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Crl.A.Nos.157 & 158 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 03.07.2026

Pronounced on: 21.07.2026

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.A.Nos.157 & 158 of 2015

Crl.A.No.157 of 2015

N.P.Manikantan

... Appellant

Vs.

State By
Deputy Superintendent of Police,
SPE/CBI/ACB/Chennai

... Respondent

Prayer:

Criminal Appeal filed under Section 374 of Cr.P.C. against the judgment passed in CC.No.13 of 2005 dated 20.03.2015 convicting the appellant by the learned XIII Additional Sessions Judge for CBI Cases, at Chennai.

For Appellant : Mr.A.Natarajan,
Senior Counsel
for Ms.A.Madhumathi

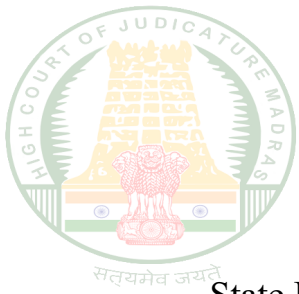
For Respondent : Mr.N.Baskaran,
Special Public Prosecutor for CBI

Crl.A.No.158 of 2015

A.K.Zutshi

... Appellant

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Crl.A.Nos.157 & 158 of 2015

Vs.

State By
Inspector of Police,
CBI/ACB/Chennai
(Crime No.RCMA1 2004 A 0033)

... Respondent

Prayer:

Criminal Appeal filed under Section 374 of Cr.P.C. r/w Section 27 of PC Act praying to call for the records relating to the judgment in CC.No.13 of 2005 dated 20.03.2015 passed by the learned XIII Additional Sessions Judge for CBI Cases, Chennai and to set aside the same.

For Appellant : Mr.S.Rajendra Kumar,
for M/s.Norton and Grant

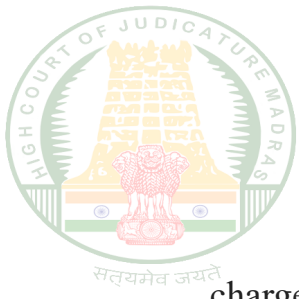
For Respondent : Mr.N.Baskaran,
Special Public Prosecutor for CBI

COMMON JUDGMENT

These criminal appeals have been filed against the judgment passed in CC.No.13 of 2005 dated 20.03.2015 convicting the appellants by the learned XIII Additional Sessions Judge for CBI Cases, at Chennai.

2. Both the criminal appeals are arising out of the same calendar case, thereby the appellants have been convicted for the offence punishable under Section 12 of Prevention of Corruption Act. Therefore, this Court passes this common order.

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3. The case of the prosecution is that the second accused was

charged in a disproportionate assets case in RC.No.7(A)2003 of CBI, ACB, Bangalore. In order to assist the investigation officer, PW1 who is a Junior Technical Officer was appointed in the above case. Therefore, PW1 went to Bangalore and enquired the second accused's chartered accountant with regards to share trading activities, financial investments and transfer of money to the second accused's son's bank account in State Bank of India, USA. During the enquiry PW1 asked the chartered accountant to furnish the share trading report and financial transactions in a floppy disk. Thereafter, PW1 came down to Chennai. At that juncture, on 25.05.2004, the first accused approached PW1 to get a favourable technical report in favour of the second accused by offering bribe. Therefore, PW1 lodged complaint to his superiors. Thereafter on 26.05.2004, the first accused called PW1 to a hotel for lunch. In the hotel, the trap laying officer arranged a trap and accordingly instructed PW1 to give signal if any bribe amount was offered. The independent witnesses by name Sri Krishna, Narendra Deva were sitting at the table adjacent to the first accused and PW1. While having lunch, they heard that the first accused is ready to give bribe on some other day to PW1. Therefore, FIR was registered on 27.05.2004. Once again on 29.05.2004 the first accused called PW1 to meet him at room No.507 of a Hotel Ramada Raj Park,

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Alwarpet, Chennai. The other team of trap laying officers was waiting in

the room No.501 with a wireless receiver in order to hear the conversation between the first accused and PW1. Then, PW1 went to room No.507 with a wireless transmitter. At that juncture, the first accused gave the bribe amount of Rs.50,000/- and a nokia phone with hutch sim card to PW1. On receiving signal, the entire team went inside room No.507 and upon enquiry, accused 1 & 2 confessed that they offered bribe to PW1. Both A1 and A2 were arrested and were remanded to judicial custody for the offence punishable under Sections 120(b) of IPC r/w Section 12 of Prevention of Corruption Act. Later, the third accused, son of A2, was also charged under the aforesaid section. After completion of investigation, the prosecution filed final report and the same was taken cognizance by the trial court.

