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CRL A No. 1036 of 2



Order QR

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29-09-2026

CORAM

THE HON'BLE MR JUSTICE M. NIRMAL KUMAR

CRL A No. 1036 of 2026

CNR: {HCMA011650962026}

Sujan



..Appellant(s)
/ Accused 20

Vs

The State Rep. by,
The Inspector of Police
Palladam Police Station,
Tiruppur District.
Crime No.663 of 2025.

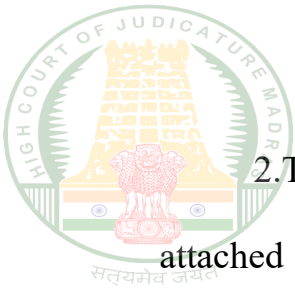
..Respondent(s)

Prayer: Criminal Appeal filed under Section 415 (2) of BNSS, 2023, pleased to set aside the conviction and sentence made in S.C.No.352 of 2025 on the file of the learned Sessions Judge, Special Court for Trial of Cases under the SC/ST(POA) Act, Tiruppur dated 22.05.2026 and acquit the Appellant/Accused and thus render justice.

For Appellant(s):	M/S.R. Bakiyalakshmi
For Respondent(s):	M/S. Sharada Vivek Government Advocate (Criminal side) Assisted By Mr.M.Arul Raj

JUDGMENT

The Trial Court in S.C.No.352 of 2025 by judgment dated 22.05.2026 convicted the appellant for offence punishable under Section 14(A) of Foreigners Act, and sentenced to two years simple imprisonment each and to pay a fine of Rs.10,000/- each, in default, to undergo simple imprisonment for one month each. Against which the present appeal is filed.



2. The case of the prosecution is that PW1 / the Sub Inspector of Police attached to Palladam Police Station, on 19.06.2025 at about 07.30 A.M., while on patrol duty along with Grade I Police Constables Jaganathan / PW2 and one Vasanthakumar, and Grade II Police Constable Muthupandi, received secret information, that Bangladeshis, overstaying in the house of one Poongodi at Door No.10/334, RM Nagar, Kunnakaalpalayam. Hence, they went there and found twenty-five persons staying under suspicious circumstances. Since all the accused spoke in Hindi, with the assistance of one Kamaleshkumar, Hindi Translator who was conversant in Hindi, they were enquired.

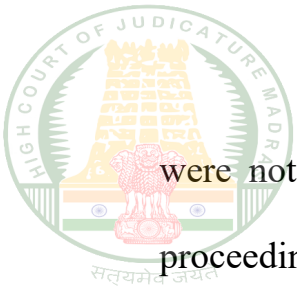
3.1. During initial interrogation, the accused admitted that they came from Bangladesh and their names are (A1) MD.Abdul Khalek, (A2) MD.Aminul Islam, (A3)MD Hamidul, (A4)Mohir Hossain, (A5) MD Sumon, (A6)MD Aktarul Sheikh, (A7)Ahan Habib, (A8)MD Alamir Hosen, (A9)Ershad Ali, (A10)Sohid Baga, (A11)Abu Bokkar Siddik, (A12)MD Mokles, (A13)MD Ainul Haque, (A14)MD Emon Ahmed, (A15)Karay, (A16)MD Ariful Islam, (A17)MD Abdul Bared, (A18)Fayazul Hoque Life, (A19)Sadek, (A20)Sujan, (A21)Zainul Abedin, (A22)MD Dulal, (A23)MD Azad, (A24)MD Jannat Khan, (A25) MD Shoel and all are residing in Tiruppur. Bangladesh National Identity cards of A1 to A25 were seized. It was found that the accused were staying in India without valid Visa or travel documents.



