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Crl.A.No.782 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 03.07.2026

Pronounced on: 15.07.2026

CORAM:

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

Crl.A.No.782 of 2015

P.R.Govindaraju

... Appellant

Vs.

STATE BY

THE DEPUTY SUPERINTENDENT OF POLICE,
VIGILANCE AND ANTI-CORRUPTION,
SALEM

CR.NO.2/AC/1998

... Respondent

Prayer: Criminal Appeal filed under Section 374 of Cr.P.C. praying to set aside the conviction and sentence imposed on the appellant under Sections 7 and 13(2) r/w 13(1) (d) of Prevention of Corruption Act by the learned Special Judge (Special Court for trial of cases under the Prevention of Corruption Act), Salem in Spl.CC.No.4 of 2014 dated 30.11.2015 by allowing this appeal.

For Appellant : Mr.R.Shunmugasundaram,
Senior Counsel
Assisted by SONA.Sathishkumar
for Mr.K.Raja

For Respondent : Mr.R.Ganesh Kumar,
Counsel for Government of Tamil Nadu,
(Criminal Side)



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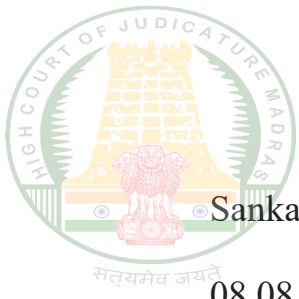
JUDGMENT

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This criminal appeal is arising out of the judgment passed in Spl.CC.No.4 of 2014 dated 30.11.2015 on the file of the learned Special Judge (Special Court for trial of cases under the Prevention of Corruption Act), Salem, thereby convicting the appellant for the offence punishable under Sections 7 and 13(2) r/w 13(1)(d) of Prevention of Corruption Act.

2. The case of the prosecution is that the accused was employed as Assistant Engineer in the Highways Department at Sathyamangalam. He was deputed as Assistant Engineer in Sankari Town Panchayat. During his tenure at Sankari Town Panchayat from 16.12.1997 to 21.06.1998, he was placed in charge of works carried out by the Konganapuram Town Panchayat. His duty was to record measurements in the measurement books in respect of the works done by the contractors. While being so, the complainant, being a contractor, carried out certain works in the Highways Department, Panchayat Union and Town Panchayats. In the first week of June 1998, the accused demanded gratification of Rs.8,700/- for recording measurements in the measurement books, the same being 5% of the cost of 4 works executed by the complainant and his son in Konganapuram Panchayat. The accused made demand on 21.06.2008 at his office cum residence at

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Sankari and once again on 04.08.1998 through phone. Finally on

08.08.1998, the accused demanded and accepted a sum of Rs.8,000/-

from the complainant as gratification other than the legal remuneration as motive or reward for recording measurement in the measurement books in respect of the works executed by the complainant. After registration of FIR, trap was laid and the appellant was caught red-handed. After completion of investigation, FIR was registered in crime No.2/AC/1998 and final report was filed and the same was taken cognizance by the trial court for the offence punishable under Sections 7, 13(2) r/w 13(1) (d) of Prevention of Corruption Act.

3. In order to bring the charges to home, the prosecution had examined PW1 to PW15 and marked Ex.P1 to Ex.P30. The prosecution also produced material objects as MO.1 to MO.10. On the side of the accused, no one was examined and no documents were marked in order to disprove the charges. On perusal of oral and documentary evidences, the trial court found the accused guilty for the offence punishable under Sections 7, 13(2) r/w 13(1)(d) of Prevention of Corruption Act and he was sentenced to undergo one year rigorous imprisonment with fine of Rs.5,000/- in default, to undergo three months simple imprisonment for the offence under Section 7 of Prevention of Corruption Act. He was

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further sentenced to undergo rigorous imprisonment for two years with fine of Rs.10,000/- in default, to undergo six months simple imprisonment for the offence punishable under Section 13(2) r/w 13(1) (d) of Prevention of Corruption Act. Aggrieved by the same, the accused has filed this criminal appeal.

