fancy products for my livelihood.....

I got acquainted with the accused Krishnakumar alias Kanthan through the above Dharmakumar. Since he also requested Dharmakumar for a house for rent, Dharmakumar brought him to my house and let him stay in my house. Krishnakumar and I would share and pay the rent. When Krishnakumar and I stayed together in my house, we used to talk at night. While talking like that, Krishnakumar would tell me about the L.T.T.E. and his work in it. He also said that he was making arrangements to revive the movement with his L.T.T.E. friends, Sri alias Ranjan alias Rajan and

Subashkaran alias Prabha, Murugan alias Kumaran, and Shiva... Krishnakumar told me and Dharmakumar that the name of the person who came was Sri and that his aliases were Ranjan, Rajan, Pugazh, Pugazhavan, and that he also worked for the L.T.T.E. movement. Then they were both talking about reviving the movement. At that time, Sri alias Ranjan took out cyanide vials, cyanide powder packet, GPS Devices, and cellphones from the bag he had brought and handed them over to Krishnakumar. The present accused left after telling him to take those items to Sri Lanka and give them to a person named Kavi..... On the morning of 05.01.2022, the investigating officer of this case called me, and I came to Arasan Bakery in Trichy at 10:30 a.m. There, in front of Arasan Bakery, they showed me the present accused Sri alias Ranjan and started investigating me. I informed him the fact that one day in May 2015, when the witness Dharmakumar, the accused Krishnakumar, and I were talking at home, the present accused came to ray house and handed over the above-mentioned case properties to the accused Krishnakumar....

Cross-Examination

I am a witness in all 3 cases related to the case under crime number 1/2015 related to this case. **The police recorded the statement I gave in this crime number. It is true that in my statement, I have stated that I came to India from Sri Lanka with my family in 1990 by an illegal boat. It is true that as a family, we stayed in Tirunelveli, and I am still living in Tirunelveli. It is true that I have rented a house at door number 5, Ranga Nagar first main road, K.K. Nagar in Trichy and I am the only one staying there. PW-1 Dharmakumar was the one who rented a house for me. Dharmakumar and I are already acquainted in Sri Lanka.....**

I have also obtained an Indian voter identity card. I have an account in KVB Bank in my name. I have an Aadhar card and a PAN card in my name. My entire family has Aadhar cards. I have not obtained Indian citizenship till date.... When Krishnakumar was staying with me, he would talk to me about the L.T.T.E. activities. He even invited me to join the movement. I refused, but I did not give any information about it to the police. It is true that helping people from a banned movement is a crime. It is false to state that I am also a criminal in this case because I gave shelter to the accused Krishnakumar and helped him. It is false to state that I am giving false testimony as requested because the police threatened to include me as an accused in this case.....

I have stated during the investigation that the case properties given to Krishnakumar were given in May 2015 by Sri. If stated that Krishnakumar was arrested on 27.02.2015 and therefore the case properties were in Krishnakumar's possession for about 2 months, I am not aware of that. I know that those case properties are going to be taken to Sri Lanka. But it is true that I did not inform the police about it.....

It is true that in the previous cases, I had mentioned only the name Sri in the statement obtained from me by the police. In the statement that was given by me to the police. I have mentioned the names Sri alias Ranjan alias Rajan alias Pugazh, Pugazhavan, after arresting the accused. I identified the present accused as Sri after him being arrested by the police. It is false to state that if the police had arrested a different person and shown him to me, I would have still identified him as Sri. The Q Branch police did not conduct any identification parade.....

It is true that there were no documents about Sri in the case properties seized from Krishnakumar. It is true that, similarly, there were no documents about Ranjan. I have not given a statement anywhere that Krishnakumar told me the name Ranjan. It is false to state that the present accused Ranjan has been living in Trichy from 2012 to 2021, and if in fact he was Sri, I would have identified him earlier.....

It is false to state that I am giving false testimony under threat from the police, fearing that they would register a case against me."

