



Crl.A.Nos.278 and 275 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Delivered On: 17.07.2026

Reserved On: 10.07.2026

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.A.Nos.278 and 275 of 2016

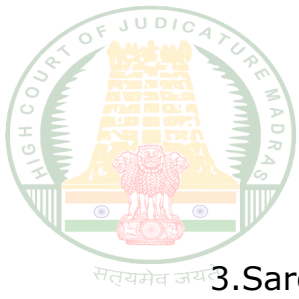
1.K.V.Samiyappan (Died)
S/o.Veerappa Gounder
Formerly Block Development Officer,
Panchayat Union Office,
Elachipalyam,
Tiruchengode Taluk,
Namakkal District.

2.S.Rajam
W/o.K.V.Samiyappan,
No.68V/B, Ashok Nagar 2nd Street,
Arthanari School Street, Santhapettai Pudur,
Namakkal District – 637 001.

(2nd appellant substituted as LR of the
deceased sole appellant vide order of the
Court dated 17.07.2025 in Crl.A.
No.278 of 2016 by DBCJ) ... Appellant in Crl.A.No.278 of 2016

1.T.Paramasivam
S/o.Thiruvengkata Naidu
Former Fitter,
Elachipalayam Panchayat,
Manickampalayam, Pullakoundampatti P.O.
Tiruchengode Taluk,
Namakkal District.

2.Senthilkumari
W/o.Paramasivam



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3.Sarojini
D/o.Paramasivam

4.Paramasivam
S/o.Paramasivam

(All are residing at Elaichipalayam Panchayat
Manickampalayam, Pullakoundampatti P.O.
Tiruchengodu Taluk, Namakkal District)

(Sole Appellant died. Appellants 2 to 4
substituted as Lrs of the deceased sole
appellant as per the order of this Court
dated 18/06/2025 in Crl.MP.12096/2025
in Crl.A.275/2016) ... Appellants in Crl.A.No.275 of 2016

Vs.

State rep by
Deputy Superintend of Police,
Vigilance & Anti-Corruption,
Salem
(Cr.No.9/AC/99) ... Respondent in Crl.A.No.278 of 2016

State represented by its
Inspector of Police,
Vigilance and Anti Corruption,
Salem @ Namakkal
(Cr.No.9/AC/1999) ... Respondent in Crl.A.No.275 of 2016

Prayer in Crl.A.No.278 of 2016:

Appeal filed under Section 374 of Cr.P.C. against the judgment
of The Learned Chief Judicial Magistrate/ Special Judge Namakkal
made in Spl. Calendar Case No.12 of 2002 dated 29.03.2016
convicting the appellant herein for the offence under Section 7 of



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Prevention of Corruption Act and sentenced to undergo Rigorous Imprisonment for 3 years and to pay a fine of Rs.25,000/- in default to undergo two months Simple Imprisonment.

(Case number amended as per the order of this Court dated 28.04.2016 Made in Crl.M.P.No.5274 of 2016 in Crl.A.No.278 of 2016 by Dr.PDSJ).

Prayer in Crl.A.No.275 of 2016:

Appeal filed under Section 374(2) of Cr.P.C. seeking to set aside the judgment and sentence and conviction imposed upon the appellant herein by the Learned Chief Judicial Magistrate/ Special Judge, Namakkal in Spl.C.C. No.12 of 2002 dated 29.03.2016 and acquit the appellant herein.

For Appellants : Mr.S.Ashok Kumar
Senior Counsel
for M/s.C.D.Johnson
in Crl.A.No.278 of 2016

Mr.R.Karthikeyan
in Crl.A.No.275 of 2016

For Respondent : Mr.R.Ganesh Kumar
Counsel for Government of Tamil Nadu
(Criminal Side)
High Court of Madras
in both Crl.As.



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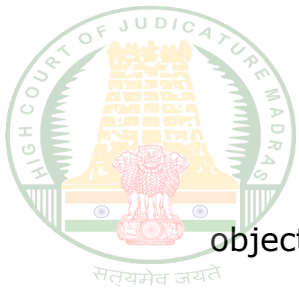
COMMON JUDGMENT

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Both the appeals have been filed as against the judgment passed in Spl.C.C.No.12 of 2002 on the file of learned Chief Judicial Magistrate/ Special Judge, Namakkal, thereby convicting the accused for the offences punishable under Sections 7 and 13(2) r/w 13(1)(d) of the Prevention of Corruption Act.

