IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 24.02.2026

PRONOUNCED ON : 09.06.2026

CORAM

THE HON'BLE MR JUSTICE M. NIRMAL KUMAR

CRL RC No. 2439 of 2025
and
Crl.M.P.Nos.21864 and 21865 of 2025

Shri Harsha Srinivas Rao
S/o. Shri Hiriadka Srinivasa Rao,
No.8, Nortalk Heights,
Church Road, Tunbridge Wells,
T.N.I, 1JB, United Kingdom.

..Petitioner/Accused

Vs

The State
Represented by The Inspector of Police,
Central Bureau of Investigation,
Anti-Corruption Branch, Chennai.

..Respondent/Complainant

PRAYER: Criminal Revision Petition filed under Sections 438 r/w 442 of BNSS, 2023, praying to call for the records and set aside the order dated 31.10.2025 in Crl.M.P.No.10437 of 2025 in C.C.No.1016 of 2008 on the file of the learned Additional Chief Metropolitan Magistrate, Egmore, Chennai.

For Petitioner : Mr.A.Aswinkumar

For Respondent : Mr.K.Srinivasan
Special Public Prosecutor for CBI Cases

ORDER

The petitioner/accused in C.C.No.1016 of 2008 facing trial for offence under Sections 120-B r/w 420 of I.P.C. and Section 4 r/w 20 of Indian Telegraph Act, 1885 had filed a discharge petition in Crl.M.P.No.10437 of 2025. The trial Court, by order dated 31.10.2025, dismissed the same, against which, the present revision is filed.

2. In this case, originally charge sheet filed against 7 persons including the petitioner and the same was taken on file in C.C.No.2230 of 2003. Since the petitioner failed to appear before the trial Court, absconded, the case against him got split up in C.C.No.1016 of 2008. As regards the mother case in C.C.No.2230 of 2003, the trial proceeded against the accused and the trial Court by judgment dated 30.01.2012, convicted A1 to A3 for offence under Section 4 r/w 20 of Indian Telegraph Act, 1885 and sentenced them to undergo one year rigorous imprisonment and to pay a fine of Rs.50,000/- each but acquitted A1 to A3 for offence under Sections 120-B r/w 420 of I.P.C. and acquitted A4 to A6 for offences under Sections 120-B r/w 420 of I.P.C. and Section 4 r/w 20 of the Indian Telegraph Act.

3. (i) The case of the prosecution is that in this case, A1-Ganesh is a resident of Mumbai. A2-Venkatesh, Partner of M/s.Lakshmie and Sons, A3-Harikrishnan, Partner of M/s.Lakshmie and Sons and Director of M/s.Nisarga

Softwares Private Limited and A4-Mahesh Pujara, Director of M/s.Nisarga Softwares Private Limited, A5-M/s.Lakshmie & Sons, a private Partnership Firm and A6-M/s.Nisarga Software Private Limited, a private limited company. The petitioner/A7 is shown as Consultant of M/s.Nisarga Software Private Limited. During the period 2000 and 2001, all the accused entered into a conspiracy. In pursuant to the conspiracy, A1 induced and instigated A2 to A4 and the petitioner/A7 committed criminal misconduct to cheat the Government of India, Telecommunication Department (BSNL) by way of converting illegally the incoming international calls into local calls and further switching these incoming calls to the local telephone subscribers at Chennai, without obtaining a valid license from the Government of India, by-passing the legal VSNL/BSNL telecommunication channels and thereby obtained wrongful pecuniary gain to A1 to A7 and others and caused wrongful pecuniary loss to Government of India.

(ii) A1 and petitioner/A7 instigated A2 and A3 who were already running a partnership firm by name and style, M/s Lakshmie & Sons at No.10, First Floor, Kondi Chetty Street, Chennai-1 and carrying on the business of Foreign Exchange brokerage to book 13 telephone lines each from the Flower Bazaar Telephone Exchange, BSNL, Chennai to form an illegal telecom network by misusing the local telephone lines and tuned with the similar set up at USA by using broad band line provided by M/s Satyam Infoways Limited, Chennai and by connecting equipments like router, modem etc. and dishonestly received the incoming international calls by-passing BSNL and VSNL channels and converted them as local calls and further A1 to A7 fraudulently and dishonestly switched/distributed these incoming internationals calls to the local subscribers at Chennai and thereby caused wrongful pecuniary loss to the BSNL. Chennai Telephones.

