

IN THE HIGH COURT OF DELHI AT NEW DELHI

CRIMINAL APPEAL No. 29 of 2008

Reserved on: April 29, 2014

Decision on: May 2, 2014

BABU RAM

..... Appellant

Through: Mr. Saurabh Kirpal with
Mr. Akshay Bhatia and Mr. Bharat
Bhushan Bhatia, Advocates.

versus

CENTRAL BUREAU OF INVESTIGATION Respondent

Through: Mr. Manoj Ohri, Spl. PP.

CORAM: JUSTICE S. MURALIDHAR

J U D G M E N T

02.05.2014

1. This appeal is directed against the judgment dated 13th December 2007 passed by the learned Special Judge (CBI) in CC No. 05/05 convicting the Appellant under Section 7 and 13 (2) read with Section 13 (1) (d) of the Prevention of Corruption Act, 1988 ('PC Act') and the order on sentence dated 14th December 2007 sentencing him to one year's rigorous imprisonment ('RI') with a fine of Rs. 3,000, and in default, to undergo simple imprisonment ('SI') for fifteen days for the offence under Section 7 of the PC Act and RI for two years with a fine of Rs. 7,000, and in default, to undergo SI for fifteen days for the offence under Section 13(2) read with 13 (1) (d) of the PC Act. Both the sentences were directed to run concurrently.

2. By an order dated 10th January 2008, this Court suspended the sentence awarded to the Appellant during the pendency of the appeal, subject to terms.

The case of the prosecution

3. The Complainant, Rakesh (PW-3) was running a dairy business at 176-B, Prajapat Nagar, Near Gulmohar Park, New Delhi. PW-3 had 25 cows which he used to tie with ropes in front of his house. The cattle catching staff of the Municipal Corporation of Delhi ('MCD'), including the Appellant, Babu Ram, who was working as a Cattle Catcher at MCD, Green Park, New Delhi, would impound the untied cows wandering on the road.

4. On 9th December 2004, PW-3 gave a complaint (Ex.PW-3/A) in the Central Bureau of Investigation ('CBI') stating that on 8th December 2004, when he went to Malviya Nagar, the Appellant met him at the cattle pond and demanded a bribe of Rs. 5,000 to enable PW-3 to carry on his dairy business smoothly. According to PW-3, the Appellant threatened him that if the bribe was not paid, the cattle of PW-3 would be impounded and his business would be ruined. When PW-3 expressed his unwillingness to pay bribe of Rs. 5,000, the Appellant reduced it to Rs. 2,500 and told him to bring the amount of Rs. 2,500 to his office at Green Park on the following day, i.e., 9th December 2004 at 10 am. When PW-3 met the Appellant at the MCD office, Green Park on 9th December 2004, the Appellant is stated to have repeated his demand of Rs. 2,500 as bribe and asked PW-3 to

bring the said amount on the following day, i.e., 10th December 2004 at 10 am. It was at that stage that PW-3 had lodged a complaint with the CBI.

5. It had come in the evidence of PW-6, A.A. Srikant, Upper Division Clerk in the office of Directorate General of Health Service ('DGHS'), Nirman Bhawan, New Delhi that he was asked by his Director (Vigilance) to report to Mr. N.S. Yadav, DSP (PW-9), STF Branch, CGO Complex, New Delhi for some secret duty. He went on 9th December 2004 to the CBI office between 7 or 7.30 pm and met PW-9. One Rattan Singh, UDC, DGHS (PW-5) was also deputed for that purpose. PW-9 directed PW-5 and PW-6 to come at 8 am on the following day, i.e., 10th December 2004.

6. In his evidence PW-9 stated that the complaint given by PW-3 to the CBI on 9th December 2004 was marked to him and, after verifying the allegations, he found that the Appellant was not enjoying a good reputation and was in the habit of taking bribes. He accordingly informed Mr. O.P. Chatwal, DIG, STF Branch, CBI and the DIG ordered for registration of the case and laying of a trap. Accordingly, FIR No. 3(S)/2004 was registered on 9th December 2004 against the Appellant under the signature of DIG. The contents of the FIR were also read over to the PW-3 and he appended his signature thereon.