“Deposition of Mr. Kumar alias Dharmakumar (PW-9) Examination-in-chief

I know the present accused, Sri alias Ranjan alias Pugazh alias Pughazhavan. He is also Sri Lankan. I came to India from Sri Lanka in 2009 on a passport. After coming to India, after registering as an external refugee, I am residing in Trichy with my family....

When I was in Sri Lanka, I worked for the L.T.T.E. movement....

When we all met, the accused Krishnakumar would often talk about the L.T.T.E. movement. One day, when Krishnakumar was talking to me, he said that the present accused, Murugan alias Kumaran and Prabha alias Subashkaran, had gathered in Trichy and discussed attacking the traitors who were responsible for destroying the L.T.T.E. movement, and that I should cooperate with them. I said that I was not interested in that. I also said that they should not take any coordination measures. Then, I don't remember the date, but one morning in the first week of May 2015, I went to the house where Krishnakumar was staying. **At that time, when I, Krishnakumar, and Balachandran were talking, a friend of Krishnakumar came there. At that time, Krishnakumar introduced the person as Sri alias Ranjan alias Rajan alias Pugazhavan, and told us that he had worked in the L.T.T.E. movement. They were both discussing reviving the movement. At that time, the present accused, Sri alias Ranjan, took the cyanide bottles, cyanide packet, GPS equipment, and cell phones that he had brought with him and handed them over to Krishnakumar. The present accused left after telling him to take all those items to Sri Lanka and hand them over to Kavi from the movement.** I came to know that on 21.07.2015, the Inspector of the Trichy Q Branch informed that my friend Krishnakumar alias Kanthan, was arrested in Ramanathapuram district while he was planning to go to Sri Lanka with the above-mentioned case properties and was traveling in a car and a case was registered in Ramanathapmam and therefore the house where Krishnakumar was staying should be searched and after conducting a search in the presence of witnesses, some documents including a laptop were seized. I was questioned in this regard on 23.07.2015 by the Additional Superintendent of Police of the Q Branch. **Then, on 05.01.2022. being summoned by the investigating officer of this case, I came to Arasan Bakery in Trichy at 10:30 a.m. The present accused was with the police at Arasan Bakery. The police questioned me by showing the present accused. Then I told him that in the first week of May 2015, the present accused had come to Krishnakumar's house and handed over the above-mentioned case properties and also identified him as Sri.**

Cross-Examination

I am from Sri Lanka. My mother and two sisters are in France. **It is true that my brother Chandrakumar and I received weapons training in the L.T.T.E. movement during 1994-1996. It is true that between 1996 and 1998, my brother and I participated along with L.T.T.E. in the fight against Sri Lanka in Mullaitheevu, Kilinochchi, and Mullivaikkal.....**

The three of us would meet often and chat. It is true that in the statement given by me to the police, I have stated that I have refused Krishnakumar's request to revive the L.T.T.E. movement. **It is true that I did not inform the police about it. I have a driving License, PAN card, and Aadhaar card in my name. I am working as a water can dealer and I am not paying any GST. It is false to state that I am conducting business here without obtaining Indian citizenship, obtaining documents illegally, and doing business without paying GST. I did not give the above details in the police statement. It is true that on 16.06.2015, my younger brother Chandrakumar came to my house under the name of Raghupathi Shankar using a fake passport. The police told me that it was wrong to give shelter to someone who came with a fake passport. It is true that my younger brother was staying with me during the period when a person named Sri handed over the case properties to Krishnakumar at Balachandran's house. It is false to state that I am introducing a new person named Sri just to hide my brother's involvement in the L.T.T.E.....**

It is true that I did not inform the police even though I knew that the case properties were given to Krishnakumar in May 2015 and that Krishnakumar were in possession of the

items. It is true that in the previous case, SC No. 15/2016., when I was testifying as PW-8, I had testified that I did not see what was in the bag given by the person named Sri. It is true that in the other 2 cases where I have testified, I had mentioned only one name, Sri, and did not mention the name Ranjan anywhere. It is true that I have mentioned Ranjan, Rajan, Pugazh, and Pugazhavan only in this case. It is true that I identified the present accused in that way after he was arrested by the police. It is false to state that before the present accused was arrested, neither I nor Balachandran informed the police that Ranjan was residing in Tiruchirappalli. It is false to state that if the police had shown me some other person, I would have identified him as Sri out of fear of the police....

