



Criminal Appeal No.290 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.02.2024

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THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Criminal Appeal No.290 of 2018

Muthukrishnan

.. Appellant/Accused

Vs.

The State,
rep. by the Inspector of Police,
Vigilance & Anti Corruption,
Namakkal.
Crime No.6/AC/2008

Respondent/Complainant

Criminal Appeal filed under Section 374 Cr.P.C. against the judgment of conviction and sentence in Spl. C.C.No.3 of 2009 dated 25.04.2018 by the Special Judge-cum-Chief Judicial Magistrate, Namakkal.

For Appellant : Ms.R.Revathi

For Respondent : Mr.S.Santhosh
Government Advocate (Criminal Side)



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Criminal Appeal No.290 of 2018

JUDGMENT

The present Criminal Appeal has been filed by the sole accused in Special C.C.No.3 of 2009, challenging the judgment of conviction and sentence dated 25.04.2018 rendered by the Special Judge-cum-Chief Judicial Magistrate, Namakkal.

2. The trial Court, finding the accused guilty for the offences under Sections 7, 13(2) read with 13(1)(d) of the Prevention of Corruption Act, 1988, convicted the appellant/accused and the sentence imposed on him is as follows:-

Under Section	Sentence
7 of Prevention of Corruption Act, 1988	Three years of simple imprisonment and a fine of Rs.2,500/-, in default, to undergo one month simple imprisonment.
13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988	three years of simple imprisonment and a fine of Rs.2,500/-, in default, to undergo one month simple imprisonment.
The sentences shall run concurrently.	



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3.Factual aspects of the prosecution case are as under:-

3.1.The appellant/accused, who was working as the Assistant Elementary Education Officer, Thiruchengode, is a public servant as defined under Section 2(c) of the Prevention of Corruption Act, 1988.

3.2.The defacto complainant, viz., Chandrasekaran/P.W.2 has been working as a Secondary Grade Teacher in Kalaimagal Kalvi Nilayam Middle School, being Government Aided School in Tiruchengode for the past three years. On 29.08.2008, the appellant/accused called P.W.2, the defacto complainant to his office and informed that the management of the said school intended to terminate the services of the complainant for some reasons and the management was ready to pay Rs.25,000/- to the accused to extend his co-operation in this regard.

3.3.Subsequently, P.W.2 had received a memo/letter dated 02.09.2008 on 04.09.2008 calling for an explanation in respect of alleged misconduct that he had not attended Yoga training class and had beaten the girl students. The defacto complainant, after receiving the said memo, had met the appellant/accused at his office on 04.09.2008 at about 5.00 p.m., and informed about the memo, for which, the appellant/accused had advised



P.W.2 to give an apology letter and accordingly, P.W.2 had also sent the same on 09.09.2008. At that time, the appellant had demanded Rs.10,000/- towards bribe for ensuring that no action is initiated against P.W.2-defacto complainant and also to settle the problem amicably with the management. Thereafter, on 12.09.2008, the defacto-complainant contacted the accused over phone and requested him to get permission to avail medical leave from 17.09.2008. At the time, the accused had reiterated his earlier demand of bribe. Thereafter, once again, on 16.09.2008, the defacto complainant met the accused at 5.00 p.m. and informed him about availing of medical leave from 17.09.2008 and the accused had once again, not only reiterated the earlier demand of bribe amount but also directed P.W.2 to pay the bribe amount. After knowing the whereabouts of the appellant/accused, P.W.2 was not willing to pay the bribe amount to him for not initiating departmental action against him by the management and thereby, P.W.2-defacto complainant had preferred a written complaint with Vigilance and Anti-Corruption, Special Unit, Salem at about 7.30 hours on 17.09.2008 and thereupon a case has been registered in Crime No.6/AC/2008/SL/SU under Section 7 of the Prevention of Corruption Act, 1988, by P.W.15-Rangasamy on the same day.



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3.4. Thereafter, P.W.15-Trap Laying Officer had arranged for a trap with the assistance of two official witnesses viz., P.W.3, Mohanraj, Assistant Engineer, Office of the Assistant Divisional Engineer, Highways Department, Rasipuram, Namakkal District and D.Rajagopal, Agricultural Officer, Elaichipalayam and when they had reported before P.W.15, he had demonstrated the sodium carbonate and phenolphthalein powder test after smearing phenolphthalein powder on the bribe money of Rs.10,000/- (Rs.500x20) produced by the complainant and thereafter, he had prepared Entrustment Mahazar between 9.30 and 10.00 hours on 17.09.2008, attested by P.W.2, P.W.3 and other official witnesses.

3.5. After culmination of pre-trap formalities, P.W.15, the Trap Laying Officer, P.W.2, P.W.3, other official witnesses and the members of the trap team proceeded to the office of the appellant/accused and P.W.2 and P.W.3 were alighted from the police jeep and instructed by P.W.15 to proceed to the office of the appellant/Accused. P.W.15 along with the official witness-D.Rajagopal and the rest of the trap team stayed outside the office of the accused and waited for the pre-arranged signal from P.W.2.



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3.6.P.W.2-defacto complainant and P.W.3-official witness entered into the office of the appellant/accused and met the appellant at his seat. At that time, the accused demanded the bribe amount of Rs.10,000/- from P.W.2 in the presence of P.W.3 and without receiving the money in his hand, the appellant/accused had directed P.W.2 to put the bribe amount in the Rexin Bag(M.O.2) of the accused. After receipt of the bribe money by the accused, P.W.2 and P.W.3 went out of the office and made the pre-arranged signal. Immediately, P.W.15 and the trap team entered the office of the accused.

3.7.P.W.2, after identifying the appellant/accused, left the place. P.W.15 after introducing himself and the official witnesses to the accused, had conducted a phenolphthalein test on the fingers of both hands of the accused and there was no visible colour change in both the hands. Thereafter, when P.W.15 was questioned about the bribe money received from P.W.2, the accused admitted the receipt of Rs.10,000/- from P.W.2 and produced the rexin bag, in which, the bribe amount was received and the same was seized by P.W.15. The serial numbers found in the currency notes produced by the accused was compared by P.W.15 with that of the serial



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numbers of the currency notes mentioned in Ex.P5 and found to be tallying.

M.O.2 Rixin Bag was subjected to phenolphthalein test and proved positive. During chemical analysis, the presence of phenolphthalein was found in M.O.2 and thereafter, P.W.15 collected the colour-changed solution in M.O.7 bottle and M.O.2-Rixin Bag for investigation.

