



IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 22ND DAY OF JUNE, 2026
BEFORE
THE HON'BLE MR. JUSTICE S RACHAIAH
CRIMINAL APPEAL NO. 1081 OF 2022 (C)

BETWEEN:

H P SADASHIVA
S/O LATE PUTTASWAMY GOWDA,
AGED ABOUT 53 YEARS,
WORKING AS CO-OPERATIVE
DEVELOPMENT OFFICER,
OFFICE OF THE DEPUTY REGISTRAR
OF CO-OPERATIVE SOCIETY,
SAHAKARA SOUDHA,
MARGOSA ROAD, MALLESHWARAM,
BENGALURU – 560 003.
RESIDING AT NO.115, 2ND CROSS,
3RD MAIN ROAD, KASHI NAGARA,
KANAKAPURA ROAD, YELACHENAHALLI,
BENGALURU – 560 078.

...APPELLANT

(BY SRI.C.V.NAGESH, SR.COUNSEL FOR SRI.RAGHAVENDRA K,
ADVOCATE)



AND:

STATE OF KARNATAKA
REPRESENTED BY ITS POLICE INSPECTOR,
ANTI CORRUPTION BUREAU,
BENGALURU URBAN POLICE STATION,
BENGALURU – 560 001.

...RESPONDENT

(BY SRI. B B PATIL, SPL. PROSECUTOR)

THIS CRIMINAL APPEAL IS FILED U/S.374(2) CR.P.C BY
THE ADVOCATE FOR THE APPELLANT PRAYING TO SET ASIDE
THE JUDGMENT OF CONVICTION AND ORDER OF SENTENCE
DATED 13.06.2022 PASSED BY THE XXIII ADDITIONAL CITY
CIVIL AND SESSIONS JUDGE AND SPECIAL JUDGE (P.C. ACT),
BENGALURU (CCH-24) IN SPL.C.C.NO.739/2018, WHEREBY
THE APPELLANT/ACCUSED IS CONVICTED FOR THE OFFENCE
P/U/S 7 AND 13(1)(d) R/W 13(2) OF PREVENTION OF
CORRUPTION ACT, 1988.

THIS CRIMINAL APPEAL HAVING BEEN HEARD AND
RESERVED ON 04.06.2026, COMING ON FOR
PRONOUNCEMENT OF JUDGMENT, THIS DAY, JUDGMENT WAS
DELIVERED THEREIN AS UNDER:



CORAM: HON'BLE MR. JUSTICE S RACHAIAH

CAV JUDGMENT

1. This appeal has been filed by the appellant / accused being aggrieved by the judgment of conviction and order on sentence dated 13.06.2022 in Spl.C.C.No.739/2018 pending on the file of the XXIII Additional City Civil and Sessions Judge and Special Judge (P.C. Act), Bengaluru, wherein the appellant has been convicted for the offences under Sections 7, 13(1)(d) r/w 13(2) of the Prevention of Corruption Act, 1988 (for short, 'PC Act').
2. The ranks of the parties before the Trial Court will be considered henceforth for convenience.

Brief facts of the case:

3. The case of the prosecution is that the accused was working as the Co-operative Development Officer in the office of the Deputy Registrar of Co-operative Societies, Chamarajpet, Bengaluru South Division. The residents of Dhanush Shree Apartments Owners' Association (for short 'Association') entrusted the work of registration of the



said Association to C.W.1. In the last week of June 2017, C.W.1 had approached the accused and received the information regarding the method of registration of the Apartments Owners' Association. It is further alleged that C.W.1 was asked to pay Rs.10,000/- as illegal gratification in addition to the payment of Rs.2,500/- payable for registration of the said Association.