(iii) The petitioner/A7 along with A1 negotiated with M/s Satyam Infoways Ltd. and obtained broadband lease line for the capacity of 256 kbps for Rs.17,50,000/- rental charge, Rs.2,50,000/- as one time charges and Rs.36,000/- as WPC Port charges and A1 by paying an amount of Rs.1,00,000/- towards advance through cheque from HDFC Personal Account at Mumbai. A4 paid to A3, an amount of Rs.1,00,000/- on two instalments of Rs.50,000/- each. The first instalment paid through cash and the second instalment paid through cheque. A1 also arranged accommodation at Room No.110 in the Pioneer Guest House at No.9. Kondi Chetty Street, Chennai for carrying out the illegal telecom network without being caught by the BSNL or law enforcing authorities. A2 and A3 agreed to provide 36 telephones local lines besides letting out the office premises of their firm M/s.Lakshmie & Sons to accommodate M/s.Nisarga Softwares Pvt. Ltd. on the terms and conditions as agreed upon in the agreement signed by both the parties.

(iv) The broadband line services used to push through the international calls originated from USA and reached the illegal set up established by the accused persons in the office of the accused firm over the bandwidth leased lines in voice over IP form. The switching system at Chennai established by the accused extracts the voice over IP packets along with the local telephone number to be dialled. The computer based switching system dials the local telephone number using the telephone lines obtained from the Flower Bazaar Telephone Exchange. The accused persons have run this illegal set up from the day they obtained the bandwidth leased line from SIFY but VSNL authorities could detect the same only on 27.08.2001. Thus A6 phone No.5396280 was kept under watch and observation and thereafter on 07.09.2001, joint surprise check conducted by the Vigilance Department of BSNL, Chennai Telephones and CBI officers raided the premises of A5 and A6 and seized the switch, router, modem, frame relay equipment, voice multiplex, UPS and other electronic items. Thus, on completion of investigation, charge sheet filed listing witnesses.

4. During trial, the case proceeded against A1 to A6. On the side of the prosecution, PW1 to PW35 examined, Exs.P1 to P67 marked and M.O.1 to M.O.6 produced. On conclusion of trial, A1 to A3 convicted for offence under Section 4 r/w 20 of the Indian Telegraph Act and found not guilty for offence under Section 120-B r/w 420 of I.P.C. A4 to A6 found not guilty for offence

under Section 120-B r/w 420 of I.P.C.. As regards the petitioner/A7 is concerned, since the petitioner was shown absconding, the case against him got split up.

5. The petitioner on his arrival to India on 15.07.2025, he was detained at Mumbai Airport and produced before the learned Additional Chief Metropolitan Magistrate, Egmore, Chennai and remanded. Thereafter, he was granted bail on 28.07.2025 and thereafter, appeared before the trial Court, received copies and thereafter, he field the above discharge petition.

6. The learned counsel for the petitioner submitted that in this case the prosecution failed to identify and produce any witnesses from the foreign company, that was providing service for receiving calls and transmitting voice over IP. The entire criminal conspiracy as alleged necessarily required a foreign partner to operate the illegal telecommunication network. The specific case of the prosecution is that the voice over IP originates from foreign partner. In this case, one C.K.Subramanian, Manager of VSNL confirms that foreign subscriber using prepaid/postpaid cards supplied by companies abroad can only use this facility. Further, the alleged set up of illegally converting the foreign calls requires a foreign hub to establish connectivity through 256 kbps broadband wave leased line using voice over IP technique. Thus without identifying foreign hub, the chain of conspiracy cannot be completed. Hence, there is a fundamental flaw.