3.8.P.W.15 enquired and seized Ex.P.7-Attendance Register of Assistant Elementary Educational Officer, Thiruchengode, for the proof of signature made by the accused on 28.08.2008, 09.09.2008, 12.09.2008 and 16.09.2008 for investigation. Thereafter P.W.15 arrested the appellant/accused at about 2.55 p.m., for having demanded and accepted illegal gratification of Rs.10,000/- from P.W.2 in the presence of P.W.3-official witness as a motive of reward for not taking departmental action against the complainant by the accused and by the management and the appellant being a public servant by corrupt and illegal means and by obtaining the said amount as a pecuniary advantage for himself by abusing his official position which would constitute the offences punishable under Sections 7 and 13(2) read with 13(1)(d) of the Prevention of Corruption Act.



WEB COPY 3.9. Thereafter, P.W.15 had prepared Ex.P6-Seizure Mahazar in respect of the events that took place at the office of the appellant during the trap proceedings and was duly attested by P.W.2, P.W.3 and the other official witness viz., D. Rajagopal and had also prepared Ex.P8-Rough Sketch. Subsequently, after sending Ex.P34-Advance Intimation to the jurisdiction Court, P.W.15 had proceeded to the office of the appellant along with the appellant/accused and all the members of the raiding party and conducted a search at the house of the accused in the presence of official witnesses. No incriminating materials were seized during the house search made by the trap team and Ex.P9 was the House search list prepared by P.W.15. Thereafter, P.W.15 took steps to send the accused to judicial custody. The case properties and documents seized and collected during the trap proceeding were sent to the jurisdiction Court by P.W.15 on 18.09.2008 through Ex.P36 Form-91. Thereafter, P.W.15 entrusted the entire case records to P.W.16/Inspector of Police for further investigation.

3.10. P.W.16-Ganapathy, Inspector, Vigilance and Anti Corruption took up the investigation and on 18.09.2008, he had examined the witnesses and recorded the statements of P.W.2 and P.W.3. On 19.09.2008, P.W.16



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had recorded the statements of P.W.13 and P.W.4. On 17.11.2008, he had recorded the statement of P.W.11. On 19.11.2008, he had recorded the statement of P.W.17. On 24.11.2008, he had recorded the statement of P.W.5 to P.W.10, P.W.12 and P.W.2. P.W.16 had submitted Ex.P40 requisition letter to the jurisdictional Court to send the relevant case properties for analysis and report of the Forensic Science Laboratory. Thereafter, he examined P.W.14 and submitted the documents on 16.06.2009 to the Director, Elementary Education and received the sanction order for filing the Final Report against the appellant/accused. As he got promoted, P.W.16 had handed over the case records to P.W.17.

3.11. Thereafter, P.W.17-Chandramouli, Inspector, Vigilance and Anti Corruption had taken up the investigation and examined P.W.1, the Director, Tamil Nadu government Elementary Education and on 08.10.2009, he had filed the charge sheet in Crime No.6/AC/2008/SL/SU under Sections 7, 13(2) read with 13(1) (d) of the Prevention of Corruption Act, 1988.

3.12. On issuance of summons, the accused had appeared before the trial Court and the memo of appearance was filed through his counsel. In



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due compliance of Section 207 Cr.P.C., copies of relevant papers were furnished to the accused.

3.13. After hearing both sides, charges were framed against the accused for the offences punishable under Sections 7, 13(2) read with 13(1) (d) of the Prevention of Corruption Act, 1988. The accused denied the charges and sought to be tried.

3.14. On the side of the prosecution, P.W.1 to P.W.17 were examined and Exs.P1 to P42 were marked and on the side of the defence Ex.D1 was marked.

3.15. Based on the incriminating evidence against the accused, when the accused was questioned under Section 313 Cr.P.C., the accused pleaded not guilty.

3.16. The trial Court, after hearing the arguments of the learned counsel on either side, found the accused guilty and convicted and sentenced him as stated above. Challenging the judgment of conviction and sentence imposed by the trial Court, the present Criminal Appeal has been filed by the appellant/accused.



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4. Ms.R.Revathi, representing Mr.N.Ramesh, learned Counsel appearing for the appellant/accused, while taking this Court through the evidence on record, has assailed the impugned judgment of conviction and sentence on the following grounds.

(i) To attract Section 7 of the Prevention of Corruption Act, 1988, demand of illegal gratification has to be proved by the prosecution beyond all reasonable doubts. The demand and acceptance of the amount of illegal gratification is *sine qua non* for constituting the offence under the Prevention of Corruption Act, 1988. To sustain the conviction under the Act, demand, recovery and acceptance must be proved beyond all reasonable doubts. The prosecution has to establish through evidence that the bribe was demanded or that the accused voluntarily accepted the amount knowing it to be a bribe and in the absence of proof of demand, the offence under Sections 7, 13(2) read with 13(1)(d) of the Prevention of Corruption Act, 1988, cannot be held to be proved.

(ii) Though the allegation of demand of illegal gratification is stated to have been made by the appellant/accused on four occasions i.e., on



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28.08.2008, 12.09.2008, 16.09.2008 and 17.09.2008, the prosecution has failed to prove the same beyond all reasonable doubts. P.W.2 had claimed that the first demand is said to have been made on 28.08.2008, whereas there is no possibility of the appellant having met him and the fact remains that the appellant had visited the school only on 29.08.2008. The second demand is said to have been made on 12.09.2008 at the office of the accused. The appellant was on Leave on 12.09.2008 for attending a religious function and he did not attend the office on that day. The fact that the appellant was on leave was corroborated by the evidence of P.W.12-Assistant of Thiruchengode Assistant Elementary Education Officer and thereby, the claim of the defacto complainant is false.

(iii) Though P.W.2 had deposed that the alleged demand stated to have been made on 09.09.2008 for recommending medical leave, it is the admitted evidence of P.W.2 that when he had enquired about the medical leave, the appellant had advised him to give the request to the Headmaster since he had completed two years, which itself shows that there was no requirement for P.W.2 to approach the appellant and there was no need for demanding bribe.



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As per the prosecution case, vide Ex.P17-Government order in G.O.Ms.No.1228 Education, Science and Technology Department dated 30.12.1994, the District Elementary Educational Officer being the competent authority has powers to take disciplinary action against the teachers and the management as spoken by P.W.4, P.W.5 and P.W.11 and in such circumstances, the claim of defacto complainant, as if, the appellant had demanded illegal gratification other than remuneration for recommending the school management not to take action against P.W.2 and for granting medical leave remains falsified.