It is true that I did not give a confession statement that the first accused Krishnakumar mentioned the name Ranjan to me.....

It is false to state that my brother and I are involved in this case crime number 1/2015, and therefore my statements are not acceptable. It is not false to state that I am giving evidence in support of this case under threat from the police because I was in the L.T.T.E., and my brother came to India on a fake passport, and since I know about the illegal transfer of the assets to Krishnakumar and because I knew that they were going to be taken to Sri Lanka.”

(Emphasis supplied)

28. From the aforesaid excerpts, learned counsel highlighted the following infirmities, contradictions and suspicious features in the evidence of both the witnesses:

i. The witnesses admitted that they were residing in India and had procured various identity document including Aadhar card, Pan card, etc., despite not having lawful citizenship status.

ii. They were doing business in India and had continuously provided refuge/shelter to Krishnakumar (A-1), the main accused who was arrested in this case in 2015.

iii. Even though, they saw Krishnakumar (A-1) indulging in talks about the revival of LTTE movement in their own presence, they did not inform the police about it.

iv. **Significantly, none of the witnesses in their statements to the police or in their previous depositions in earlier trials of other accused stated that the accused “Sri” (A-5) whom they were referring to was also known by the name “Ranjan” and that this fact has been told to them by Krishnakumar (A-1). This version has been introduced for the first time in the present trial.**

v. **The identification of the accused was done only while he was in police custody and no Test Identification Parade⁷ was held.**

29. Learned counsel further referred to the evidence of the Investigating Officer, Mr. Pandian (PW-29) and particularly the following excerpts therefrom: -

“Examination-in-chief

On 16.12.2021 at 11:00 am, when I was in our branch office, as per the order of the head office, the arrest warrant of the accused Sri was executed by the Trichy Branch Inspector Mr. Victor and SubInspector Feroz Khan who was assisted him, came to my office and produced the accused Sri of this case along with a separate report.....

At 11.30 am, the accused Sri, who was produced before me by executing the arrest warrant, was interrogated and he voluntarily came forward without any threat or inducement and stated that I was in the second phase of security detail of the leader Prabhakaran of the Liberation Tigers of Tamil Eelam and that citing the excellence of my work, he gave me the name Sri in the movement.

⁷ For short, “TIP”.

My real name is Ranjan, and I surrendered to the Sri Lankan army in the 2009 battle between the LTTE and the Sri Lankan army in Mullivaikkal and was released in 2012, and came to Trichy and stayed, and at that time, as per the request of Gagan, who had worked with me and is currently in Switzerland, to reunite the LTTE and fight against the Sri Lankan army and establishing Tamil Eelam.

Cross-Examination

I got to know about the previous investigation of this case by perusing the file.....

If asked whether an identification parade since

PW8, 9 has identified Rajan as Sri, identification parade will only be conducted through Court only if the witness says that it was a stranger who can be identified when seen. It is false to state that the above PW8 and 9 did not identify the accused.....

It is true that only the name Sri has been mentioned in the previous cases and investigations and Ranjan's name has not been mentioned. If the name Ranjan or Sri was not mentioned in the documents marked from Ex.P6 to 75 through PW19 filed in this case regarding Ranjan, the explanation is that Sri is a name given to him in the LTTE movement to honour him, and that name will only be known to his close relatives, friends and the members of the movement.....

Ex. P-64 shows that the name of Ranjan has been registered at the Shankar Nagar Police Station in Chennai. Also, it is true that he has removed his registration at the Shankar Nagar police station in Ex. P-65 and 66 and registered his name as a refugee at the police station in K.K. Nagar, Trichy. It is true that none of my previous officers arrested Ranjan by mentioning his name as Sri. It is true that Ranjan has not obtained any identity card in his name issued by the Indian government to identify himself as an Indian citizen. But he has obtained an Indian driving license. It is true that in the documents filed by me from Ex.P-24 to 60, apart from the identity card issued in Sri Lanka, the name Ranjan, his signature, the address of Ranjan were not mentioned.....