7. He further submitted that since the case against the petitioner has been split up from the other accused, the charge of conspiracy cannot sustain, further the co-accused confession cannot be relied and looked against the petitioner. One of the reasons given by the trial Court in dismissing the discharge petition is that the petitioner, who was absconding for more than 20 years, cannot insist the prosecution to include foreign company as an accused. The petitioner arrayed as A7, projecting that the petitioner is the Consultant of M/s.Nisarga Software Private Limited. In this case, no materials produced to show that the petitioner was employed as Consultant and he acted for A6-company. In fact, A4 to A6 not found guilty and acquitted from the mother case. In such circumstances, no case to proceed against the petitioner. On a demurrer, submitted that as per the prosecution, the role of the petitioner is limited to coordinating the procurement of equipment from A6, which was financed by A1. It was A1, who financed M/s.Satyam Infoways Ltd. to the extent of Rs.1,00,000/- for the purpose of obtaining a broadband connection, A6 acquitted of the charges under Section 120-B r/w 420 of I.P.C. The only other allegation against the petitioner is that the petitioner's signature in the gate pass and delivery challan were identified by witnesses from M/s.Satyam Infoways Ltd. and installation report was signed by one Senthilnathan, Service Engineer of SIFY, who confirmed that delivery note signed by the petitioner on 21.07.2001.

8. On perusal of the delivery note, it is seen that the petitioner not signed it and petitioner also disputed the same. Further the said Senthilnathan, who examined as PW13 in the mother case, not stated anything against the petitioner. He only states that as Sales Executive, he was responsible for the sales of Broadband services to corporate customers. Hence, the sales partner of M/s.Sathyam Infoways Ltd., Mr.Venkatesh directed him to contact M/s.Nizarga Software Pvt. Ltd. with regard to their requirement of Broadband connection. He met one Raj and another person of M/s.Nizarga Software Pvt. Ltd. and not the petitioner. The purchase order/Ex.P31 confirms that it was by M/s.Nizarga Software Pvt. Ltd. and sales order/Ex.P32 was not signed by the petitioner. Further, Ex.P33 confirms that installation of equipments at M/s.Nizarga Software Pvt. Ltd. was on temporary basis. Thus the entire case against the petitioner falls flat. The petitioner signed delivery note for delivery of equipments used to convert international calls to local calls, but no documents produced. The learned counsel on a demurrer submitted, if the petitioner acted as a consultant, utmost it can be said petitioner coordinated the receipt of broadband services. The broadband was installed at Door No.9, Kondi Chetty Street, Chennai in the premises of A6 and landline installed at Door No.10, Kondi Chetty Street, Chennai in the premises of A5. A line was drawn from the premises of A5 to A6 and this line was used to transfer and convert international calls to local calls. Who made this connection, what was the line and how the lines drawn, there is no evidence and more so, there is nothing to show that the

petitioner played any role in this connection and drawing of wire. The petitioner receiving the broadband at Door No.9 of A6 is not a criminal act. He further submitted that in this case, the petitioner not made any false promise or caused any deception, thereby he has not committed offence of cheating.

9. Further, as per Section 4 r/w 20 of the Indian Telegraph Act, it is clear that wire must be used to show that any apparatus connected therewith for the purpose of fixing or insulating the same, then it can be said to be a telegraph line and using the telegraph line, if any person establishes, maintains or works a telegraph within contravention of the provisions of Section 4 or otherwise than as permitted by rules, he can be prosecuted. In this case, establish, maintains are to be read in conjuncture to show that petitioner established and maintained a telegraph unit. In this case, the petitioner utmost can be said to have received the broadband device and nothing more, when after full-fledged trial conducted against A1 to A6 in C.C.No.2230 of 2003, acquitted A6-M/s.Nizarga Software Pvt. Ltd. and its Directors and the petitioner is only a consultant. Hence, the case lacks merit and cannot stand.