(v) The appellant/accused, while cross-examining P.W.2, had marked Ex.D1 and had proved his case that the dispute between the appellant and the management was settled as early as 10.09.2009 and thereby, there was no requirement for the appellant to demand illegal gratification for recommending the school not to take action against P.W.2-defacto complainant and for grant of medical leave.

(vi) The entire trap proceedings and the recovery of money is a fabricated one. The trial Court had failed to properly analyse the entire



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trap proceedings and the facts leading to registration of the complaint and recovery.

(vii) The defacto complainant had nurtured grudges against the management and it is also an admitted fact that the appellant had taken action against the defacto complainant in the assembly that too in the presence of the students and thereby, the defacto complainant had nurtured enmity against him and the trial Court had failed to take into consideration that the enmity made him to file a false complaint against the accused and that P.W.2 is a person of bad character, who had been arrested for having committed an offence of theft and he was also suspended and further, he is not a trustworthy person and thereby, his evidence cannot be relied upon.

(viii) Though it is the categorical evidence of P.W.2-defacto complainant and P.W.3-shadow witness that the accused had not touched the tainted money and had asked PW2 to drop the money in the Rexin Bag, P.W.15-Trap Laying Officer, without there being any need conducted phenolphthalein test on both the hands of the appellant which did not prove positive. The above-mentioned witnesses had also deposed in their evidence that the phenolphthalein test conducted on



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both the hands did not turn positive whereas the wash collected from the left hand(M.O.5) and the right hand(M.O.6) when subjected to chemical analysis by PW14 had shown the presence of phenolphthalein in Ex.P23 which creates grave suspicion about the entire trap proceedings, there must be a pre-determined and stage-managed trap.

(ix) Though the prosecution has claimed that there were telephonic (mobile) conversations between the appellant and the defacto complainant, the prosecution has selectively marked CDR details in Ex.P38 through the Investigating Officer and that too without certification under Sec 65-B of the Indian Evidence Act which is a dent in the prosecution case.

(x) Though there is a statutory presumption under Section 20 of the Prevention of Corruption Act, 1988, before such presumption is raised against the appellant/accused, the prosecution is bound to prove its case beyond all reasonable doubts. In this case, the prosecution has failed to prove the foundational facts and the appellant/accused, by cross-examination of P.W.2 and marking Ex.D1, had disproved the prosecution case concerning the demand and the evidence of P.W.4-



Administrator, P.W.5 and P.W.11 would show that the appellant is not an authority to initiate action against P.W.2-defacto complainant.

5.Per contra, learned Government Advocate would submit his arguments as under.

(i) The prosecution, had proved the demand and acceptance by examining P.W.3 and P.W.4, and proved the recovery by examining P.W.15. The prosecution has proved its case of demand, acceptance and recovery of the bribe amount from the accused and the accused had not rebutted the presumption as required under Section 20 of the Prevention of Corruption Act either by way of direct or indirect evidence.

(ii) There is no evidence to show that any departmental action has been taken against P.W.2. T

(iii) The accused has not come out with the explanation during questioning.

(iv) The presence of phenolphthalein in M.Os.4 and M.O.5 as per Ex P23 does not affect the case of the prosecution.

(v) No evidence was let in by the defence to show that P.W.2 was charged with misappropriation of Rs.6,00,000/- from a shop and mere



suggestion to P.W.15 and P.W.17 is denied.

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(vi) The prosecution, by cogent evidence has proved the demand, acceptance and recovery and the trial Court, after carefully analysing the evidence, had rightly found the accused guilty and convicted him and therefore, no interference is required and the appeal is liable to be dismissed.

6. In reply, the learned counsel for the appellant in reply would submit that the prosecution cannot take advantage of the fact that the appellant has not come out with explanation during the questioning especially, when the foundational facts regarding demand and acceptance had not been proved by the prosecution beyond reasonable doubts, the appellant cannot be called upon to rebut the presumption. He would also submit that while the burden on the prosecution to prove its case is heavy, the burden on the accused to rebut the presumption is by way of the preponderance of probability and the appellant by cross-examining the prosecution witnesses and examining the defence witnesses had disproved the case of the prosecution. He would add that when the entire case of the prosecution is bristled with suspicion, doubts and exaggerations and when



the foundational facts have not been proved, the trial Court, without properly appreciating the evidence, had wrongly convicted the appellant/accused.

7. Heard Ms.R.Revathi, learned counsel appearing for the appellant/accused and Mr.S.Santhosh, learned Government Advocate (Criminal Side) appearing for the respondent and perused the materials available on record.

8. This Court gave its careful and anxious consideration to the rival contentions put forth by either side and thoroughly scanned through the entire evidence available on record and also perused the impugned judgment of conviction including the relevant provisions of law.

9. At the outset, the legal position, which emerges regarding appreciation of evidence in a trap case, can be summarized as under:-

- (i) To succeed in such a case, the Prosecution is obliged to prove the demand for bribe before and at the time of trap, its acceptance and the recovery of tainted money.



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(ii) The demand can be proved by the testimony of the complainant as

well as from the complaint made by him and other witnesses if proved by law and if it is corroborated by material particulars.

(iii) A presumption as to the demand of bribe can also be drawn if the tainted money i.e. the money tendered as bribe money is recovered from the possession of the accused, which presumption, of course, is rebuttable under Section 20 of the Prevention of Corruption Act, 1988.

(iv) Mere acceptance of any money allegedly received by the appellant as illegal gratification or recovery thereof would not be sufficient for charge under Sections 7 and 13(2) read with 13(1)(d) of the Prevention of Corruption Act, 1988, and the prosecution is bound to prove the foundational facts before calling upon the accused to rebut the presumption as required under Section 20 of the Prevention of Corruption Act, 1988.

10. The genesis of the trap lies in the previous demand for bribe made by the accused from the defacto complainant, which becomes the basis of laying a trap by the investigating agency. Then, it is for the Prosecution to,



again, prove the demand at the time when the trap was laid and thereafter, the question of acceptance and recovery of bribe money is also required to be proved beyond all reasonable doubts.

11. The first and foremost contention raised by the learned counsel for the appellant/accused is that though the first demand is said to have been made on 28.08.2008 by the appellant, the Assistant Elementary Education Officer, Thiruchengode, the fact remains that he had gone to the school only on 29.08.2008 and that on the instructions of the school management, the appellant had reprimanded the defacto complainant in the presence of the students during the assembly and it is relevant to extract the deposition of P.W.2 in this regard.