4. The learned Senior Counsel appearing for the appellant submitted that the prosecution failed to prove the charges under Sections 7 and 13 (2) r/w 13(1)(d) of Prevention of Corruption Act. Though the very defacto complainant / PW2, PW5, PW8 and PW11 turned hostile, the trial court mechanically convicted the accused. The prosecution failed to prove the demand allegedly made by the accused on 21.06.1998 and 04.08.1998. In order to prosecute the accused, PW1 accorded sanction which was marked as Ex.P1. He mechanically accorded sanction without perusing any document and explanation submitted by the appellant. That apart, the alleged demand was made by the appellant when he was deputed as Assistant Engineer in Sankari Town Panchayat. However, PW1 is the authority from Highways Department and as such, he is not competent to accord sanction to prosecute the accused. Once the sanction goes, the prosecution cannot prosecute the appellant under the Prevention of Corruption Act. The grant of sanction is not an ideal form or

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acrimonious exercise but a solemn and sacrosanct act to be observed and

performed by the sanctioning authority. Further, the defacto complainant

was examined as PW2. He was treated as a hostile witness by the trial

court. When the defacto complainant himself failed to support the case of

the prosecution, the prosecution ought to have proved the case by

authentic, reliable and unimpeachable evidence. Further, the evidence of

PW2, PW3 PW4 and PW14 are contradictory to each other and they

failed to corroborate the evidence of PW3. But the Technical Assistant,

who was working in the Office of Konganapuram Town Panchayat, was

examined as PW5. He also turned hostile. Measurement books were duly

filled up by the accused relating to works done by some contractors.

However, the prosecution failed to examine any of the contractors and

further, PW5 also turned hostile and failed to support the case of the

prosecution. Moreover, the prosecution also failed to prove the doctrine

of demand and acceptance beyond any reasonable doubts.

4.1 He further submitted that even according to PW2, the tainted money was put in a cover and handed over to the accused. But the cover was not produced by the prosecution and only 16 nos. of five-hundred-rupee currency notes were recovered from the accused and there is no whisper about the cover. Further, the cover was also not subjected for any

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phenolphthalein test. In view of the above, the entire conviction cannot be sustained and the same is liable to be set aside.

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5. The learned Counsel for Government of Tamil Nadu (Criminal Side) appearing for the respondent submits that the prosecution proved the charges beyond any doubt. Though PW2 turned hostile, the uttered portion of the evidence is very clear to prove the charges. His evidence was treated as hostile only for the reason that, after seeing the police personnel, the accused questioned and he was beaten up by the police officials. Thereafter, the accused also went away from the scene of crime. He was examined after a period of 13 years from the date of the final report. Therefore, no one can depose in a precise way after a period of 13 years. The other witnesses clearly deposed and supported the case of the prosecution. Insofar as the sanctioning is concerned, PW1 is the authority, who has the power and jurisdiction to appoint and remove the accused from service in the Highways Department. Though the demand was made while he was in charge as Assistant Engineer in Sankari Town Panchayat, at the time of the receiving the bribe, he had returned to his parent department i.e. Highways Department. On 08.08.1998, when he was working as Assistant Engineer in the Highways Department, he received bribe and he was caught red handed. Therefore, PW1 is the

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competent authority to accord sanction to prosecute the appellant.

Accordingly, PW1 accorded sanction to prosecute the accused. PW2 introduced cover only before the court while deposing. The specific case of the prosecution is that after registration of FIR, trap was laid on 08.08.1998 and on that day, 16 nos. of 500 rupee currency notes were subjected for test and PW2 was asked to hand over the same to the accused. Therefore, the prosecution rightly treated PW2 as hostile and had taken into account other aspects such as demand and receipt of bribe and convicted the accused. Hence, the judgment of the trial court does not warrant any interference by this Court.

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

7. The accused was in charge of works of Konganapuram Town Panchayat from 16.06.1997 to 21.06.1998. His parent department was Highways Department. He was entrusted with the work of recording measurement in measurement books. PW2 is the father and PW4 is his son. During the appellant's tenure, PW2 and PW4 were entrusted with some contract works relating to panchayat union and also town panchayats. They were totally awarded four works. While being so, in

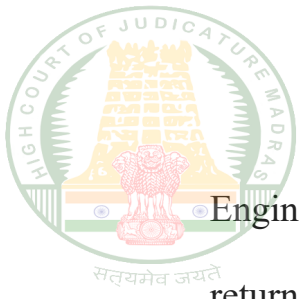
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order to record the measurement for the work which was already completed by PW2 and PW4 in the measurement books, the accused demanded a sum of Rs.8,700/- as 5% of the cost of the four works from PW2 and PW4. On registration of FIR, a trap was laid and during the trap the appellant was caught red handed. Therefore the appellant was charged for the offences under Sections 7, 13(2) r/w 13(1)(d) of Prevention of Corruption Act.