It is true that Ranjan's name or signature is not mentioned anywhere in the documents claimed to have been written by him, but it was brought up to my knowledge during my investigation that since those documents are confidential, they would not usually sign them. It is false to state that if this document was actually written by Ranjan in his own handwriting, we would have sent it to a handwriting expert and got it verified, and since it was not written by Ranjan, no such effort was taken. It is true that Ranjan's wife and son are living in Switzerland, and a letter was sent from the Swiss Embassy on 14.07.2021 asking Ranjan to come and live with his family, and the same has been filed in this case as Ex-P-58. It is false to state that Ranjan is living alone due to the delay in the procedure of issuing visa in his name, and therefore we have included him as an accused in this case.....”

(Emphasis Supplied)

30. Learned counsel referred to the above excerpts to contend that the I.O. has candidly admitted that, prior to the arrest of the appellant in the year 2021, there existed no contemporaneous documentary or oral evidence to establish that the appellant was known by or answered to the name “Sri” as an alias of “Ranjan”. Further, no TIP was conducted after the appellant's arrest, despite the fact that none of the witnesses examined during investigation had identified “Ranjan” as being the alias of “Sri”.

31. On this basis, learned counsel urged that the involvement of the appellant in this case is totally unjustified, based purely on conjectures and surmises and the appellant has been made to undergo imprisonment of nearly four years without there being any evidence to connect him with the crime.

32. Learned counsel contended that the reliance placed by the prosecution on call detail records (CDRs) is wholly misplaced. It was pointed out that the neighbour of appellant, Indu (PW-17), who assisted the appellant in procuring SIM cards, has categorically deposed that the said SIM cards were obtained only in the year 2020 and were used by the appellant during the period 2020-2021, *i.e.*, until his arrest. In such circumstances, the said CDRs cannot have any nexus with an offence allegedly committed in the year 2015 and are, therefore, wholly irrelevant to the prosecution case.

33. Learned counsel further contended that the appellant had been granted the status of a Non-Camp Refugee, along with his wife and minor child, upon their arrival in India in the year 2009 by the Government of India and the State of Tamil Nadu, and that the said status continues to subsist. Consequently, there was no requirement for the appellant to renew his passport or extend the validity of his visa. It was thus urged that the invocation of the provisions of the Passport Act, 1967 and the Foreigners Act, 1946 against the appellant is wholly misconceived and unsustainable in law.

34. He further submitted, in the present case, even though the appellant has served out a substantial part of the sentence awarded by the trial Court and even after order dated 1st December, 2025 passed by this Court directing his release on bail, he is still not being released and continues to be illegally detained at a Special Camp in Trichy.

35. Learned counsel, thus, urged that the appellant deserves to be honorably acquitted and further direction ought to be given that he should be permitted to pursue his case for relocation to Switzerland in terms of the visa granted to him, the process of which stood halted on account of his false implication in the present case.

Submissions on behalf of the respondent

36. *Per contra*, learned counsel appearing for the respondent, vehemently and fervently opposed the submissions advanced by the learned counsel for the appellant. He urged that the appellant was clearly found involved in activities aimed at revival of the banned organisation LTTE.

37. He submitted that the appellant had conspired with the convicted accused Krishnakumar (A-1) and had provided him with cyanide capsules and other poisonous chemicals to be carried to Sri Lanka so that the persons who were responsible for the defeat of LTTE could be eliminated.

38. He urged that the discrepancies sought to be highlighted by the learned counsel for the appellant in the evidence of the prosecution witnesses are trivial in nature, immaterial, and such as are bound to occur in the testimony of truthful witnesses, looking to the long interval of time after which they were examined.