“இந்நிலையில் 28.08.2008ஆம் தேதி காலை 11.00 மணிக்கு எதிரி எங்கள் பள்ளிக்கு வந்து ஆசிரியர் வருகை பதிவேட்டை எடுத்து நான் யோகா பயிற்சிக்கு 19.03.2008, 20.03.2008ஆம் தேதிகளில் செல்லாததை சுட்டிக்காட்டி பச்சை மையினால் சுளித்தார்.....”

“பள்ளி முடிந்தவுடன் மாலை 5.00 மணிக்கு திருச்செங்கோடு உதவி தொடக்க கல்வி அலுவலகத்திற்கு நான் நேரில் சென்று எதிரியை சந்தித்தேன்.”

The evidence of P.W.2 itself shows that he had met the appellant only



in his office and not in the school on 28.08.2008 and the appellant had visited the school only on 29.08.2008, which is proved by the evidence of P.W.5-Headmaster of the Kalaimagal Kalvi Nilayam Middle School at Tiruchengode, and the relevant portion of his evidence is as under.”

“29.08.2008ம் தேதி உதவி தொடக்க கல்வி அலுவலர் திரு.முத்துகிருஷ்ணன் பள்ளிக்கு வந்தார். ஆஜர் எதிரி தான் அவர். சந்திரசேகரன் சில தவறுகள் செய்திருந்தார். யோகா பயிற்சிக்கு செல்லாமல் அந்த தேதிகளில் வருகை பதிவேட்டில் கரக்கொப்பம் செய்திருந்ததை முத்துகிருஷ்ணன் அவர்களிடம் சொன்னேன். அவர் வருகை பதிவேட்டில் அந்த பகுதியை பச்சை மையினால் கரித்துள்ளார். ஆசிரியர் சந்திரசேகரை கூப்பிட்டு எச்சரித்தார்.”

12. It is the case of the appellant in defence that he being an Assistant Elementary Education Officer and the defacto complainant being a teacher having completed three years in a Government Aided School, he does not have any Authority to take disciplinary action or to recommend for medical leave and thereby the complainant did not have to approach him and there was no demand. Further, since he had rebuked the complainant in the presence of the students during the assembly in the school, the complainant had nurtured enmity with him and to wreak vengeance, had given a false complaint. It is also the case of the appellant that as per ExP17-Government



Order in G.O.Ms.No.1228 Education, Science and Technology Department

dated 30.12.1994, the school being a Government-aided, once when a teacher has completed two years, the management of the school can itself grant the medical leave without any approval from the District Elementary Educational Officer and that in respect of dispute between the teachers and the management, only the District Elementary Educational Officer has got the power and authority to take action. The limits of powers of the District Elementary Educational Officer and the appellant have been deposed by P.W.4-Correspondent, P.W.5-Headmaster and P.W.11-District Elementary Educational Officer, who is superior to the appellant and in such circumstances, the appellant has no authority either to initiate action against P.W.2-defacto complainant or to sanction medical leave to P.W.2 and when that being the position and that he had inspected the school only on 29.08.2008 and not on 28.08.2008 as claimed by P.W.2 and the said fact also evidenced through Ex.11-Attendance Register, it is clear that there is no requirement for the appellant to demand illegal gratification and thereby, the first demand said to have been made by the appellant on 28.08.2008 cannot be true.



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13. Though a contention has been raised that the appellant/accused had made the second demand on 12.09.2008 when the defacto complainant is said to have met the accused at his office on 12.09.2008, it is seen that the appellant has availed restricted holiday on the said date and thereby, there could not have been any chance for the defacto complainant to have met the accused on that date. It is also the case of the appellant that the defcto complainant had specifically stated to have met the appellant on 12.09.2008 and having made such averment in the complaint and during his evidence in Court had given an improved statement, as if, the appellant had told him that since he was on leave, he had asked him to come and meet him. It is also the case of the appellant that though P.W.2 had claimed that the appellant had contacted him over phone on 12.09.2008 at 11.00a.m., the prosecution having marked Ex.P38-Call Details Record only from 16.09.2008 to 18.09.2008, had specifically burked the CDR details relating to 12.09.2008, on which date the second demand was alleged to have been made, which would falsify the claim of the defacto complainant as well as the prosecution. Further, the absence of the appellant on 12.09.2008 has also been corroborated by the evidence of P.W.12-Krishnamurthy, the assistant of the appellant/accused, who had spoken that the appellant had



availed restricted holiday on 12.09.2008 and the relevant portion of the evidence of P.W.12 reads thus.

“என்னை லஞ்ச ஒழிப்பு ஆய்வாளர் அ.சா.ஆ.7ஐ காட்டி விசாரித்தபோது, 12.09.2008ம் தேதி எதிரி மதவிடுப்பு எடுத்திருந்தது குறித்தும் என்னிடம் கேட்டார்.”

The above aspects falsify the claim of the defacto complainant with regard to the alleged second demand on 12.09.2008 and the prosecution has failed to prove the second demand also.

14.The third demand said to have been made by the appellant on 09.09.2008. In this regard, the defacto complainant, in his cross-examination had made an admission to the effect that when he met the appellant on 09.09.2008, the appellant had told him that if he had completed two years, he can very well approach the Headmaster for availing Medical Leave and the evidence of P.W.2 in that regard is extracted hereunder.

“09.09.2008ஆம் தேதியில் தலைமையாசிரியை தான் என்னிடம் மருத்துவ விடுப்பு பெற வேண்டுமெனில் உதவி கல்வி அதிகாரியை சென்று பார்க்க வேண்டுமென சொன்னார். அன்று நான் ஏஇஓவிடம் மருத்துவ விடுப்பில் செல்வது குறித்து சொன்னேன். அப்பொழுது அவர் எனக்கு பணிக்கு சேர்ந்து 2 வருடங்கள் ஆகிவிட்டால் மருத்துவ விடுப்பு விண்ணப்பத்தை தலைமையாசிரியையிடமே கொடுத்து



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அங்கிருந்து முறைப்படி தனக்கு வரவேண்டுமென சொன்னார்.”