4. In order to bring the charges to home, the prosecution had examined PW1 to PW21 and marked Ex.P1 to Ex.P79. On the side of the accused, they had examined DW1 and marked Ex.D1 to Ex.D6. The prosecution produced material objects as MO.1 to MO.14. On perusal of oral and documentary evidences, the trial court acquitted the third accused and convicted the first and second accused for the offence punishable under Sections 12 of Prevention of Corruption Act. Aggrieved



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by the same, the present criminal appeals have been filed by accused 1 & 2 respectively.

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5. The learned Senior Counsel appearing for the first accused and the learned counsel appearing for the second accused submit that PW1 was not at all Technical Assistant and he was a junior technical officer. Further, he did not even submit any technical report and he was not cited as a witness in the disproportionate assets case at Bangalore. The technical report of PW1 was not included in the charge sheet in the disproportionate assets case at Bangalore. The prosecution also failed to prove the relationship between A1 and A2. There is absolutely no need for the first accused to approach PW1 in order to safeguard the second accused. The audio recorded in micro chip and micro cassettes were not played in the court during the trial in order to prove the offer of bribe to PW1. Further, the original recording devices were not produced before the trial court in order to prove that those devices or transmitters were in working condition or not. Further, they were used for hearing conversation between room Nos.507 and 501. The transcriptions said to have been made from the micro cassettes and micro chips will become secondary evidence and they are not admissible in evidence in the absence of primary evidence. Further, the transcriptions were not made in

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full and they were made only to the relevant facts of the prosecution

amounting to edited version. Therefore, it cannot be taken into

consideration for any purpose. Further, the prosecution failed to prove the

alleged offer of bribe on 26.05.2004 since the independent witness

persons who were sitting near the table of PW1 and the first accused were

not even examined by the prosecution. Further, there is no transcription

for the conversation took place on 26.05.2004. Further, the entry of CBI

officials into the room No.507 itself is not proved by the prosecution. The

prosecution also failed to prove the bribe amount of Rs.50,000/- was

recovered from room No.507. There is no seizure mahazar for the

recovery of the said amount, nokia mobile phone, sim card with recharge

coupon which were marked and produced as M.O.1 to M.O.3. Therefore,

without seizure mahazar, the prosecution ought not to have produced

material objects before the trial court. Further, there are contradictions

between prosecution witnesses insofar as the alleged offer of bribe. There

was delay of 2 days in registering the FIR on the guise of verifying the

genuineness. It is not a normal circumstance and it creates doubt

especially when PW1 is also a CBI official. In fact on the date of the

alleged occurrence, no statements were recorded from the witnesses.

Only after 10 days, statements were recorded and it creates doubt over the

entire case of the prosecution. PW1 was treated as hostile witness and it

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proved that PW1 is not a reliable witness since it shakes the very basis of the prosecution. Further, the very substratum of the FIR is not existent with the proceedings in Ex.P6 recorded on 26.05.2004, since the first accused name 'Manikandan' was mentioned even before registration of FIR. The signature of the persons who were sitting adjacent to the table of PW1 and the first accused were missing in the rough sketch which was marked as Ex.P6. Therefore, the prosecution failed to prove the charges beyond reasonable doubt. Therefore, the order of conviction and sentence imposed by the trial court cannot be sustained and the same is liable to be set aside.

6. Per contra, the learned Special Public Prosecutor for CBI appearing for the respondent submits that the micro chip and micro cassettes were not played during trial due to technical defect. Therefore, the transcriptions produced by the prosecution for the conversation dated 26.05.2004 was accepted. Further, non production of conversation between PW1 and first accused is also accepted by the trial court. Both are immaterial for the prosecution to prove the charge. When the bribe amount was given to the PW1 by the first accused, immediately the officials went into room No.507 and they were caught red handed. Therefore, the prosecution had proved the offer as well as as the receipt

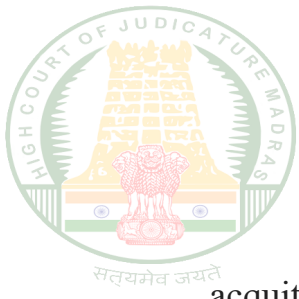
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of bribe. Further, on 26.05.2004, though the trap laying officer set up a trap, the trap was not proceeded since the bribe amount was not given to PW1. Further there is a relationship between A1 and A2, which had been clearly spoken by PW12. Therefore, on 29.05.2004 at about 2 pm., PW1 called the second accused. The second accused requested PW1 to meet him at hotel Ramada Raj Park in room No.507 at 3.30 p.m. to 4.00 p.m. On the said day, all the three accused persons met PW1 at Hotel Ramada Raj Park in room No.507 where PW1 was asked to prepare a report in favour of the second accused in the disproportionate asset case and they offered bribe for the same. At about 8 p.m., the second and third accused and the auditor who had deposed as PW13 left the room. Thereafter, the first accused gave bribe amount, mobile phone, sim card and recharge coupon to PW1. Immediately, after signalled by PW1, PW6 and other officials went into the room No.507 and recovered the bribe amount and other articles under seizure mahazar. Therefore, the prosecution proved the charges beyond any doubt and it does not warrant any interference by this Court.