The pre-raid proceedings

7. PW-9 further stated in his evidence that on the following day, i.e., 10th December 2004 both PW-5 and PW-6 reached the office of CBI in the morning. They were introduced to PW-3 and his complaint was also shown to them. PW-3 produced five Government Currency ('GC') notes of Rs. 500 each and their numbers were noted down in the pre-trap proceedings. A demonstration regarding the effect of phenolphthalein powder with sodium carbonate was also shown and the GC notes were treated with phenolphthalein powder. The tainted GC notes were given to PW-3 and he kept them in his left side upper shirt pocket. He was directed to give the tainted money to the Appellant only on his specific demand. PW-6 was asked to act as a shadow witness and to overhear the conversation between PW-3 and the Appellant and also to see the transaction of money between them. After payment of the bribe amount, PW-6 was directed to give a signal by scratching his head with both hands. The pre-trap proceedings were recorded in the Handing Over Memo (Ex. PW-3/B).

The trap proceedings

8. Thereafter, the team members comprising of PW-3, PW-5, PW-6, PW-9 and others reached near the vicinity of MCD office at Green Park at about 9.45 am on 10th December 2004. The team members were deployed in a scattered manner near the office of the MCD. A digital recorder, which was switched on, was handed over to PW-3 for the purpose of recording the conversation between the Appellant and him. PW-6 was asked to follow PW-3 into the MCD office to see the

transaction of bribe money and to overhear the conversation between the Appellant and PW-3. At about 9.55 am, PW-3 and PW-6 entered into the MCD office at Green Park and after a few minutes came back and stood in front of the office.

9. PW-6 in his evidence stated that at around 11 am, the Appellant came to the MCD office and that PW-3 gave a signal that the Appellant had arrived. Both the Appellant and PW-3 went aside and started talking to each other. PW-6 was standing at a distance of about 8-10 ft. It is stated that after some time the Appellant demanded money from PW-3 by gesturing with his right hand fingers. PW-3 gave the smeared GC notes to the Appellant who accepted it in his right hand and kept the same in his right side pant pocket.

10. PW-5 in his evidence stated that he was standing at a distance of about 10-12 ft from PW-3. PW-5 stated that "I saw accused making signs by moving his fingers towards the Complainant for demanding money and the Complainant paid money Rs. 2,500 to the accused after taking out the same from his shift pocket. Babu Ram accepted those currency notes in his right hand and kept the money in his right hand side pant pocket."

11. In his examination-in-chief, PW-3 stated that "Babu Ram talked with me about the money. Babu Ram demanded the bribe amount from me and I handed over to him the powder treated notes which he

accepted in his right hand and kept the same in his right side pant pocket.”

12. All the three witnesses spoke about the pre-determined signal being given by PW-6, immediately upon which the CBI trap team surrounded the Appellant. PW-9 introduced himself to the Appellant. PW-5 stated that S.S. Rawat caught hold of one hand of the Appellant and A.K. Pandey caught hold of the other hand. Thereafter, the Appellant was taken into the office of Dr. Pradeep Kumar (PW-8). When PW-9 asked the Appellant about accepting the bribe money of Rs. 2,500 from PW-3, the Appellant “kept mum and became perplexed.”

13. Then, in the office of PW-8, on instructions, PW-5 brought out the currency notes of Rs. 2,500 from the right side pant pocket of the Appellant. The numbers of the recovered currency notes were tallied with those numbers noted down in the Handing Over Memo. Thereafter, the right hand as well as the right side pocket of the pant of the Appellant were washed with Sodium Carbonate solution which turned pink. They were preserved in separate bottles and seized and labelled.

14. In his deposition, PW-6 more or less corroborated the above version of PW-5. He stated that two inspectors caught the Appellant by his wrists and then took him inside the office of PW-8. PW-8 also joined the proceeding. PW-6 took out the smeared GC notes from the

right side pocket of the pant worn by the accused. The recovered GC notes were tallied with the numbers mentioned in the Handing Over Memo and the numbers of GC notes were found to be the same.

15. PW-9 stated that “digital recorder was taken back from PW-3 and it was played on the spot and recorded conversation confirmed demand and acceptance of bribe money. Recorded conversation was transferred in two micro audio cassettes from digital recorder. One micro cassette was sealed in cloth wrapper on the spot.”

Arrest and investigation

16. The Appellant was arrested and the seized articles were noted down in the recovery memo (Ex.PW-3/C). The arrest-cum-personal search memo of the Appellant was prepared (Ex.PW-5/A). On 11th December 2004 specimen voice of the Appellant was recorded in presence of PW-5 and PW-6 in an audio cassette and voice recording memo (Ex.PW-5/C) was prepared.