10. Further, referring to the judgment of this Court in ***Tamilmaran vs. State Rep by Inspector of Police, Thiruvarur District*** reported in ***(2007) SCC OnLine Mad 1574,*** wherein it is held that the evidence adduced in the case against all the accused persons is inseparable and indivisible and the petitioner

cannot be treated differently on the basis of the said evidence. This principle has been followed by the Madurai Bench of this Court in Suo Motu TR.(MD).No.23697 of 2025, wherein referring to ***Tamilmaran*** case and also the case of ***Javed Shaukat Ali Quershi vs. State of Gujarat*** reported in ***(2023) 9 SCC 164***, ***C.B.I. vs. Akilesh Singh*** reported in ***AIR 2005 SC 268***, ***Anbuselvam vs. State Rep by the Inspector of Police, District Crime Branch, Namakkal,*** reported in ***2018 (2) MWN (Cr.) 442*** and ***Sunil Kumar vs. State*** reported in ***2000 (1) Crimes 73*** had quashed the case on the same ground. Hence, prayed to allow this petition.

11. The learned Special Public Prosecutor strongly opposed the petitioner's contention and submitted that in this case the petitioner is attempting to escape from the criminal liability citing reason that the "Foreign Entity remains unidentified". The petitioner was the Technical Consultant who co-ordinated between the suppliers of the Telecom Equipments and the user. Without his active involvement, the equipments cannot be installed. Being a technical consultant, he is aware the reason and purpose of installation of the telecom equipments and other than the Department of Telecommunication no one else are allowed to operate foreign calls without specific permission from Government of India and by doing so is an offence, which affecting the revenue to Government of India and security threat to the Nation. The non-identification of 'foreign hub' by CBI, can no way be a ground for the petitioner to claim

immunity from the criminal offences committed by him. What has to be seen is whether the petitioner/A7 involved or not in the criminal offence. The statement of witnesses and documents submitted along with the final report corroborate the call records, confirm the role played by the petitioner and other accused. The other accused persons were convicted in C.C.No.2230 of 2003 and the petitioner well aware that the international calls meant for Chennai, are routed through the voice over call and connected to local numbers by-passing the legal BSNL / VSNL switching systems.

12. He further submitted that the Telecom industry has undergone unimaginable developments/changes not only in the operation but also in Rules and Regulations over these 20 years, whereas private operators can provide telecom services now with the permission of Government, it was not so 20 years back when this offence was committed. When the trial in respect of other accused ended in conviction, the petitioner having absconded all these years and surfacing after 20 years, presuming that he was dropped from the charges in C.C.No.2230 of 2003 is unacceptable, when there is *prima facie* evidence exist in respect of offences committed by the petitioner. The petitioner is seeking relief with an unreasonable ground, which is untenable. In this case the other accused/conspirators were convicted based on the documentary evidence corroborated by the statements of oral witnesses. As the petitioner/A7 was absconding, his case was split up in C.C.No.1016 of 2008 in accordance with

law. The illegal installation of telecom equipments could not have been completed without an active participation of the petitioner/A7. In this case, A1 to A3 applied for telephone connection and A1 provided funds so as to run the unauthorised telephone exchange. But mere supply of equipments alone does not constitute crime, these equipments were put into live by installation by the petitioner/A7. The petitioner possesses professional knowledge and technical know-how, hence, the petitioner/A7 is the prime conspirator. The petitioner purchased equipments from M/s.Satyam Infoways Ltd. The petitioner admits that in his capacity as technical consultant, he coordinated with M/s.Satyam Infoways Ltd., which itself proves the involvement of the petitioner in the operation of the illegal telephone exchange. The petitioner fully aware of the facilities available in the SIFY broadband connection equipments and coordinated for installation of equipments, which establishes his involvement in running illegal Telephone Exchange.

13. He further submitted that the employee of M/s.Satyam Infoways Ltd. states that he could not notice any illegal activity during his visits, but after his visits the illegal connection given by the petitioner. In this case, there are two sets of facts, one is illegal extension of 26 telephone lines and other one is these 26 lines were used for diversion of foreign calls and equipments. Had the petitioner not installed these equipments, there was no possibility of diversion of foreign calls. He further submitted that there are 3 steps involved in this case,

viz., Step 1: Providing necessary infrastructure for establishing telephone calls, Step 2: Installing the necessary equipments for diverting the foreign calls bypassing the BSNL/VSNL, Government of India networks illegally and Step 3: Using the above arrangements for diversion of the calls. The crucial step in this process is step 2-installing necessary equipments for diversion of calls. The petitioner as technical professional had taken part in this crucial step of installation.