7. Heard the learned counsel appearing on either side and perused all the materials placed before this Court.



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8. There are totally three accused, in which the trial court had

acquitted the third accused. The defacto complainant was examined as

PW1 who was a Junior Technical Officer working under the respondent.

He was attached with PW15 who is the investigation officer in a

disproportionate assets case against the second accused at Bangalore for

the alleged check period between 16.05.2004 to 21.05.2004. PW1 was

assisting the PW15 relating to share investments and financial

transactions of the second accused in the disproportionate asset case. In

fact, the second accused was enquired by CBI with regards to

transactions on 19.05.2004 and 20.05.2004. However, no proper

satisfactory explanation was offered by A2. Therefore, on 25.05.2004 at

about 4 p.m., the co-worker of PW1 from Income Tax Department

informed the PW1 that the first accused and PW4 who is brother in law

of PW3 wanted to meet PW1 for some help. On 25.05.2004 at about 4.15

p.m., the first accused and PW4 approached PW1 and demanded to give a

favourable report in favour of the second accused in the disproportionate

asset case and also offered illegal gratification to PW1. Therefore, PW1

lodged complaint on 25.05.2004 itself and thereafter as directed by the

Superintendent of Police, enquiry was conducted and FIR was registered

on 27.05.2004. In the meanwhile, PW1 met the first accused at Hotel

Ramada Raj Park as per first accused's instructions and the said

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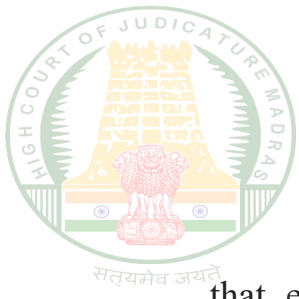
conversation between them were monitored by CBI officials along with

independent witness PW2. After registration of FIR, the trap laying officer laid trap. As per the instructions, PW1 called the first accused. In turn, the first accused asked PW1 to come to hotel Ramada Raj Park at about 8 p.m. at room No.507. PW1 met A1 to A3 and they were discussing about the report. Thereafter the second accused called and informed PW13 who is the auditor to come to Chennai and met them next day. Accordingly on 29.05.2004, PW1 called the second accused. In the said phone call, the second accused requested PW1 to meet him at Hotel Ramada Raj Park in room No.507 by 3.30 to 4.00 p.m. On 29.05.2004, accused 1 to 3 and PW13 met PW1 at Hotel Ramada Raj Park in room No.507 where PW1 was asked to prepare a report in favour of the second accused in the disproportionate case and they offered bribe for the same. At about 8 p.m., accused 2 and 3 and PW13 left the room. Thereafter, the first accused gave bribe amount, mobile phone sim card and recharge coupon to PW1. Immediately, the trap laying officer and its team went to room No.507 and recovered the bribe amount and other articles under seizure mahazar. The specific stand taken by the accused is that the PW1 was neither been examined as witness nor he had submitted any report in disproportionate assets case as against the second accused before the trial court at Bangalore.



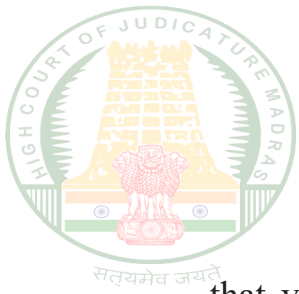
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9. On perusal of records and also on the deposition of investigation officer in the disproportionate assets case against the second accused, it revealed the specific role played by PW1 in assisting the investigation officer in the disproportionate assets case. It is clearly spoken by PW13, PW15 & PW17. Ex.P1 to Ex.P4 and Ex.P14 also proved the same. On the complaint dated 25.05.2004, FIR was registered on 27.05.2004. There was no delay in registering FIR since only after completion of investigation process, FIR was registered. There is absolutely no prejudice caused to the accused by registering FIR after two days from the date of complaint. On receipt of the complaint, on 25.05.2004 itself, it was handed over to the Deputy Superintendent of Police for verification who deposed as PW6. On the same day, PW6 examined PW1 and on 26.05.2004, the Deputy Superintendent of Police arranged all arrangements. After due enquiry, report was submitted on 27.05.2004 and on verification of the report, FIR was registered which was marked as Ex.P18. The verification report was marked as Ex.P17. After following the procedure as contemplated under Prevention of Corruption Act, the respondent registered FIR. Therefore, the grounds raised by the accused cannot be countenanced.