17. The report dated 31st December 2004 of the Central Forensic Science Laboratory (‘CFSL’) confirmed the presence of phenolphthalein in the right hand wash as well as right side pocket of pant wash of the Appellant. The audio recording on the tape was found not to be clear and therefore could not be authenticated.

Charge

18. By an order dated 1st July 2005 of the trial Court, charges were framed against the accused under Section 7 and Section 13 (2) read with Section 13 (1) (d) of PC Act. The Appellant pleaded not guilty and claimed trial. At that stage, he stated as under:

“The amount of Rs. 5,000 was due against the Complainant in respect of Chetak Vespa Scooter which I had sold about three years back. The final settlement regarding the balance payment was arrived in the presence of Sh. Dinesh and Sh. Jagat and in view of that settlement the Complainant had come with the amount of Rs. 2,500 for payment to me which was due against him and he got planted false case against me on that account.”

19. It may be mentioned at this stage that on 10th December 2007, after the evidence was recorded and arguments heard, some defects were noticed by the learned trial Judge as regards the dates and some facts. By an order dated 10th December 2007 passed under Section 216 Cr.PC, the charge was altered with the consent of prosecution as well as the accused and the amended charge was again put to the accused to which he pleaded not guilty.

Statement of the Appellant under Section 313 Cr PC

20. The prosecution examined ten witnesses. In his statement under Section 313 Cr.PC, in response to the incriminating evidence put to him, the Appellant stated, *inter alia*, that about two years prior to the incident he had sold to PW-3 a scooter for Rs.19,000. PW-3 paid Rs. 14,000. The Appellant did not sign the sale letter since PW-3 did not

pay the balance consideration. Two persons, Jagat (DW-2) and Dinesh (DW-1), were stated to have helped the Appellant and PW-3 in settling the matter, in terms of which PW-3 agreed to pay the Appellant Rs. 2,500. The Appellant claimed that on 9th December 2004, PW-3 paid the balance consideration of Rs. 2,500 for the scooter.

21. In his statement under Section 313 Cr PC, the Appellant claimed that he was not aware of the trap proceedings. He stated that he had kept in his right side pocket of the pant the balance sale consideration for the scooter. In response to question No. 19 that upon PW-6 giving the signal, the trap team had reached towards him and PW-9 had challenged him about demanding and accepting Rs. 2,500 as bribe money from PW-3, the Appellant stated: "I was caught by CBI officials. I told them that I have not taken any bribe. I also told them that I had taken the remaining amount of the sale consideration of my scooter which I had told to Sh. Rakesh." He further stated in response to Question No. 20, "First I got perplexed but later on I disclosed that I had not demanded and accepted bribe money."

22. The Appellant stated that he himself went inside the office room of PW-8 after taking Rs. 2,500 from PW-3. He denied that his right hand wash and the pant wash turned pink and stated that the recovery proceedings were falsely prepared by the CBI. PW-3 admitted that he had been asked to take off his pant; that the recovery memo had been

prepared and given to him, which he signed. However, the Appellant claimed that he did not know the contents of the recovery memo.

The defence witnesses

23. The Appellant examined three witnesses. Mr. Dinesh Kumar (DW-1) stated that the dispute between the Appellant and PW-3 regarding the balance consideration of Rs. 5,000 for the scooter had been settled in his presence. However, in his cross-examination, he stated that he did not see the papers of the scooter, i.e., registration certificate ('RC'), insurance etc., and that the Appellant had not shown those documents to him till date. DW-1 claimed to be a friend of the Appellant since he was also working in the same MCD office at Green Park. He had not seen any sale letter or any writing/agreement regarding sale of the scooter between the Appellant and PW-3. He was not aware as to what was the actual price of the scooter and when the Appellant purchased that scooter. The scooter was not sold in his presence. DW-1 could not recollect the date, month and year in which the Appellant told him about having sold the scooter to PW-3. DW-1 had not disclosed to any of the officers of the MCD about the sale of the scooter by the Appellant to PW-3 and about the dispute over payment of money and settlement.

24. DW-2, Jagat Singh, was a milk supplier. He used to collect milk from the dairy of PW-3 and then used to supply milk to the customers. He also claimed to know of the settlement between the parties whereby PW-3 agreed to pay Rs. 2,500 to the Appellant. The payment

was not made in his presence. However, he stated that he was not aware of the facts of the case. The scooter was not sold in his presence and he had not seen any agreement to sale regarding sale of the scooter. DW-2 too had not disclosed till date to any of the officer of MCD or the officers of CBI regarding the above facts.