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From the above evidence, it is clear that when the Headmaster of the school is the authority to sanction leave to P.W.2 and that P.W.2 in his cross-examination had admitted that the appellant had appraised P.W.2 to approach the school management for sanction of medical leave, there could not have been any reason for the appellant to have made a demand for the said purpose. It is also the case of the appellant that as the defacto complainant had already put in 10 years of service and thereby there is no requirement for PW.2 to approach him for sanction of medical leave and thereby, this Court is of the view that the prosecution has failed to prove the third demand also.

15. Further, it is the case of the appellant that the entire complaint is a fabricated one and in respect of the fourth demand said to have been made on 16.09.2008. It is the claim of the appellant that when the defacto complainant had admitted that on 09.09.2008 itself the appellant had advised him to approach the Headmaster for availing medical leave, there is no requirement for him to approach him again on 16.09.2008. It is also the case of the appellant that in respect of any dispute between the staff or the



management or in respect of any complaint against the management of the aided school, District Elementary Educational Officer is the authorised authority to deal the same. In this regard, the appellant had relied on Ex.P17-G.O.Ms.No.1228 Education, Science and Technology Department dated 30.12.1994, as per which, only the District Elementary Educational Officers have got powers in respect of aided schools and that other than conducting inspection and periodical surprise visits, the appellant has no role to take any disciplinary action against the management or staff of the aided school. Further, it is also fortified by Ex.D1-communication, by which, the dispute between the appellant/accused and the management was settled even as early as 10.09.2008 and the management had accepted the explanation offered by the defacto complainant and pardoned him and thereby, there was no further requirement for the defacto complainant to meet the appellant. All these aspects also create doubt about the demand alleged to have been made by the appellant on various dates and the prosecution has failed to prove the demand.

16. Admittedly, it is a case of trap. The appellant has been charged for the offences under Sections 7, 13(2) read with 13(1)(d) of Prevention of



Corruption Act, 1988. It is well settled that for establishing the commission of an offence punishable under Section 7 of the Prevention of Corruption Act, proof of demand of illegal gratification and acceptance of the same is *sine qua non*. It is also equally well settled that mere recovery by itself cannot prove the charge unless it has been proved beyond all reasonable doubts that the accused voluntarily accepted the money knowing it to be bribe. The absence of proof of demand for illegal gratification and mere possession or recovery of currency notes is not sufficient to constitute such an offence.

17. In this regard reference can be made to the judgments of the Honble Apex Court in *C.M. Girish Babu v. CBI* [*C.M. Girish Babu v. CBI, (2009) 3 SCC 779 : (2009) 2 SCC (Cri) 1*] and in *B. Jayaraj v. State of A.P.* [*B. Jayaraj v. State of A.P., (2014) 13 SCC 55 : (2014) 5 SCC (Cri) 543*].

18. In the aforesaid judgments of the Apex Court, while considering the case under Sections 7, 13(1)(d)(i) and (ii) of the Prevention of Corruption Act, 1988 it is reiterated that to prove the charge, it has to be proved beyond all reasonable doubts that the accused voluntarily accepted



money knowing it to be bribe. The absence of proof of demand for illegal gratification and mere possession or recovery of currency notes is not sufficient to constitute such offence. In the said judgments, it is also held that even the presumption under Section 20 of the Act can be drawn only after demand and acceptance of illegal gratification are proved.

19.The relevant paras of the judgment in ***B. Jayaraj [B. Jayaraj v. State of A.P., (2014) 13 SCC 55 : (2014) 5 SCC (Cri) 543]*** read as under: (SCC pp. 58-59).

“7. Insofar as the offence under Section 7 is concerned, it is a settled position in law that demand of illegal gratification is sine qua non to constitute the said offence and mere recovery of currency notes cannot constitute the offence under Section 7 unless it is proved beyond all reasonable doubt that the accused voluntarily accepted the money knowing it to be a bribe. The above position has been succinctly laid down in several judgments of this Court. By way of illustration, reference may be made to the decision in C.M. Sharma v.State of A.P.[C.M. Sharma v. State of A.P., (2010) 15 SCC 1 : (2013) 2 SCC (Cri) 89] and C.M. Girish Babuv.CBI[C.M. Girish Babu v.CBI, (2009) 3 SCC 779 : (2009) 2 SCC (Cri) 1] .

8. In the present case, the complainant did not



support the prosecution case insofar as demand by the accused is concerned. The prosecution has not examined any other witness, present at the time when the money was allegedly handed over to the accused by the complainant, to prove that the same was pursuant to any demand made by the accused. When the complainant himself had disowned what he had stated in the initial complaint (Ext.P-11) before LW.9, and there is no other evidence to prove that the accused had made any demand, the evidence of PW.1 and the contents of Ext.P-11 cannot be relied upon to come to the conclusion that the above material furnishes proof of the demand allegedly made by the accused. We are, therefore, inclined to hold that the learned trial court as well as the High Court was not correct in holding the demand alleged to be made by the accused as proved. The only other material available is the recovery of the tainted currency notes from the possession of the accused. In fact such possession is admitted by the accused himself. Mere possession and recovery of the currency notes from the accused without proof of demand will not bring home the offence under Section 7 of the Prevention of Corruption Act. The above also will be conclusive insofar as the offence under Sections 13(1)(d)(i) and (ii) is concerned as in the absence of any proof of demand for illegal gratification, the use of corrupt or illegal means or abuse of position as a



public servant to obtain any valuable thing or pecuniary advantage cannot be held to be established.

9. Insofar as the presumption permissible to be drawn under Section 20 of the Act is concerned, such presumption can only be in respect of the offence under Section 7 and not the offences under Sections 13(1)(d)(i) and (ii) of the Act. In any event, it is only on proof of acceptance of illegal gratification that presumption can be drawn under Section 20 of the Act that such gratification was received for doing or forbearing to do any official act. Proof of acceptance of illegal gratification can follow only if there is proof of demand. As the same is lacking in the present case the primary facts on the basis of which the legal presumption under Section 20 can be drawn are wholly absent.”