39. Learned counsel submitted that, since the testimonies of the witnesses Balachandran (PW-8) and Kumar @ Dharma Kumar (PW-9) were recorded after a delay of almost seven years, such discrepancies are naturally bound to occur. He, therefore, urged that the appellant does not deserve any indulgence by this Court. He further submitted that the since appellant has already served out substantial portion of the sentence awarded by the trial Court, the present appeal itself has, to a large extent, lost its efficacy.

Discussion

40. We have given our thoughtful consideration to the submissions advanced at the bar and have perused the material available on record. We have also sifted through the original record and the evidence of the prosecution witnesses.

41. The moot question that arises for consideration before this Court is whether the appellant has been implicated in this case on the basis of mistaken identity.

42. The key reasons assigned by the trial Court and the High Court to hold that the absconding accused “Sri” (A-5) and the appellant, “Ranjan” were one and the same are noted hereinbelow: -

i. Both, Balachandran (PW-8) and Kumar @ Dharma Kumar (PW-9) deposed that when the appellant visited Krishnakumar’s (A-1) house in May 2015, A-1 introduced him as “Sri” alias “Ranjan” alias “Rajan” alias “Pugazh” alias “Pugazhavan” and stated that he had worked in the LTTE movement. PW-8 further deposed that the accused handed over cyanide bottles, a cyanide packet, and GPS equipment to Krishnakumar (A-1) and directed him to carry the same to Sri Lanka and hand them over to “Kavi,” which was corroborated by PW-9 in material particulars. On this basis, the trial Court concluded that “Ranjan” and “Sri” referred to one and the same person, *i.e.*, the present appellant.

ii. Treated evidence of the appellant’s landlady, Rasamalar (PW-25), and his neighbours, Indu (PW-17) and Latha (PW-18) as corroborative of the prosecution’s case regarding the identity and presence of the appellant at the relevant address, thereby lending support to the prosecution version that the appellant was identifiable to persons in his vicinity as the individual named in the FIR.

iii. The High Court accepted the prosecution’s explanation that “Sri” was not a conventional name but an honorific conferred upon the appellant by an LTTE leader in recognition of his services. It was further noted that the appellant’s photograph was affixed on his Sri Lankan passport (P.M.O. 61) bearing the name “Ranjan,” which, according to the courts, established his identity. On this basis, the High Court concluded that the appellant, having been actively associated with LTTE, had adopted the name “Ranjan” to conceal his identity after the organisation was banned and disbanded.

iv. With regard to contention of the defence that the name “Ranjan” did not appear in the earlier depositions of PW-8 and PW-9 in S.C. No. 7 of 2016 and S.C. No. 15 of 2016, the High Court rejected the said contention by relying on the decision of this Court in **Abuthagir v. State**⁸, holding that mere belated disclosure of a particular fact by a witness is not, by itself, a ground to discard such testimony, provided the evidence is otherwise cogent and credible.

43. We are of the firm opinion that the Courts below erred in holding that the appellant-Ranjan is the same as the absconding accused “Sri” (A-5), and the conviction based on this flawed identification cannot be sustained in the eyes of the law.

44. It is an admitted fact that the star prosecution witnesses, Balachandran (PW-8) and Kumar @ Dharma Kumar (PW-9), are the only two witnesses, who have identified the appellant as the accused “Sri”, who allegedly handed over the cyanide capsules and poisonous substances to Krishnakumar (A-1) in the year 2015 for purported activities related to the revival of LTTE and for targeting those whom the accused believed to be responsible for the downfall of LTTE.

45. At the very outset, it is significant to note that both these witnesses were residing in India as refugees and had procured identity documents such as Aadhaar cards, PAN cards and Indian voter identity cards. This is borne out by the admissions made by Balachandran (PW-8) and Kumar @ Dharma Kumar (PW-9) themselves in cross-examination referred

⁸ (2009) 17 SCC 208.

to *supra*. PW-8 admitted that he held a KVB bank account, a voter identity card, an Aadhaar card and a PAN card in his name and that all his family members also held Aadhaar cards, while simultaneously conceding that he had not been granted Indian citizenship till date. PW-9 similarly admitted to possessing a driving licence, a PAN card and an Aadhaar card in his name. It is wholly inconceivable as to why no action was taken by the investigating agency against them, despite material clearly indicating that they had created documents projecting themselves as Indian citizens, even though they did not possess such status. This aspect, in itself, casts a serious doubt on the manner in which the investigation has proceeded.