The judgment of the trial Court

25. The trial Court on analysing of the evidence first held that the order of sanction for prosecuting the Appellant (Ex.PW-2/A) was validly issued by Ms. Rina Ray, Secretary (Education), Govt. of NCT of Delhi (PW-2) who at the relevant point of time was working as Additional Commissioner, MCD, Town Hall, Delhi. It was held that she had applied her mind before granting the sanction.

26. The trial Court in the impugned judgment dated 13th December 2007 noted that despite PW-3 turning hostile when he was cross-examined more than one month after his examination-in-chief, he had in certain parts of his examination-in-chief fully supported the prosecution case and at certain points in his cross-examination by the learned Senior Public Prosecutor ('SPP') for the CBI. It was held that the statement made by PW-3, to the extent he supported the case of the prosecution, could not be washed off the record and could be relied upon if it was corroborated, as it was in this case, by PW-5 and PW-6. Inasmuch as at the time of trap proceedings, the Appellant did not inform the Trap Laying Officer ('TLO') that he had accepted a sum of Rs. 2,500 from PW-3 as balance sale consideration of the

scooter, the said defence was held not to be a genuine one. It was also not shown that PW-5, PW-6, PW-8 and PW-9 had any enmity towards the Appellant. Accordingly, it was held that the above witness had fully supported the case of the prosecution beyond reasonable doubt. The trial Court issued notice to PW-3 under Section 344 Cr.PC for having committed perjury. By the separate order on sentence dated 14th December 2007, the trial Court sentenced the Appellant in the manner noticed hereinbefore.

Submissions of counsel

27. This Court has heard the submissions of Mr. Saurabh Kirpal and Mr. Bharat Bhushan Bhatia, learned counsel for the Appellant as well as Mr. Manoj Ohri, learned Special Public Prosecutor for the CBI.

28. It was first submitted by Mr. Kirpal that there was no credible evidence to prove the demand of bribe by the Appellant particularly when PW-3 had turned hostile. As regards the demand of bribe, it was pointed out that the conversation purportedly recorded on the digital tape recorder could not be proved in accordance with law. Further, a false statement was made by PW-9 that the conversation was audible when he played the recording soon after the trap proceedings, whereas the CFSL report indicated to the contrary. The best evidence to prove the demand of bribe was, in fact, not produced. It was further submitted that there were several contradictions in the description of the events by PW-5, PW-6, PW-9 and this itself made their evidence unreliable. Relying on the decisions in *Banarsi Dass v. State of*

Haryana AIR 2010 SC 1589 and ***Ram Kishore v. State 31 (1987) DLT 312*** it was submitted that no presumption under Section 20 PC Act would be attracted if the basic element of demand and acceptance of bribe by the Appellant was not proved by the prosecution. Reliance was placed on the decision dated 3rd March 2014 of this Court in Criminal Appeal No. 151 of 2008 (***Kanti Prasad Tyagi v. State of Delhi***).

29. It was next submitted by Mr. Kirpal that the trial Court erred in simply rejecting the evidence of DW-1 and DW-2 only on the ground of their being friends and acquaintances of the Appellant. It was submitted that any transaction involving the sale of the scooter for Rs. 20,000, the expectation of any written agreement to sell was unrealistic. The Appellant had provided a valid explanation as to why the Appellant did not part with the RC. However, in his cross-examination, PW-3 stated that the RC was in his possession and that he could produce it. In the circumstances, it was for the prosecution to prove that no such sale had taken place. It was further submitted that on the preponderance of probabilities, the Appellant had been able to rebut the presumption under Section 20 of the PC Act and had created reasonable doubts about the case of the prosecution. Therefore, the Appellant could not be held guilty of the offences under Section 7 and Section 13 (1) (d) read with Section 13 (2) of the PC Act.

30. Countering the above submission, Mr. Manoj Ohri, learned SPP, took the Court through the deposition of witnesses and submitted that

notwithstanding the fact that PW-3 turned hostile, the evidence of the shadow witness (PW-6), the recovery witness (PW-5), and PWs 8 and 9 was clear and cogent and was by itself sufficient to prove the guilt of the Appellant beyond reasonable doubt. It was pointed out that story of the amount of Rs. 2,500 being accepted by the Appellant as balance sale consideration of the scooter purportedly sold by him to PW-3 was clearly an afterthought and was not proved even on the preponderance of probabilities by the Appellant.