4. Being aggrieved by the said demand, C.W.1 approached respondent – Anti Corruption Bureau (for short 'ACB') and informed the said incident. The respondent after registering the FIR in Crime No.33/2017, conducted pre-trap panchanama and later, post-trap panchanama in the presence of panch witnesses. The respondent – ACB Police after conducting the investigation, laid a charge sheet against the accused.
5. In order to prove the case of the prosecution, the prosecution has examined 11 witnesses as PWs.1 to 11 and got marked 56 documents as Exs.P1 to P56 and also identified 9 material objects as M.Os.1 to 9. The Trial Court, after appreciating both oral and documentary



evidence on record, convicted the accused for the aforesaid offences.

6. Heard Sri C.V. Nagesh, learned Senior Counsel appearing for Sri Raghavendra K., learned counsel for the appellant and Sri B.B. Patil, learned Special Prosecutor for the respondent - ACB.
7. Learned Senior Counsel for the appellant submitted that the impugned judgment and order passed by the Trial Court is contrary to the evidence on record. Therefore, the same is liable to be set aside.
8. It is further submitted that, though P.W.2 deposed in his evidence that he had recorded the conversation between himself and the accused, the said conversation has not been proved in accordance with law. The shadow witness has turned hostile and not supported the case of the prosecution. Such being the fact, mere recovery of the amount is not sufficient to prove that the accused had demanded illegal gratification for the work of registration of the Apartments Owners' Association. However, the



Trial Court failed to take note of the said fact and relied on the evidence of the interested witness, namely, P.W.2, and opined that the prosecution had proved the case beyond reasonable doubt, which is erroneous and arbitrary. Therefore, the conviction rendered by the Trial Court is liable to be set aside. Making such submissions, the learned Senior Counsel for the appellant prays to allow the petition.

9. *Per contra*, learned Special Prosecutor for respondent – ACB vehemently submitted that the evidence of P.W.2 is cogent and reliable in respect of demand of illegal gratification. The amount of Rs.10,000/- was demanded. However, it has been scaled down to Rs.7,500/- and it was given to the accused. The accused has returned Rs.500/- to P.W.2.
10. It is further submitted that P.W.4 – panch witness has supported the case by stating that the bait amount was recovered from the accused. It was Rs.7,000/-. The numbers mentioned in the currency notes were tallying with the numbers stated in the entrust panchanama etc.,



11. It is further submitted that P.W.6 - C. Srividya, Asst. Director, Forensic Science Laboratory, Bengaluru, who deposed to the effect that the voice of P.W.2 found in the CD, marked as article No.3, and the voice sample found in the CD, marked as article No.7, are similar and belonging to the same person. The report submitted by the expert, as per Ex.P22, would corroborate the oral evidence. Such being the fact, there is no infirmity in the conviction recorded by the Trial Court. Hence, the prosecution has proved both demand and acceptance of illegal gratification to discharge the official duty by the accused. Hence, the appeal deserves to be dismissed. Making such submissions, learned Special Prosecutor for respondent - ACB prays to reject the appeal.
12. Having considered the rival submissions of learned counsel for the respective parties and on perusal of findings of the Trial Court, it is appropriate to have a look upon the precedents of the Hon'ble Supreme Court on the subject matter for the purpose of better clarification. The Hon'ble Supreme Court in the case of **SOUNDARAJAN v.**



STATE OF TAMIL NADU¹, has held in paragraph 10 of its judgment as under:

"10. We have considered the submissions. It is well settled that for establishing the commission of an offence punishable under Section 7 of the PC Act, proof of demand of gratification and acceptance of the gratification is a sine qua non. Moreover, the Constitution Bench in Neeraj Dutta [Neeraj Dutta v. State (NCT of Delhi), (2023) 4 SCC 731 : (2023) 2 SCC (Cri) 352] has reiterated that the presumption under Section 20 of the PC Act can be invoked only on proof of facts in issue, namely, the demand of gratification by the accused and the acceptance thereof."

13. Having gone through the ratio laid down by the dictum stated supra, it makes clear that, to constitute an offence punishable under Section 7 of the PC Act, demand and acceptance of illegal gratification is a *sine qua non*. In the absence of demand, even recovery of the amount from the accused would not constitute the offence under Section 7 of PC Act.