8. The sanctioning authority was examined as PW1. The complainant was examined as PW2 and his son was examined as PW4. They were awarded four contracts. PW2 was awarded two works: (i) laying concrete road to the value of Rs.30,000/- and (ii) construction of retaining walls to the value of Rs.23,000/-. PW4 was awarded with two contracts: (i) construction of drainage to the value of Rs.70,000/- and (ii) construction of shop to the value of Rs.75,000/-. After completion of the above work, PW2 requested the accused for recording measurements in the measurement book. He agreed to record measurement on payment of 5% of each contract value as bribe. Even according to the case of the prosecution, the first bill for the work No.1 and 3 were cleared and payment was received by contractors without giving any bribe on 10.06.1998 itself i.e. before his withdrawal of deputation as Assistant



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Engineer from Sankari Town Panchayat. Thereafter, the accused was returned to his parent department i.e. Highways Department and was posted at Sathyamangalam as Assistant Engineer on 21.06.1998. At that juncture, PW2 met the accused and requested to record the measurements in the measurement books in respect of the contract nos.2 and 4, for which he demanded a sum of Rs.8,700/-, on 04.08.1998. When PW2 contacted the accused through phone, once again he demanded bribe money. It was demanded through PW5.

9. The complaint was marked as Ex.P2. On perusal of Ex.P2, the demand of the bribe by the accused was made through telephone. However, PW2 deposed contrary to his complaint that the demand was made in person. Further, the alleged demand through phone was not proved by the prosecution by producing any call detail records between the accused and PW2. Though PW2 deposed that on demand of Rs.8,700/-, he paid a sum of Rs.8,000/- bribe, no evidence is adduced to the effect that there was ingredient between the accused and PW2 and thereafter, the accused agreed to reduce the bribe to the tune of Rs.8,000/-. In fact, the accused had recorded measurement in the measurement books for two completed works, for which bill was also prepared to the value of Rs.60,900/- for the tender value of Rs.70,000/-

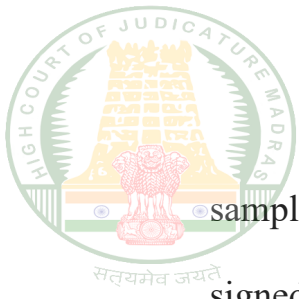


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thereby the accused caused loss of Rs.9,000/- to PW2. When the accused

alleged to have demanded 5% of the bill value as bribe amount, in no stretch of imagination the accused would himself undervalue the material causing loss of Rs.9,000/- which will reduce his 5% bribe amount. That apart, the said two contracts were already entered in the measurement books and the amount was also paid to PW2. Therefore, the prosecution failed to prove the demand. Insofar as acceptance is concerned, PW2 deposed that a sum of Rs.8,000/- was given to the accused. At the time of setting up a trap, 16 nos. of 500 rupee currency notes were dipped in the solution and the same was put into a cover and the same was handed over to the accused. However, it is not the case of the prosecution that the tainted money was put into a cover and the cover was handed over to the accused. The specific case of the prosecution is that 16 nos. of 500 rupee currency notes were already dipped in the solution in the police station by the trap laying officer who deposed as PW14 and was given to the accused. Further, PW2 deposed that the accused was beaten up by the police officials during the trap. Therefore, the very proceedings of the trap was not proved by the prosecution, since immediately thereafter PW2 went out of the scene of occurrence.

10. That apart, signature of the accused was not obtained in the



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sample solution bottle. The shadow witness who had deposed as PW3

signed the lable affixed on the recovered solution bottle. Therefore, it also

creates serious doubt in the manner in which the prosecution conducted

trap and the recovery of money from the accused. Therefore, not

obtaining the signature of the accused in the sample solution bottle is also

fatal to the case of the prosecution since it is a major lacuna on the part of

the prosecution. Further, as per Ex.P2, the measurement books are to be

filled up by the accused regarding the measurements of the work done by

the contractors for processing of bills. PW3 deposed that those

measurement books were taken away by the accused and the same was at

the residence of the accused. But PW6 - Executive Officer at the

Konganapuram Town Panchayat deposed that the measurement book was

handed over by PW6 to PW2 as instructed by the accused and the

measurement book was taken from the Town Panchayat office by PW2

for getting the measurements recorded by the accused. Further, PW5,

who was working as Assistant in Konganapuram Town Panchayat,

deposed that the measurement book containing all the four works done by

the PW2 and PW4 was taken by PW2 to meet the accused. Even

according to the case of the prosecution, two bills were already cleared

and the amount was already disbursed to the contractors in respect of the

two works. Therefore, the accused need not carry measurement books for

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all four contracts in which already bills of two works were cleared as early as on 10.06.1998 itself. Therefore, the alleged demand of 5% of 4