46. Further, both these witnesses, not only consciously provided shelter to Krishnakumar (A-1), but even after allegedly witnessing the handing over of poisonous substances by the accused “Sri” (A-5) to Krishnakumar (A-1), they chose to remain completely silent. Not only did they fail to inform the police about such a grave and serious incident which forms the very backbone of the prosecution case, but they also continued to harbour and support Krishnakumar (A1) for a prolonged period, thereby rendering their conduct highly unnatural and suspicious. As a matter of fact, there was ample material to prosecute these witnesses in this very case.

47. What assumes considerable significance is that neither of these two witnesses, in their statements recorded by the police nor in their depositions in the earlier trials (S.C. No. 7 of 2016 and S.C. No. 15 of 2016), ever stated that the person referred to as “Sri” was also known by the name “Ranjan,” or that he was the present appellant residing in Trichy. This crucial assertion has surfaced only at a much later stage, thereby seriously denting the credibility of their version and creating substantial doubt regarding the identity of the appellant.

48. A careful scrutiny of the evidence reveals glaring contradictions and material improvements in the testimonies of these witnesses. Both witnesses admitted in their cross-examinations that in the earlier trials that they had not mentioned the name “Ranjan” at all, and that the identification of the appellant in that capacity was made only after his arrest and that too during police custody. The belated introduction of this name, years after the alleged incident, renders their testimonies highly suspect. Their silence in earlier proceedings, followed by this subsequent disclosure, constitutes a material improvement rather than a mere lapse of memory.

49. In this backdrop, the reliance placed by the High Court on *Abuthagir (supra)* is clearly misplaced. The principle laid down in *Abuthagir (supra)* pertains to delay in examination of witnesses during investigation and cannot be extended to a situation where there is a substantive and material improvement in testimony after earlier depositions were conspicuously silent on the very same aspect. Such improvements have debilitating effect on the credibility of the deposition made by the witnesses and cannot be brushed aside as inconsequential.

50. The reliance placed by the Courts below on the evidence of appellant’s landlady, Rasamalar (PW-25) and his neighbours Indu (PW-17) and Latha (PW-18) is equally misconceived and is based on a clear misreading of their depositions. While the Courts below have treated these witnesses as corroborating the prosecution case on identity, a careful and holistic reading of their evidence reveals quite the contrary, each of them, in fact, undermines the very foundation of the prosecution’s case that the appellant was known as “Sri”.

51. The landlady, Rasamalar (PW-25), in her examination-in-chief categorically stated that there was no resident by the name “Sri” in her apartment. More importantly, in her cross-examination, she unequivocally deposed that she knew the appellant only by the name “Ranjan”. She further stated that she herself had come to India out of fear of the LTTE and that the appellant too had come with his family under similar circumstances. She also clarified that had she known of any connection of the appellant with the LTTE, she would not have rented out the premises to him. Additionally, she confirmed that the appellant had duly registered himself as a refugee at the K.K. Nagar Police Station, Trichy, where she herself was registered. Testimony of this witness properly appreciated, does not support the prosecution case; rather, it clearly establishes that the appellant was known only as “Ranjan”, and that no person by the name “Sri” was residing in her premises on rent.

52. The evidence of Indu (PW-17) and Latha (PW18), who were immediate neighbours residing in close proximity to the appellant, is on the same lines. Neither of these witnesses stated that they knew the appellant by the name “Sri”. On the contrary, their testimony reflects ordinary neighbourly interaction. PW-17 had assisted the appellant in obtaining SIM cards, and both PW-17 and PW-18 permitted the appellant to receive money sent by his wife from Switzerland through their bank accounts, as he did not have one owing to his refugee status. These circumstances are entirely innocuous and indicative of a normal domestic association, and do not, in any manner, support the prosecution’s case regarding identity or alleged involvement in unlawful activities.