20. Subsequently in ***P. Sathyanarayana Murthy Vs State of A.P reported in [(2015)10 SCC 152]***, the Apex Court took note of its verdict in *B. Jayaraj vs. State of A.P.* underlining that mere possession and recovery of currency notes from an accused without proof of demand would not establish an offence under Section 7 as well as Sections 13(1)(d)(i) and (ii) of the Act. It was recounted as well that in the absence of any proof of demand for illegal gratification, the use of corrupt or illegal means or abuse



of position as a public servant to obtain any valuable thing or pecuniary advantage cannot be held to be proved. Not only the proof of demand thus was held to be an indispensable essentiality and an inflexible statutory mandate for an offence under Sections 7 and 13 of the Act, it was held as well qua Section 20 of the Act, that any presumption thereunder would arise only on such proof of demand. Further, on a survey of its earlier decisions on the pre-requisites of Sections 7 and 13 and the proof thereof, summed up its conclusions as hereunder: (SCC P.159, Para 23)

“23. The proof of demand of illegal gratification, thus, is the gravamen of the offence under Sections 7 and 13 (1)(d)(i) and (ii) of the Act and in absence thereof, unmistakably the charge therefor, would fail. Mere acceptance of any amount allegedly by way of illegal gratification or recovery thereof, dehors the proof of demand, ipso facto, would thus not be sufficient to bring home the charge under these two sections of the Act. As a corollary, failure of the prosecution to prove the demand for illegal gratification would be fatal and mere recovery of the amount from the person accused of the offence under Sections 7 and 13 of the Act would not entail his conviction thereunder.” (emphasis supplied)”.



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21. The decision in the case of ***P.Sathyanarayana Murthy*** referred *supra* was followed in ***N.Sunkanna Vs State of A.P [(2016) 1 SCC 713]*** and ***K.Shanthamma Vs. State of Telengana [(2022) 4 SCC 574]***.

22. The view in *P.Sathyanarayana Murthy* was later doubted and referred to a larger Bench and finally it has been clarified and affirmed in ***Neeraj Dutta Vs State(NCT of Delhi) in ((2023) 4 SCC 731)***, wherein the law has been summarised as under:

88.What emerges from the aforesaid discussion is summarized as under:

88.1.(a) Proof of demand and acceptance of illegal gratification by a public servant as a fact in issue by the prosecution is a sine qua non in order to establish the guilt of the accused public servant under Sections 7 and 13(1)(d)(i) and (ii) of the Act.

88.2.(b) In order to bring home the guilt of the accused, the prosecution has to first prove the demand of illegal gratification and the subsequent acceptance as a matter of fact. This fact in issue can be proved either by direct evidence which can be in the nature of oral evidence or documentary evidence.



88.3.(c) *Further, the fact in issue, namely, the proof of demand and acceptance of illegal gratification can also be proved by circumstantial evidence in the absence of direct oral and documentary evidence.*

88.4.(d) *In order to prove the fact in issue, namely, the demand and acceptance of illegal gratification by the public servant, the following aspects have to be borne in mind:*

(i) if there is an offer to pay by the bribe-giver without there being any demand from the public servant and the latter simply accepts the offer and receives the illegal gratification, it is a case of acceptance as per Section 7 of the Act. In such a case, there need not be a prior demand by the public servant.

(ii) On the other hand, if the public servant makes a demand and the bribe-giver accepts the demand and tenders the demanded gratification which in turn is received by the public servant, it is a case of obtainment. In the case of obtainment, the prior demand for illegal gratification emanates from the public servant. This is an offence under Sections 13(1)(d)(i) and (ii) of the Act.

(iii) In both cases of (i) and (ii) above, the offer by the bribe-giver and the demand by the public servant respectively have to be proved by the prosecution as a fact in issue. In other words, mere acceptance or receipt of an illegal gratification without anything more would not make it an offence under Section 7 or Sections 13(1)(d)(i) and (ii), respectively of the Act. Therefore, under Section 7 of the Act, in order to bring home the offence, there must be an offer which emanates from the bribe-giver which is accepted by the public servant which would make it an offence. Similarly, a prior demand by the public servant when



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accepted by the bribe-giver and in turn there is a payment made which is received by the public servant, would be an offence of obtainment under Sections 13(1)(d)(i) and (ii) of the Act.

88.5.(e) The presumption of fact with regard to the demand and acceptance or obtainment of an illegal gratification may be made by a court of law by way of an inference only when the foundational facts have been proved by relevant oral and documentary evidence and not in the absence thereof. On the basis of the material on record, the court has the discretion to raise a presumption of fact while considering whether the fact of demand has been proved by the prosecution or not. Of course, a presumption of fact is subject to rebuttal by the accused and in the absence of rebuttal presumption stands.

23. Keeping in mind the law regarding trap cases laid down in the above decisions and the facts of the present case, now coming to the aspect of acceptance of the bribe amount and the recovery, it is the case of the defacto complainant that he along with P.W.3 and the trap team went to the office of the appellant/accused at 11.40 hours and he had contacted the accused through mobile phone and enquired the appellant about his presence in the office and after confirmation, the defacto complainant and P.W.3 had reached the office of the appellant around 12.10 hours. When



they met the appellant, he had reiterated his demand and also instructed him to keep the money inside the blue colour rexin bag and immediately, after receiving the bribe amount, the accused had closed the zip and kept it on the left side table. Thereafter, P.W.2 came out of the office and gave the pre-arranged signal and had identified the accused to P.W.15-TLO.

24. P.W.3, the official shadow witness had also concurred with the evidence of P.W.2 and had also stated that the appellant, without receiving the money in his hands, asked him to keep the money inside M.O.2-Rexin Bag and the defacto complainant had also kept the money in the rexin bag and immediately, the appellant had closed the zip and kept it on the left side table. Thereafter, he and the defacto complainant came out of the office and gave the pre-arranged signal and later, P.W.15-Trap Laying Officer and his team had entered into the office and after the appellant/accused was identified, phenolphthalein test was conducted on the hands of the appellant. As per P.W.3, when phenolphthalein test was conducted on the hands of the accused, it did not turn positive and there was no change of colour and the wash of both the hands was collected in M.O.5 and M.O.6 bottles. In this regard, when it is the categoric evidence of P.Ws.2 and



P.W.3 that the accused had not received the amount in his hand, there was no requirement for P.W.15-Trip laying Officer to conduct phenolphthalein test in the hands of the appellant. It is also an admitted fact that there was no change of colour and the wash of both the hands were collected in M.O.5 and M.O.6 bottles, however, strangely as per the evidence of the PW14 Chemical Analyst and Ex.P23- the Chemical Analysis Report, the presence of phenolphthalein was found in M.O.5 and M.O.6. No explanation has been given by either P.W.15-trip laying officer or P.W.14-Scientific Officer in this regard, thus creating a doubt that the trip proceedings is a pre determined and stage managed one.