14. Further the learned Special Public Prosecutor referring to the decision of this Court in the case of *Vidya vs. The State Rep. by Inspector of Police, Madhavaram, Chennai* in Crl.R.C.No.472 of 2019, wherein this Court held that at the stage of deciding the petition under Section 239 of Cr.P.C., the Court has to see whether there exists any *prima-facie* materials to proceed the case and the defence taken by the accused need not be looked into at the time of framing of charges. In this case, there are sufficient materials to proceed against the petitioner and further the petitioner was absconding himself for 23 years and hence, the petition is liable to be dismissed.

15. Considering the submissions made and on perusal of the materials, it is seen that initially F.I.R. registered against 8 persons. Of the 8 persons, the petitioner's name does not find in the F.I.R. The persons named in the F.I.R., one Anil Rao and Suneel Subramanyam were left in the charge sheet.

Admittedly, charge sheet filed against 7 persons, the petitioner, shown as A7, Consultant of A6-company. The specific overt act against the petitioner is that as consultant the petitioner placed orders with M/s.Satyam Infoways Limited and one Senthilnathan of M/s.Satyam Infoways Limited, who examined as PW13 in the mother case, deposed that broadband placed on the purchase order/Ex.P31 and by sales order/Ex.P32, the same was delivered and Ex.P33/installation report confirms the installation of equipments at M/s.Nizarga Software Pvt. Ltd. on temporary basis. In this case, A6-company was functioning in No.10, Kondi Chetty Street, Chennai. A5-M/s.Lakshmie & Sons had taken landline telephone connection of 13 BSNL lines at No.9, Kondi Chetty Street. A5-M/s.Lakshmie & Sons is a partnership firm. The partners are A2 and A3. A6-M/s.Nizarga Software is a private limited company and A3 and A4 are its Director.

16. In this case, the petitioner/A7 is a consultant to A6-company but there is no materials produced to show A7 employed as Consultant. The only other circumstances against the petitioner is that the petitioner placed orders, received equipments from M/s.Satyam Infoways Ltd. PW13 and PW15 employed in M/s.Satyam Infoways Ltd. supplied broadband internet in this case. The evidence of PW13 is that when he was working with SIFY, the investigating officer showed certain documents and equipments, which were seized in this case, namely, M.O.1 to M.O.6. Referring to the check list/Ex.P32, PW13

confirmed that M.O.1 to M.O.6 delivered to A6-M/s.Nizarga Software Pvt. Ltd. and installed at No.10, Kondi Chetty Street, Chennai. It was PW13, who did the installation work and representative of M/s.Nizarga Software Pvt. Ltd. also present at that time, but he could not re-collect his name. The installation report/Ex.P33 said to be contained the petitioner's signature. Going one step ahead, if the petitioner's signature is proved in Ex.P33 that alone will not add anything more other than the person present at the time of installation of broadband. Fixing of broadband in a premises is not an offence. The broadband installed at No.10, Kondi Chetty Street connected with BSNL landline connection is at No.9, Kondi Chetty Street. For voice over conversion of lines, there should be drawing of wire from No.9, Kondi Chetty Street to No.10, Kondi Chetty Street. What was the wire found, why no wire seized, no observation mahazar and rough sketch prepared to confirm the same over and above, there is no evidence and materials to show it is the petitioner installed the equipments, namely, Broadband and thereafter, drawn the wire from landline and converted international calls to local calls. In, Ex.P33 it is projected, petitioner received and signed, but no specimen signature collected from the petitioner to confirm it was the petitioner, who in Ex.P33, received the broadband equipments from SIFY.