53. In these circumstances, far from corroborating the prosecution case, the evidence of PW-17, PW-18, and PW-25 runs contrary to the prosecution’s theory and, in fact, clearly establishes that the appellant was known only as “Ranjan” and had nothing to do with the alleged absconding accused “Sri”.

54. We find from the record that there is a complete absence of reliable oral or documentary evidence linking the appellant to the accused “Sri” (A-5). The Investigating Officer (PW-29) himself admitted that only the name “Sri” appears in the earlier proceedings and cases, and that the name “Ranjan” does not find mention anywhere in the investigation records. Not a single official record, whether the FIR, Chargesheet, or any other police document, reflects the name “Ranjan” in conjunction with the absconding accused “Sri” prior to the appellant’s arrest. In the absence of any such evidence, the highly belated introduction of the name “Ranjan” as alias of “Sri” post-arrest constitutes a material improvement that seriously undermines the credibility of the prosecution’s case.

55. In order to appreciate the importance of proper identification and the consequences of failure on the part of the prosecution to establish identity through reliable evidence, it would be apposite to refer to the observations of this Court in ***Vishwanatha v. State of Karnataka***⁹, wherein the issue of doubtful identity in the absence of corroborative material was directly considered. This Court observed as follows: -

“16. Coming back to the facts and circumstances of the present case, it is an admitted fact that Ravikumar (Accused No.1, now deceased) was known to the eyewitnesses and was also related to the complainant. Hence, there was no requirement of TIP as regard to Ravikumar (accused no.1). But the case of appellant- Vishwananth stands on a different footing. He was a total stranger to the two eye witnesses i.e. PW-1 and PW-2. **The name ‘Vishwanath’ came to their knowledge, only after Ravikumar (Accused no. 1) called his coaccused, by name exhorting him to run. In a case where the identity of the accused is not known and TIP has not been conducted, the court has to see if there was any description of the accused either in the**

⁹ 2024 INSC 482

FIR or in any of the statement of witness recorded during the investigation. There is none in the present case. The identification of an accused in court is acceptable without a prior TIP and absence of TIP may not be fatal for the prosecution. It would depend on facts of each case. In the case at hand, though the appellant was identified in court by PW1 and PW-2, the Trial Court did not attach much weight to it, as no identification proceedings were conducted, and the Court found it unsafe to acknowledge the identity merely on the basis of identification in the Court. **In the present case, where there are six persons by the name of 'Vishwanatha' in the locality and where this Court has doubts on the presence of the two star witnesses PW-1 and PW-2 (who have identified the accused), we are of the opinion that the identity of the present appellant remained in doubt.**

17. Another fact which casts a doubt on the identity of the present appellant, is that there is no description in the FIR of 'Vishwanatha' except that his name is mentioned. He then becomes the first of the two to be arrested by the police. Learned counsel of the appellant would submit that there were six persons by the name of 'Vishwanantha' in Kudupu village at the relevant point of time, a fact which was placed by the defence during trial, which has not been confronted. In such a situation, it was the duty of the prosecution to show as to how and on what basis, the appellant came to be apprehended by the police. The Sub-Inspector, PS-Mangalore Rural (PW-19), who apprehended the appellant, had also failed to explain how he came to apprehend the appellant without any information regarding his description. A perusal of the testimony of the Sub-Inspector/PW-19 indicates that there is not even a whisper as to what formed the basis of the appellant's arrest. He was cross-examined and what was gathered from his cross-examination is that the appellant was arrested in absence of any independent witnesses and without preparing any arrest memo. All these facts combined together cast a doubt on the identity of the appellant. Thus, it is not safe to convict the appellant solely only on the basis of the testimony of PW1 and PW2."