The evidence of PW-3

31. In the first place it requires to be noticed that PW-3, in his examination-in-chief on 15th September 2005, fully supported the case of the prosecution. He was further examined by the learned SPP only to clarify certain averments that were recorded in the previous statement (Ex.PW-3/D). In particular he stated that:

“It is also correct that I stated before CBI that when Babu Ram was demanding money from me, he said to me that there is pressure on him from higher circle for the money (*uppar se pressure hain*).”

32. In his examination-in-chief, PW-3 confirmed the fact of the Appellant's demand and acceptance of the bribe amount and the fact that the Appellant had after accepting the bribe money, kept it in the right side pocket of his pant. However, when he was cross-examined one month later on 20th October 2005, PW-3 resiled from what he stated in his examination-in-chief. PW-3 now stated that he had purchased a scooter from the Appellant for Rs.20,000 and that he

owed the Appellant the balance sale consideration of Rs. 5,000. He named DW-1 and DW-2, as the persons who were present at the time the dispute was allegedly settled between the Appellant and PW-3. He stated that in terms of the settlement he was to pay Rs. 2,500 to the Appellant in the Green Park office of the MCD. He offered an explanation for his about turn as under:

“There was a quarrel with the accused as he came to catch my cattles and then I lodged a complaint with CBI. The amount paid by me during trap was the balance price of the scooter but due to ill-will I paid this amount when I visited his office with CBI team showing it to be a bribe amount. I lodged the complaint with CBI office because accused was harassing me. I visited the office of the accused with CBI only once. The proceedings of this case had taken place in the office of Dr. Pradeep in Green Park. At that time I was sitting in a car at a distance of 20 yds. from that room. My signatures were obtained by calling me inside the room at later stage. The proceedings were not conducted in my presence. Prior to this complaint Ex.PW3/A, I have not lodged any complaint against the accused before any authority. It is correct that I have falsely implicated the accused in this case.”

33. At that stage, the learned SPP cross-examined PW-3 in which he admitted as under:

“It is correct that I did not reveal the fact of purchase of two wheeler scooter by me from the accused or any dispute about the balance payment and non-handing over of RC by the accused.”

34. PW-3 however admitted as under:

“It is correct that the accused had caught my cattles several times and that was the reason that I had lodged the complaint Ex.PW-3/A against the accused as he was demanding bribe from me for not catching my cattles. It is correct that the accused was apprehended on the day of trap on the basis of my complaint. It is correct that the hand washes of accused were taken in my presence. It is correct that I had given the powder treated GC notes to the accused so that he does not catch my cattles in future. It is incorrect to suggest that I had given a wrong version during the cross-examination by the learned Defence counsel regarding deal of scooter with the accused. My statement on the last date, i.e., 15th September 2005 in the Court was correctly made by me.”

35. PW-3 was nevertheless cross-examined by learned counsel for the Appellant as well. PW-3 now stated that “now the RC is with me but the sale letter has not been given to me till date.”

36. In similar circumstances, in ***Khujji v. State of M.P. AIR 1991 SC 1853*** the Supreme Court held that where after a gap of one month the Complainant resiled from his previous statement, it would be open to the Court to discard the contrary statement made in his cross-examination and continue to rely on the statement made in his examination-in-chief if the same was found to be dependable and acceptable. A similar approach was adopted by the Supreme Court in ***Yakub Ismail Bhai Patel v. State of Gujarat 2004 Cri LJ 4205*** and ***Sohan Lal v. State of Punjab 2004 SCC (Crl) 226***.

37. In the present case, the Court finds that notwithstanding that PW-3 resiled from his earlier statement in his examination-in-chief, he admitted that there was a trap laid for the Appellant and that he was arrested pursuant to his right hand and right side pocket of the pant turning pink. PW-3 did not, at the first opportunity i.e., soon after his apprehension, explain that he had accepted the amount of Rs. 2,500 as balance consideration for the sale of the scooter. In his statement under Section 313 Cr.PC, he admitted that he became perplexed when confronted by PW-9. He claimed that he was falsely implicated. When PW-9 asked the Appellant about accepting the bribe money of Rs. 2,500 from PW-3, he kept mum. Clearly, therefore, that part of the defence of the Appellant appears to be an afterthought.