25.Now coming to the claim of the appellant that there was a motive and enmity between the appellant and P.W.2 on account of P.W.2 having been reprimanded by the appellant in the presence of students and teachers during assembly session, it is also to be noted that the appellant had visited the school only on 28.08.2008 and not on 29.08.2008 as claimed by P.W.2, which is also supported by Ex.P19-Movement Register. In this regard, it is relevant to note that the evidence of P.W.4, the Correspondent which reads as under:

“சந்திரசேகரன் சில தவறுகள் செய்திருந்தார். யோகா



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பயிற்சிக்கு செல்லாமல் அந்த தேதிகளில் வருகை

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பதிவேட்டில் சுருக்கொப்பம் செய்திருந்ததை முத்துகிருஷ்ணன் அவர்களிடம் சொன்னேன். அவர் வருகை பதிவேட்டில் அந்த பகுதியை பச்சை மையினால் சுழித்துள்ளார். ஆசிரியர் சந்திரசேகரை கூப்பிட்டு எச்சரித்தார்.”

and further in his cross-examination, he had also confirmed as under:

“சந்திரசேகரன் செய்த தவறுகளை சொன்னதும் எதிரி மாணவர்கள் மற்றும் ஆசிரியர்கள் மத்தியில் எதிரியை கண்டித்தார்.”

“அதனால் சந்திரசேகரனை கட்டுப்படுத்த வேண்டி எதிரி மூலம் கண்டித்தும் அவர் தன் போக்கை மாற்றிக் கொள்ளாததால் மெமோ கொடுத்தோம்.”

26.It is also corroborated by the evidence of P.W.5-Headmaster, PW7, student and PW9-P.W.7's mother, who had deposed about the misbehaviour of PW2 with the girl students. Though P.W.2-defacto complainant had given a contradictory statement in the chief examination, he had admitted in the cross-examination that the appellant had come to the school only on 29.08.2008 and that he had conducted an enquiry against him and had also advised him. However, he had denied that he was humiliated because of that. Further, P.W.2, though working as a Secondary Grade Teacher, has been arrested for theft and thereafter, he had been suspended from the job. On a thorough analysis of evidence, this Court is of



the view that P.W.2 cannot be believed to be a reliable witness. Though the prosecution witnesses had projected that the appellant had demanded money on 12.09.2008, the dispute between P.W.2 and the management had been settled as early as on 10.09.2008 as per Ex.D1, and thereby there was no need for P.W.2-defacto complainant to meet the accused thereafter and there was no need for the appellant/accused to demand bribe from him. More particularly, P.W.2, in his chief examination as well as cross-examination, had pointed out that the appellant/accused had made the demand on 28.08.2008, 09.09.2008, 12.09.2008 and 17.09.2008, which fact cannot be believed to be true. At the cost of repetition, it is also the further case of the appellant that other than inspecting and giving a report about the school, the appellant has no role in taking action either against the management of the aided school nor he has any authority to sanction leave to the staff and it is only P.W.11-District Elementary Educational Officer-Aided School, who has got the authority to decide on the dispute between the teachers and management by the Government Order in G.O.Ms.No.1228 dated 30.12.1994, which was marked as Ex.P17. Further, he has no authority to sanction medical leave as claimed by P.W.2-defacto complainant. In this regard, the learned counsel appearing for the appellant has also relied on the



deposition of P.W.2, P.W.4, P.W.5 and P.W.11. In the cross-examination,

P.W.2 had deposed as under.

“09.09.2008ஆம் தேதியில் தலைமையாசிரியை தான் என்னிடம் மருத்துவ விடுப்பு பெற வேண்டுமெனில் உதவி கல்வி அதிகாரியை சென்று பார்க்க வேண்டுமென சொன்னார். அன்று நான் ஏஇஓவிடம் மருத்துவ விடுப்பில் செல்வது குறித்து சொன்னேன். அப்பொழுது அவர் எனக்கு பணிக்கு சேர்ந்து 2 வருடங்கள் ஆகிவிட்டால் மருத்துவ விடுப்பு விண்ணப்பத்தை தலைமையாசிரியையிடமே கொடுத்து அங்கிருந்து முறைப்படி தனக்கு வரவேண்டுமென சொன்னார்.””

P.W.4 had deposed as under.

“அரசு நிதி உதவி பெறும் பள்ளியில் பணிபுரியும் ஆசிரியர்கள் மீது நடவடிக்கை எடுக்க எனக்கு முழு அதிகாரம் உண்டு. அவ்வாறே அந்த ஆசிரியர் மருத்துவ விடுப்போ அல்லது வேறு வகை விடுப்போ எடுக்க நிர்வாக குழுவினிடம் தான் விண்ணப்பம் அளிக்க வேண்டும்.”

P.W.5 had deposed as under.

“16ம் தேதிய மருத்துவ விடுப்பு கடிதத்தை மதியத்திற்கு மேல் தான் கொடுத்தார். பொதுவாக மருத்துவ விடுப்புகள் மீது அனுமதி நிர்வாகத்திற்கு தான் உண்டு. எதிரிக்கு கிடையாது. ஆனால் சந்திரசேகரனை எதிரியை பார்க்கும்படி நான் சொல்லவில்லை.”

“சந்திரசேகருக்கு கொடுக்கப்பட்ட நழினை, அவரால் கொடுக்கப்பட்ட மருத்துவ விடுப்பு விண்ணப்பம் எதுவுமே எதிரியின் அலுவலகத்திற்கு அனுப்பப்படவில்லை.”



P.W.11 had deposed as under.

“உதவி தொடக்க கல்வி அலுவலர் தங்கள் கட்டுப்பாட்டில் உள்ள பள்ளிகளை ஆய்வு செய்து மாவட்ட தொடக்க கல்வி அலுவலருக்கு அறிக்கை அனுப்புவார்கள். வருடத்திற்கு ஒரு முறை உதவி தொடக்க கல்வி அலுவலர்கள் அவர்கள் கட்டுப்பாட்டில் உள்ள பள்ளியை ஆண்டாய்வு செய்து அறிக்கை அனுப்புவார்கள். பள்ளி சம்பந்தப்பட்ட ஏதாவது பிரச்சினைகள் வரும்போது அதையும் மாவட்ட தொடக்க கல்வி அலுவலருக்கு அனுப்பி வைப்பார்கள். இந்த நடைமுறைகள் அரசாணை எண்.எம்.எஸ்.நெ.588 மற்றும் அரசாணை எண்.எம்.எஸ்.நெ.1228 ஆகியவைகளில் குறிப்பிடப்பட்டுள்ளது. அந்த இரண்டு அரசாணைகள் அடங்கிய கோப்பு 1 முதல் 10 பக்கங்கள் தாக்கல் செய்யப்படுகிறது. அது அ.சா.ஆ.17 ஆகும்.”