(Emphasis supplied)

56. Applying the aforesaid principles to the present case, the position is even more damning to the prosecution case. Here too, the identity of the appellant rests solely on the belated and improved testimonies of PW-8 and PW-9, who admittedly did not disclose the name "Ranjan" in earlier proceedings and introduced it only after the appellant's arrest. There is no contemporaneous description, no documentary linkage, and no independent corroboration connecting the appellant with the alleged absconding accused "Sri" (A-5). Much like in *Vishwanatha* (*supra*), the absence of reliable identification material and the failure of the prosecution to establish how the appellant came to be implicated in the case by linking him as "Sri" using an alias name renders the case on identity wholly doubtful, making it unsafe to sustain the conviction.

57. Apart from the inconsistencies in the testimonies of the witnesses, the prosecution's case is further weakened by the documented and lawful conduct of the appellant during the period he is alleged to have been absconding. While the prosecution seeks to connect the identity of the absconding accused "Sri" (A-5) with the appellant-Ranjan on the basis of belated disclosures, the actual facts relating to the appellant's life in Trichy present a completely different picture.

58. The appellant was continuously and openly residing in Trichy and had duly registered himself as a refugee with the K.K. Nagar Police Station, Trichy, a fact also confirmed by appellant's landlady (PW-25). It is the prosecution's own case that the absconding accused "Sri" (A-5) was being sought to be arrested under a non-bailable warrant and was being actively searched for since the filing of the final report in S.C. No. 7 of 2016. Despite this, for more than five years, the investigating agency failed to trace or apprehend the said accused, even though, as per their own case, he was residing openly at a known and registered address under the alias name "Ranjan". The total lack

of effort on the part of the investigating officers to trace and apprehend the absconding accused “Sri” (A-5), or to establish any credible link between “Sri” and the appellant-Ranjan during this entire period, itself creates a grave doubt regarding the *bona fides* of the prosecution’s case.

59. The conduct of the appellant during the relevant period also merits consideration. Not only the appellant was residing openly at his known address, but he was simultaneously engaging with the Switzerland Embassy at New Delhi and local authorities for obtaining a police clearance certificate in order to travel to Switzerland to join his wife and son. The letter dated 14th July, 2021 issued by the Switzerland Embassy (Ex. P-58) is a contemporaneous official record establishing this fact. A person who is an absconding accused in a serious UAPA matter would not dare to apply to a foreign embassy for a visa and seek a police clearance certificate from the very police station in whose jurisdiction he admittedly resided under a false identity. This conduct is wholly inconsistent with the prosecution’s case and is entirely consistent with the conduct of an innocent person going about his routine life.

60. Undeniably, the entire case of the prosecution on the question of identity rests solely on the oral testimony of Balachandran (PW-8) and Kumar @ Dharma Kumar (PW-9), whose version, as already discussed above, is completely unreliable.

61. *Prima facie*, it appears that Balachandran (PW8) and Kumar @ Dharma Kumar (PW-9), who had themselves brought their relatives from Sri Lanka under false identities and were under the scrutiny of the investigating agency, were, by way of a bargain, prevailed upon to implicate the appellant in the present case as the absconding accused “Sri” (A-5), just in order to give a closure to the case. It is, therefore, clearly a case where the appellant has been falsely implicated by being assigned the identity of another person, namely, the so-called absconding accused “Sri” (A-5). The investigating agency has not placed on record any material to demonstrate the steps taken by it to locate, apprehend, and bring the said absconding accused to trial. Such inaction and indolence on the part of the investigating agency casts a serious doubt on the *bona fides* of its conduct.

Conclusion

62. As a result of the discussion made hereinabove, we are of the firm opinion that the appellant has been falsely implicated in this case without there being any evidence to connect him with the crime.

63. Accordingly, the judgment dated 18th July, 2024 passed by the trial Court and impugned judgment dated 3rd April, 2025 passed by the High Court are hereby set aside.

64. The appeal merits acceptance and is hereby allowed.

65. The appellant is acquitted of the charges and shall be released from the Special Camp, Trichy forthwith. He shall be at liberty to pursue his request for relocation/movement to Switzerland, in accordance with the law.

66. Pending application(s), if any, shall stand disposed of.