3.2. On further enquiry, it was revealed that they came to India without any visa and possess no valid documents to enter India. Thereafter, PW1/ Inspector of Police, Palladam Police Station had taken the accused along with special report to the Police station and registered First Information Report / Ex.P1 in Cr.No.663 of 2025 for the offences under Sections 3 (2) (c) r/w 14 Foreigners Act. PW6 / Investigating officer visited the scene of occurrence and prepared Observation Mahazar / Ex.P2 and Rough Sketch / Ex.P3 in the presence of the witnesses Sakthivel and (P.W.5) / Raghuman. Statement of P.W.4 / House owner also recorded. After completion of investigation, P.W.6 filed a charge sheet in this case.

4. During the trial, P.W.1 to P.W.6 were examined and Ex.P1 to Ex.P.28 were marked. On conclusion of the trial, the Trial Court convicted the appellant as stated above.

5. The learned counsel for the appellant submitted that the admitted position of the prosecution case is that, the accused are from Bangladesh Foreign Nation seeking employment and for their livelihood and they were engaged in construction work in Tiruppur. The appellant not involved in any illegal activities and not come to the adverse notice of the Police during their stay in India. The accused were not conversant with the local language and they



were not known to read or write and understand Tamil. But the entire trial proceedings were conducted in a regional language-Tamil. Hence, appellant were denied meaningful and effective opportunity to understand the allegation and to defend their case. Further, though it has been projected that the service of translator, namely Kamalesh Kumar was employed, but his qualification and competency have not been proved. The Apex Court, in the case of ***Central Bureau of Investigation Vs. Narottam Dhakad***, reported in ***2023 SCC OnLine SC 1069***, had held that, if denial of effective opportunity is proved, then it amount to violation of Article 21 of the Constitution of India and benefit has to be given to the appellant and the case against them to be quashed and conviction cannot be sustained.

6.The learned counsel for the appellant referred to the guidelines issued by Ministry of Home Affairs in F.14011/55/09 F-VI, dated 23.11.2009 circular, wherein the procedure of deportation of Bangladeshi Nationals given, further particularly referred to Paragraph 2 (v) of the circular, which is extracted below:-

2 (v) In respect of Bangladeshi nationals found to be staying unauthorizedly in any particular State/UT, proper inquiry shall be conducted by the State Government / UT concerned. If the suspected Bangladeshi national claims Indian citizenship and residence of a place in any other Indian State/UT, the concerned State Government/UT would send to the Home, Secretary of the State/UT and District Collector/District Magistrate of the District from where the suspected person claims to hail, the details including name, parentage, residential address, details of near relatives etc. the State



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Government / UT / Collector/District Magistrate concerned in turn will ensure that appropriate report is sent the deporting State Government / UT after proper verification within a period of 30 days. All the States/UTs shall issue appropriate instructions to the District Collectors/District Magistrates for ensuring verification of claim of such suspected persons well in time. During the period of 30 days, the competent authority will ensure, by obtaining permission of the court wherever necessary, the detention of such persons to ensure physical availability at the time of deportation. If no report is received within the period of 30 days, the competent authority may take necessary action to deport the suspected Bangladeshi national.

7.Learned counsel for the appellant referred to paragraph Nos.14 & 19 of the Hon'ble Apex Court Judgment in ***M/s.Maja Daruwala and another v. State of West Bengal reported in 2025 Law Finder SC 4783.***

The same are extracted hereunder:

14.The pivotal issue that falls for our consideration is that if an illegal immigrant from Bangladesh after being apprehended and proceeded under Section 14 A(b) of the Foreigners Act, 1946 is convicted and sentenced to undergo a particular term of imprisonment then after he completes his term of sentence should be immediately repatriated/deported to his own country or should he be kept for an indefinite period in the Correctional Homes in India. The only confusion in our mind is that once an illegal immigrant is put to trial and is held guilty then what is the requirement for further verification of his nationality at the end of the Ministry of External Affairs.