works for recording measurements in the measurement book is not proved by the prosecution beyond reasonable doubt. In fact, the trap laying officer who had deposed as PW14 stated that subsequent to the trap, the measurement books were recovered from PW2 in the absence of the accused and to verify the same, signature of the accused is not obtained in the recovery mahazar which was marked as Ex.P4. Therefore, the prosecution failed to prove that the measurement books were in the possession of the accused.

11. Further, on perusal of Ex.P1, the sanction order accorded by PW1, it is found that sanction was accorded under Section 197(b) (1) of the Cr.P.C. However, no charge under Section Indian Penal Code is recorded by the prosecution. Therefore, sanction authority, without even applying its mind, mechanically accorded sanction when there are no charges under Indian Penal Code offences. Further, mere recovery of tainted money, by itself, is insufficient to establish the charges against an accused under the Prevention of Corruption Act. In order to sustain a conviction under Sections 7 and 13(1)(d) of the Act, it must be proved beyond reasonable doubt that the public servant voluntarily accepted the

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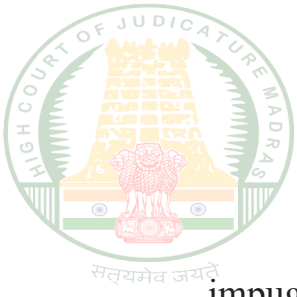


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money knowing that its a bribe. The demand for a bribe is *sine qua non*

for establishing an offence under Section 7 of Prevention of Corruption Act. In the case on hand, demand alleged to have been made through phone call was not proved by the prosecution beyond any doubt by producing call detail records. Further, acceptance of the bribe amount also stands vitiated due to material contradictions between the prosecution witnesses and documents. Therefore, mere acceptance of the illegal gratification without proof of offer by bribe giver and the demand by the public servant would not make offence under Sections 7 and 13(1) (d)(i) & (ii) of Prevention of Corruption Act.

12. On perusal of the statement recorded under Section 313 of Cr.P.C. from the accused, it is revealed that, he had categorically stated that subsequent to his withdrawal of deputation work to Sathyamangalam as Assistant Engineer in Highways Department, no entries were made by him in the measurement book. However, the trial court mechanically convicted the appellant without considering the above facts and circumstances of the case. Therefore, the prosecution failed to prove the charges beyond any reasonable doubt and as such, the impugned judgment cannot be sustained and the same is liable to be set aside.

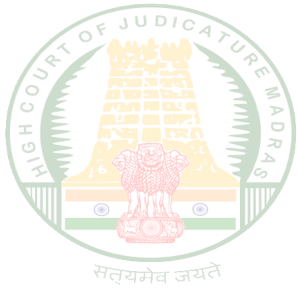


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13. Accordingly, this criminal appeal is allowed and the impugned judgment is set aside. The appellant is acquitted of all the charges in Spl.CC.No.4 of 2014. The appellant is directed to be set at liberty forthwith. Fine amount, if any paid, shall be refunded to the appellant forthwith. Bail bonds, if any executed by the appellant, shall stand cancelled.

15.07.2026

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order
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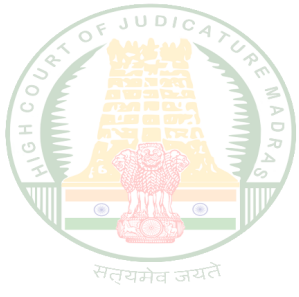
To

1.Special Judge (Special Court for trial of cases under the Prevention of Corruption Act), Salem

2.STATE BY

THE DEPUTY SUPERINTENDENT OF POLICE,
VIGILANCE AND ANTI-CORRUPTION,
SALEM

3.The Public Prosecutor,
High Court of Madras



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G.K.ILANTHIRAIYAN, J.

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