In his cross-examination, he had deposed as under:

“அரசு நிதி உதவி பெறும் பள்ளிகளில் நடைபெறுகின்ற முறைகேடுகள் சம்பந்தமாக நடவடிக்கை எடுக்கும் அதிகாரம் மாவட்ட தொடக்க கல்வி அலுவலருக்கு உண்டு என்றால் சரிதான். அரசு உதவி பெறும் பள்ளி நிர்வாகிகளுக்கும் ஆசிரியர்களுக்கும் இடையே பிரச்சனை ஏற்படும்போது அதை தீர்த்து வைக்கும் பொறுப்பு மாவட்ட தொடக்க கல்வி அலுவலருக்கு உண்டு. அரசு உதவி பெறும் பள்ளிகளில் பணியாற்றுகின்ற ஆசிரியர்களுடைய விடுமுறை விண்ணப்பங்களை அனுமதிக்கும் அதிகாரம் பள்ளி நிர்வாகிகளுக்கு உண்டு என்றால் சரிதான்.”



The evidence of above witnesses not only falsifies the claim of P.W.2

but also proved that the entire case of the prosecution is a motivated one.

27.As per Section 20 of the Prevention of Corruption Act, 1988, only if it is proved that an accused person has accepted or obtained or has agreed to accept or attempted to obtain for himself, or for any other person, any gratification (other than legal remuneration) or any valuable thing from any person, it shall be presumed, unless the contrary is proved, that he accepted or obtained or agreed to accept or attempted to obtain that gratification or that valuable thing, as the case may be, as a motive or reward such as is mentioned in Section 7 or, as the case may be, without consideration or for a consideration which he knows to be inadequate.

28. Ofcourse, it is a well settled law that if the prosecution is successful in proving the recovery of tainted money from the possession of the accused, then a legal presumption arises that the accused had accepted or obtained the illegal gratification. But, this presumption is rebuttable. It is, however, not necessary that the required presumption is to be rebutted by the accused with the same standard of proof as is expected of the



Prosecution for recording a finding of conviction against him. The accused can validly rebut the above presumption by preponderance of probabilities and other circumstances appearing in the Prosecution evidence itself.

29. In *C.M.Girish Babu Vs. CBI (2009 (3) Supreme Court Cases 779)*, the Apex Court has held that the accused can rebut the presumption either through cross examination of the Prosecution witnesses or by adducing reliable evidence. Further, it has been held that the burden of proof on the accused under Section 20 of the Act is not the same as the burden placed on the Prosecution to prove the case beyond reasonable doubt. It has been held that mere recovery of tainted money diversified from the circumstances, under which it is paid, is not sufficient to convict the accused, when the substantive evidence in the case is not reliable. The mere recovery, by itself, cannot prove the charge of the Prosecution against the accused in the absence of any evidence to prove payment of bribe or to show that the accused voluntarily accepted the money knowing it to be bribe.



30. In the case of ***V.Sejappa Vs. State by Police Inspector***

Lokayukta, Chitradurga reported in (2016) 12 SCC 150, the Honourable Supreme Court, while referring to several earlier judgments, has held as follows:-

“18. It is well settled that the initial burden of proving that the accused accepted or obtained the amount other than legal remuneration is upon the prosecution. It is only when this initial burden regarding demand and acceptance of illegal gratification is successfully discharged by the prosecution, then the burden of proving the defence shifts upon the accused and presumption would arise under Section 20 of Prevention of Corruption Act. In the case at hand, all that is established by the prosecution was the recovery of money from the appellant and mere recovery of money was not enough to draw the presumption under Section 20 of Act.

19. After referring to Suraj Mal Vs. State (Delhi Admn.), in C.M.Girish Babu V. CBI, it was held as under: (SCC P.784, paragraph)

“18. In Suraj Mal Vs. State Delhi Admn), this Court took the view that (at SCC P.727, para 2) mere recovery of tainted money divorced from the circumstances under which it is paid is not sufficient to convict the accused when the substantive evidence in the case is not reliable. The mere recovery by itself cannot prove the charge of the prosecution against the accused, in the absence of any evidence to prove payment of bribe or to show that the accused voluntarily accepted the money knowing it to be bribe.”



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31. To sum up, when the substantive evidence is not clear and cogent with regard to the demand, acceptance and recovery, it creates doubt in the prosecution case. In the instant case, the foundation of the prosecution case with regard to the demand made by the appellant as observed above, has been shaken a the great extent, which causes grave doubt on the alleged event said to have taken place in the matter of pre-trap proceedings. The version of the prosecution as to the demand and receipt of bribe money as narrated by the prosecution witnesses is suspicious and does not inspire confidence. Serious doubts have also arisen as to the manner in which the amount is alleged to have been received by the appellant. The phenolphthalein test conducted, recovery made and further Chemical Analysis Report also creates doubt. In totality, the prosecution had miserably failed to prove the foundational facts of the case viz., demand, acceptance and recovery of the illegal gratification beyond all reasonable doubts.

32.As already discussed above, the entire circumstances with regard to demand, acceptance and recovery is highly suspicious and shrouded with



suspicion. On the basis of such dubious evidence and circumstances, it will not be appropriate to sustain the conviction rendered by the trial Court.

33. In view of the above infirmities and inherent probabilities, the prosecution, while attempting to raise a presumption under Section 20 of the Prevention of Corruption Act, 1988, has miserably failed to prove the foundational facts regarding the guilt of the accused with cogent evidence, whereas the appellant, though not required, has rebutted such presumption by raising a probable defence of enmity and false implication and thereby, it would be wholly unsafe to sustain the conviction of the appellant on the above said evidence and thereby, he is entitled to be acquitted.

34. In the result, this appeal is allowed. The impugned judgment of conviction and sentence is hereby set aside. The appellant is acquitted of the charges levelled against him. The bail bond, if any executed by the appellant, shall stand cancelled and the fine amount, if any paid by him, shall be refunded to him.

19.02.2024.

Index: Yes/No.
Internet: Yes/No.
raa



Criminal Appeal No.290 of 2018

WEB COPY To

1. The Special Judge-cum-Chief Judicial Magistrate,
Namakkal.
2. Inspector of Police,
Vigilance & Anti Corruption,
Namakkal.
3. Public Prosecutor,
High Court, Madras.