17. Further, other than router and Modem, no other cables supplied by M/s.Nizarga Software Pvt. Ltd. PW13 further states that the contact person for

M/s.Nizarga Software Pvt. Ltd. was one Harsha, the petitioner. Merely being a contact person, who has some technical knowledge, would not amount to criminality. Further, the evidence of PW13 corroborated PW15-Rahul Madhavan, who was previously employed in M/s.Satyam Infoways Ltd. as Sales Executive. He confirms that it was A1, who was Sales Partner of M/s.Satyam Infoways Ltd., directed PW15 to contact M/s.Nizarga Software Pvt. Ltd. with regard to the requirement of broadband connection and there he met one Raj and Ganesan of M/s.Nizarga Software Pvt. Ltd. and they informed requirement of bandwidth connection for data conversion project. In this case, Exs.P31, 32 and 33 shows placing of orders and delivery of broadband.

18. It is to be seen that Exs.P31 to 33 only confirm the installation of equipment of M/s.Nizarga Software Pvt. Ltd. at No.10, Kondi Chetty Street, Chennai. Apart from it, one more important factor to be seen is that in the mother case on the evidence of PW5, the officer of Company Law Board deposed that in the Regional office of the Registrar of Companies at Mumbai during the period 2000 to 2005, he was looking after the work relating to Registration of Companies and he furnished copies of documents relating to M/s.Nizarga Software Pvt. Ltd. to the CBI officials and the certificate of incorporation of A6 marked as Ex.P15 and Memorandum of Association and Articles of Association marked as Ex.P16. He marked other related documents Exs.P17, P18 and P19. He further referred to Form No.32 to show that one

Mahesh Boojara, Anil Rao, Sunil Subramaniam and Harikrishnan are Directors of the company and the certified copy of Form No.32 marked as Ex.P20. He further submitted that shifting of the company intimated through Ex.P21 and A6 not filed annual returns with Registrar of Companies. In none of the documents, petitioner/A7 name is not found.

19. The specific finding of the trial Court is that the existence of M/s.Nizarga Software Pvt. Ltd. not proved by the prosecution, hence, A4 to A6 are not found guilty under any charges. Thus the fulcrum of the case against the petitioner is that he was the consultant of A6-company and committed the offence. When the very existence of A6 is found to be non-existent, the petitioner/A7 as Consultant does not have reason to sustain. Apart from the delivery challan/Ex.P32, the only stray circumstance is that the petitioner signed delivery challan, which is not proved and it is for delivery, receiving the broadband alone would no way further the case of the prosecution. It is also to be seen that in this case the respondent not filed any appeal against the acquittal of A1 to A3 for offence under Sections 120-B r/w 420 of I.P.C. and A4 to A6 for offence under Sections 120-B r/w 420 of I.P.C. and Section 4 r/w 20 of the Indian Telegraph Act.

20. This Court in the case of ***Tamilmaran vs. State Rep by Inspector of Police, Thiruvarur District*** reported in ***(2007) SCC OnLine Mad 1574*** on a

similar circumstances had clearly held that the evidence adduced in the mother case against the accused persons is inseparable and indivisible. In such circumstances, the petitioner/A7 in the split up case cannot be treated on the basis of the said evidence. This principle has been reiterated in Suo Motu TR.(MD).No.23697 of 2025. Thus from the uncontroverted statement of witnesses and materials in the charge sheet and on the above facts, no case is made out against the petitioner/A7. Hence, continuation of proceedings against the petitioner would only amount to abuse of process of Law.

21. In view of the above, the impugned order dated 31.10.2025 made in Crl.M.P.No.10437 of 2025 in C.C.No.1016 of 2008 by the learned Additional Chief Metropolitan Magistrate, Egmore, Chennai is set aside. The petitioner/A7 is discharged from the above case and acquitted from all charges.

22. Accordingly, the Criminal Revision Case is allowed. Consequently, the connected criminal miscellaneous petitions are closed.

09.06.2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

RSI

To

1.The Additional Chief Metropolitan Magistrate,
Egmore, Chennai.

2.The Inspector of Police,
Central Bureau of Investigation,
Anti-Corruption Branch, Chennai.

3.The Public Prosecutor,
High Court, Madras.

M.NIRMAL KUMAR, J.

RSI

Pre-delivery order in
CRL RC No. 2439 of 2025
and
Crl.M.P.Nos.21864 and 21865 of 2025

09.06.2026