¹ (2023) 16 SCC 141



14. Now, it is relevant to re-appreciate the evidence of all the witnesses. P.W.1 was working as the Under Secretary to the Government in the Department of Co-operative Societies and he has accorded the sanction to proceed with the case.
15. P.W.2 is the complainant. He has stated in his evidence that he had approached the accused for the purpose of getting the registration of the Apartment Owners' Association done. He has further deposed that he was asked to pay bribe of Rs.10,000/- in addition to the fee payable for registration. It is further stated that, he had recorded the conversation held between himself and the accused on 03.08.2017 and 08.08.2017 in his mobile and it has been transferred to CD.
16. P.W.2 further deposed that he had approached the accused along with the shadow witness on 10.08.2017 and paid the illegal gratification and the said amount was received by the accused and he had kept it in his shirt pocket. Immediately, P.W.2 gave a signal to the officials who were waiting for his signal and thereafter, they



completed the formalities of trap. He has denied the suggestion that he had issued 65-B certificate for having transferred the conversation to the CD. Though he has been subjected to cross-examination and several suggestions were made to impeach his credibility, the fact remains that he has supported the case. However, conviction cannot be held on the basis of his evidence for the reason that he is an interested witness. When the case is based on the evidence of the interested witness, corroboration is a rule to render conviction.

17. P.W.3 is stated to be the shadow witness. According to him, he accompanied P.W.2 and went to the office of the accused. P.W.2 was asked to get the Xerox done in respect of bye-laws. According to him, the accused was refusing to accept any illegal gratification; however, P.W.2 was insisting him to receive the amount. In the meantime, P.W.2 gave a signal to the officials and they came inside the hall and conducted panchanama. This witness has been treated as hostile and cross-examination has been conducted. However, nothing has



been elicited to discredit his credibility. When the evidence of shadow witness is believed to be true, the case of the prosecution is certainly vitiated. However, the Trial Court rendered the conviction holding that there is a demand and acceptance of illegal gratification, which appears to be unreasonable and unsustainable.

18. Having considered the evidence of these two witnesses, in my considered view, it may not be necessary to advert to the evidence of the other witnesses. It is needless to state that, insisting on the shadow witness under the legislative enactment in the P.C. Act is to ensure that evidence of complainant is supported by an independent shadow witness. When the shadow witness does not support the case of prosecution, the rest of the procedures under the law need not be looked into.
19. In the present case, the Investigating Officer has not seized the primary evidence i.e., the mobile phone of P.W.2 to demonstrate that there is a conversation between P.W.2 and the accused in respect of demand of illegal gratification. It appears that, P.W.2 had issued



65-B Certificate to prove Ex.P21 and Ex.P11. However, that itself is not sufficient to hold that he is authorized to issue such certificate. In the absence of valid certificate to prove the electronic evidence, such electronic evidence cannot be said to be proved. However, the Trial Court ignored this principle and proceeded to render conviction.

20. In addition to above said lacunae, no work was pending with the accused as on the date on which the alleged trap had taken place. Having considered the said aspect, I am of the considered opinion that the prosecution has failed to establish the demand and acceptance of illegal gratification.

21. In the light of the observations made above, I proceed to pass the following:-

ORDER

- i) The Criminal Appeal is *allowed*.
- ii) The judgment of conviction and order on sentence dated 13.06.2022 in Spl.C.C.No.739/2018 pending on the file of the XXIII Additional City Civil and



Sessions Judge and Special Judge (P.C. Act)
Bengaluru, is set aside.

- iii) The appellant / accused is acquitted for the offences under Sections 7, 13(1)(d) r/w 13(2) of the Prevention of Corruption Act, 1988.
- iv) Bail bond executed, if any, stands cancelled.

Sd/-
(S RACHAIAH)
JUDGE

BSS
List No.: 1 Sl No.: 1