38. The reliance placed by the learned counsel for the Appellant on the decision in *Banarsi Dass v. State of Haryana* is misplaced. In that case not only the Complainant but also the shadow witness turned hostile. This is evident from the observations in para 16 of the decision which read as under:

“In light of the statement of two hostile witnesses PW-2 and PW-4, the demand and the acceptance of illegal gratification alleged to have been received by the accused for favouring PW-2 by recording the Khasra Girdawaris in the name of her mother cannot be said to have been proved by the prosecution in accordance with law. We make it clear that it is only for the two witnesses having turned hostile and they having denied their statement made under Section 161 of the I.P.C. despite confrontation, that the accused may be entitled to

acquittal on technical ground. But, in no way we express the opinion that the statement of witnesses including official witnesses PW-10 and PW-11, are not accepted by the Court. Similarly, we have no reason to disbelieve the recovery of Ex.P-1 to P-4 vide Ex.P-D.”

39. In the present case, it is not just the official witnesses, i.e., PW-8 and PW-9 who fully supported the case of the prosecution, but the shadow witness (PW-6) and the recovery witness (PW-5) as well. It is indeed significant that neither PW-5 nor PW-6 have resiled from their statement to the police. Consequently, the portions of the evidence of PW-3 to the extent they support the prosecution and have been corroborated by PWs 5, 6, 8 and 9 can be relied upon.

The tape recorded conversation

40. A perusal of the depositions of both PW-5 and PW-6 shows that both of them denied that the conversation was audible. Significantly, both of them spoke of the Appellant demanding the money from PW-3 by gesture of his hands. The fact that the tape recorded conversation could not be proved does not in any manner dilute the strength of the deposition of PW-5 and PW-6 as regards the demand of bribe.

41. It is true according to PW-9, when the tape was played soon after the trap proceedings, it was audible. It must be remembered that the recovery memo mentioned that the tape recorded conversation was then transferred to micro audio cassettes. It is possible that the tapes were corrupted in that process and therefore, were inaudible when

played at the CFSL. In any event, since the prosecution had not placed reliance on the tape recorded conversation, it cannot be said that failure to prove the tape recorded conversation weakened the case of the prosecution.

Acceptance of bribe

42. The fact of the hand and pant washes turning pink has not been denied by the Appellant. In any event the forensic evidence has fully corroborated the ocular testimonies of PWs 5 and 6 who have been consistent in their versions regarding the demand and acceptance of the bribe amount by the Appellant. Their evidence is fully corroborated by the evidence of PW-8 and PW-9.

43. As far as the decision of this Court in ***Ram Kishore v. State*** is concerned, the proposition laid down therein is unexceptionable. While the Appellant is not required to prove his defence beyond reasonable doubt, he nevertheless had to offer a defence which is a probable one. In the present case, the defence offered by the Appellant has not been proved by him even on a preponderance of probabilities. The entire story of the sale of scooter by the Appellant to PW-3 and that he paid Rs. 2,500 to the Appellant on 10th December 2004 at the MCD office towards balance sale consideration was clearly an afterthought.

44. The evidence of DW-1 does not inspire confidence. For a person who is supposed to have mediated a settlement between PW-3 and the

Appellant regarding the sale of scooter, he does not appear to know about the details concerning the sale transaction. Since it was his defence that there was a sale of the scooter, it was incumbent on the Appellant to make good that defence by producing documents in his possession before the Court which would establish that the scooter originally belonged to the Appellant and was subsequently sold to PW-3. This was within the exclusive knowledge of the Appellant and the burden of proving that fact could not be shifted to the prosecution.

45. The facts in *Kanti Prasad Tyagi v. State of Delhi* were entirely different from the facts of the present case. That decision is, therefore, of no assistance to the Appellant.

46. In the present case, the prosecution has by cogent evidence proved beyond all reasonable doubt the demand and acceptance of the bribe by the Appellant. This Court is unable to find any legal infirmity in the impugned order of the trial Court convicting the Appellant of the offence under Section 7 and Section 13 (2) read with Section 13 (1) (d) of PC Act.

Sentence

47. On the question of sentence, it is stated that since the Appellant is 62 years of age, and has suffered the ordeal of the trial for over nine years, a lenient view may be taken.

48. The Court finds that for the offence under Section 7, the Appellant has been sentenced to undergo one year RI with fine and for the offence under Section 13 (2) read with Section 13 (1) (d) PC Act to two years' RI with fine. In the facts and circumstances of the case, the said sentences cannot be said to be disproportionate.

Conclusion

49. The appeal is accordingly dismissed. The bail bonds are cancelled. The Appellant will be taken into custody forthwith to serve out the remainder sentence.

50. The trial Court record be sent back forthwith. A copy of this order be given *dasti* under the signature of Court Master.

May 2, 2014
Rk

Sd/-
S. MURALIDHAR, J.