10. The learned counsels for the accused vehemently contended

that even before registration of FIR, name of the first accused was contained in the rough sketch. On perusal of records, it was drafted by Deputy Superintendent of Police one, Krishnamoorthy and he mentioned it as A1 instead of S1. Further, it does not mean anything. Therefore, the trial court rightly refused to accept Ex.P6. Further, Ex.P6 is no way helpful to the case on hand. On 26.05.2004, in order to verify the genuineness of the complaint, the officials along with PW1 went to the hotel, where they were sitting next to the table of A1 and PW1. Therefore, when the prosecution proved the demand, offering bribe amount and recovered bribe amount and other articles, Ex.P6 is not helpful to the prosecution case. At the same time, non examination of those persons who were sitting near the first accused and PW1 is also not fatal to the case of the prosecution. The said incident happened before registration of FIR i.e. on 26.05.2004. On submission of enquiry report on 27.05.2004, FIR was registered. In pursuant to the registration of FIR, after recording their conversation, the first and second accused were arrested and remanded to judicial custody. Therefore, non examination of independent witness persons namely Sri Krishna and Narendra Deva is not fatal to the case of the prosecution.



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11. Though the learned counsels for the appellants submitted

that visitor register at the office of the respondent was not shown and produced before the court, it is not fatal to the case of the prosecution. On perusal of the evidence of PW1, there is no such visitor record was maintained in the office of PW1. When there is no visitor register at all, the question of producing the register before the trial court does not arise. Further, PW17 was also not cross examined by the accused in respect of the visitor register which is allegedly maintained in the office of PW1. Therefore, non production of visitor register is no way connected to the case of the prosecution and it is not fatal to the case of the prosecution. Further, the contention of the accused that, the investigation officer did not even examine and record the statement under Section 161(3) of the Criminal Procedure Code even after completion of 10 days from the receipt of the records is nothing but filling up the lacuna and to cook up a case against the accused, cannot be countenanced for the reason that the trap laying officer cannot examine the witnesses. Since he is the trap laying officer, he recorded the statement of the witnesses. Further, the trap laying officer had deposed as PW6. He categorically deposed that after conducting trap, accused 1 and 2 were arrested and seizure mahazar was prepared. However, he could not record their statement by himself. However, he recorded the reason and also proved by the other official.



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The contradictions between the prosecution witnesses and other officials happened only because they had deposed before the trial court after a period of six years from the date of occurrence. Therefore small contradictions between them is not fatal to the case of the prosecution when other witnesses categorically deposed and there are clinching materials to prove the charges.

12. Further, though the prosecution treated the PW1 as hostile witness, on perusal of the entire deposition, he cannot be treated as hostile witness and the trial court rightly had taken the part of the deposition of PW1 into consideration and concluded that the charge is squarely proved against the accused. PW12 clearly deposed that there was contact between A1 and A2 through multiple contracts in respect of their respective companies, tender approval by the second accused one day before. In support of the same, the prosecution also marked Ex.P45 to 47. Further, the contention of the accused that the micro chip and micro cassettes were not played before the trial court due to technical fault. There is absolutely no need to play the conversation between PW1 and A1 since offer and recovery of bribe amount are clearly proved by the prosecution. The evidence of PW1 is also clearly corroborated by PW2. The auditor had deposed as PW13 and supported the case of the

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prosecution and proved the offer and bribe amount which was given to

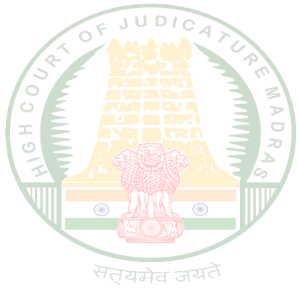
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13. In view of the above discussion, this Court finds no infirmity or illegality in the impugned judgment since the prosecution proved the charges against the appellants beyond reasonable doubt and the trial court rightly convicted the appellants. As such, both the criminal appeals fail. Accordingly, both the criminal appeals are dismissed.

21.07.2026

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order
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G.K.ILANTHIRAIYAN, J.

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To

- 1.XIII Additional Sessions Judge for CBI Cases, at Chennai.
- 2.Deputy Superintendent of Police,
SPE/CBI/ACB/Chennai
- 3.Inspector of Police,
CBI/ACB/Chennai
- 4.The Special Public Prosecutor for CBI,
Madras High Court

CrI.A.Nos.157 & 158 of 2015

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