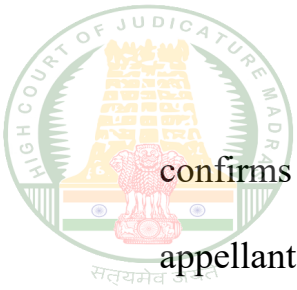
19.The plain reading of Clause 2(v) indicates that the entire exercise is to be completed i.e.the exercise of deportation, verification etc., within a period of 30 days.



8. He further submitted that appellant was convicted on 22.05.2026 and now pleads that since they are in Prison without any earnings and no relatives nearby unable to pay fine amount of Rs.10,000/- each and sought waiver of the same or atleast default sentence of one month can be reduced, on this point referred to the judgment of the Hon'ble Apex Court in the case of ***Shahejad Khan Mahebukhan Pathan v. State of Gujarat reported in 2013 (1) SCC 570.***

9.The learned Government Advocate (Criminal side) filed counter and submitted that PW1 / the Sub Inspector of Police attached to Palladam Police Station, on 19.06.2025 at about 07.30 A.M., while on patrol duty along with Grade I Police Constables Jagamathan / PW2 and one Vasanthakumar, and Grade I Police Constable Muthupandi, received secret information, that Bangladeshis, overstaying in the house of Poongodi at Door No.10/334, RM Nagar, Kunnakaalpalayam. Hence, they went there and found twenty-five persons staying under suspicious circumstances.

10.The learned Government Advocate (Criminal Side) submitted that in this case during the trial PW1 to PW6 were examined and Exs.P.1 to P28 were marked. P.W.1 had lodged a complaint, which is marked as Ex.P1. P.W.2 is the police personnel who accompanied P.W.1, who had corroborated the evidence of P.W.1. P.W.3 is the Translator. P.W.4 is the house owner of the appellant



confirms the stay of the accused persons in her house. According to P.W.4, the appellant had not disclosed that they belong to Bangladesh and, considering them to be a North Indian, the house was let out for rent to them. P.W.5 is the witness to the Ex.P2 Observation Mahazar and Ex.P3 Rough Sketch. P.W.6 is the Investigating Officer, who had filed charge sheet. Ex.P4 to Ex.P28 are the Bangladesh National Identity Cards of A1 to A25. Based on the evidence of the prosecution witnesses, supported by the prosecution documents, the trial Court rightly convicted the appellant.

11.The learned Government Advocate (Criminal Side) further submitted that the accused, who are citizens of Bangladesh had entered into India without valid passport, visa or travel documents. The accused have admitted that they are Bangladesh in nationality and further they have not claimed that they are Indian citizens. Thus, the prosecution had clearly proved that the accused are foreigners. Though the accused take a plea that they came to India for their livelihood, this plea cannot absolve them from statutory requirement of possessing valid travel documents and, hence, the trial Court rightly convicted the accused under the Foreigners Act and the said conviction is sustainable and prayed for dismissal of the appeals. The learned Government Advocate further submitted that accused were arrested and remanded on 20.06.2025. After conviction, appellants again remanded on 22.05.2026 and they are now

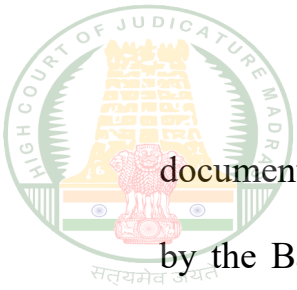


confined in Puzhal Prison, Chennai. As on date they are in prison for nearly 464 days. She further produced the communication from Regional Special Deputy Collector, Srilankan Tamil Rehabilitation Camp, Kotappattu, Tiruchirappalli, in reference No.B1/104/2026 dated 18.09.2026, wherein the procedure taken by the authority with respect to Bangladeshi nationals has given as follows:-

“10.Details of procedural steps taken by concerned Authorities with respect to Bangladeshi nationals detained, in line with the Repatriation of Prisoners Act, in respect of this Taluk:

It is submitted that the following procedure is followed with respect to Bangladeshi nationals lodged in the Special Camp: the identity proofs of the inmates are forwarded by the Police Department to the Bangladesh High Commission for verification. Upon verification by the concerned Government of Bangladesh, a Travel Permit is issued in respect of the verified nationals. Subsequently, a Government Order is issued for release of the said nationals from the Camp for the purpose of deportation to their native country”

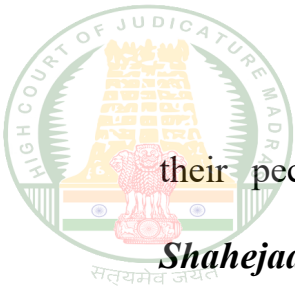
12.Considering the submissions and upon a perusal of the materials on record, it is seen that P.W.1 is the Inspector of Police, attached to Palladam Police Station. On 19.06.2025, at about 07.30 a.m., while on patrol duty, received secret information and he found twenty five persons in a house owned by Poongodi / P.W4. On suspicion, enquired them and at that time they have admitted that they are Bangladesh citizens entered India without any valid



documents. He seized Bangladesh National Identity cards of A1 to A25 issued by the Bangladesh Authorities. Thus, A1 to A25 are Bangladesh citizens had been proved and they have not entered into India through valid documents.

13. On the evidence and materials, the trial Court had rightly convicted the appellant. This Court finds no reason to interfere with the judgment of the trial Court in S.C.No.352 of 2025 dated 22.05.2026 and confirms the conviction of the appellant for offence under Section 14(A) of Foreigners Act.

14. As regards the sentence imposed, it is seen that the appellant had come to India in search of livelihood, they had stayed in Tiruppur for quite some time and doing available jobs on a daily-wage basis. Ex.P3 to Ex.P28, are Bangladesh National Identity cards of accused 1 to 25. It is not in dispute that the appellant, owing to the unrest in Bangladesh and the uncertainty of their future, and being unemployed and impoverished, came in search of employment and livelihood to sustain themselves and their families. Admittedly, they are neither involved in nor convicted of any economic offence, nor have they enriched themselves so as to assume that they possess the means to pay the fine. Thus, considering the circumstances of the appellants/accused, there is no doubt that they are very poor, are seeking livelihood, have migrated in search of employment, and are in penury and unable to pay the fine amount. Considering



their pecuniary circumstances and following the principles laid down in ***Shahejad Khan Mahebukhan Pathan*** (cited supra), this Court confirms the sentence of fine of Rs.10,000/- (Rupees Ten Thousand only) imposed on each of the accused and modifies the default sentence of one month Simple Imprisonment to one week. Except for the aforesaid modification in the default sentence, the sentence of two years Simple Imprisonment is confirmed.

15. Further, in view of the directions issued by the Apex Court in the case of ***Maja Daruwala*** (cited supra), approving the Circular dated 23.11.2009 issued by the Ministry of Home Affairs, the exercise of deportation is required to be completed within a period of thirty days, and the said direction is to be followed without deviation or delay. Hence, the concerned authorities are directed to take appropriate action and ensure that the appellants, along with their children, are deported to Bangladesh within a period of thirty days after they have undergone their period of sentence and the default sentence of one week.

16. With the above directions and observations, the Criminal Appeal is partly allowed. Consequently, connected Miscellaneous Petitions if any, shall stand closed.

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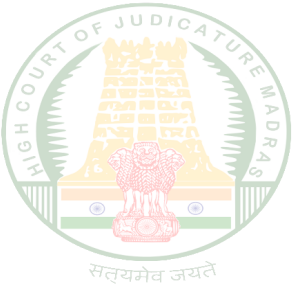
To:-

1. The Sessions Judge,
Special Court for Trial of cases
under SC / ST Act, Tiruppur.

2. The Inspector of Police,
Palladam Police Station,
Tirupur.

3. The Superintendent of Prison
Central Prison, Puzhal I, Chennai.

4. The Public Prosecutor
High Court of Madras



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M.NIRMAL KUMAR, J.

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