2.The appellant in Crl.A.No.278 of 2016 is arrayed as second accused (A2) and the appellant in Crl.A.No.275 of 2016 is arrayed as first accused (A1) in Spl.C.C.No.12 of 2002. Pending appeal both the accused/ appellants died. Though the charges against the accused were abated, the legal heirs of the deceased appellants were impleaded as appellants for the purpose of getting other terminal benefits, if the accused are acquitted from the charges.

3.The case of the prosecution is that the defacto complainant has an agricultural land and he dug up a borewell since there was water scarcity. He already possessed electricity service connection for his well. Inorder to change over the electricity service connection from the well to the borewell, the defacto complainant have to produce no



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objection certificate from the Block Development Officer in order to verify if any other borewell is situated within the 100 meters radius of the defacto complainant borewell. Therefore, the defacto complainant approached A1 and applied for no objection certificate. Immediately, A1 inspected the defacto complainant's land and the borewell dug by the defacto complainant and demanded a sum of Rs.600/- as bribe for no objection certificate and such amount has to be paid to A2. However, the defacto complainant expressed his inability to pay such amount and as such A1 reduced the amount from Rs.600/- to Rs.550/-. Thereafter, the defacto complainant lodged the complaint and after registration of FIR, the respondent has set up the trap. During the trap, the accused were caught red handed and they were arrested and remanded to judicial custody. After completion of investigation, final report was filed and the same was taken cognizance by the trial Court.

4.The prosecution in order to substantiate their case examined witnesses P.W.1 to P.W.18 and marked exhibits Ex.P.1 to Ex.P.34. On the side of the accused, they examined witnesses D.W.1 and D.W.2 and marked exhibits Ex.D1 and Ex.D2. Material objects M.O.1 to M.O.9 were also marked.

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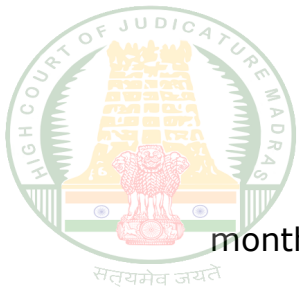
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5. Upon consideration of the oral and documentary evidence, the Trial Court found, A1/ appellant in Crl.A.No.275 of 2016 guilty for the offence under Sections 7 and 13(2) r/w 13(1)(d) of the Prevention of Corruption Act and A2/ appellant in Crl.A.No.278 of 2016 guilty for the offence under Section 7 of the Prevention of Corruption Act.

6. The Trial Court sentenced the first accused/ appellant in Crl.A.No.275 of 2016 to undergo rigorous imprisonment for a period of three years and to pay a fine of Rs.25,000/- in default to undergo two months simple imprisonment for the offence under Section 7 of the Prevention of Corruption Act; to undergo rigorous imprisonment for a period of five years and to pay a fine of Rs.25,000/- in default to undergo two months simple imprisonment for the offence under Section 13(2) r/w 13(1)(d) of the Prevention of Corruption Act. The sentences were ordered to run concurrently. The total fine amount imposed on A1 is Rs.50,000/-.

7. The Trial Court sentenced the second accused/ appellant in Crl.A.No.278 of 2016 to undergo rigorous imprisonment for a period of three years and to pay a fine of Rs.25,000/- in default to undergo two



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months simple imprisonment for the offence under Section 7 of the Prevention of Corruption Act.

8. Being aggrieved by the said conviction and sentence, the accused/ deceased appellants have filed these criminal appeals before this Court.

9. The learned Senior Counsel appearing for the appellant in Crl.A.No.278 of 2016/ A2 submitted that even according to the case of the prosecution, A1 only demanded bribe from the defacto complainant. In the absence of any such demand no offence is made out under Section 7 of the Prevention of Corruption Act. P.W.3 deposed that A2 did not receive any money and also he did not demand any money. Further P.W.4's presence was not even whispered by P.Ws.2 and 3. Further, no money was recovered from A2. In the name of A2, A1 demanded bribe from the defacto complainant. Infact, on the date of inspection itself, no objection certificate was signed by A2 and it was also entered into the office register. There is absolutely no evidence to show that on behalf of A2, A1 received money. There is proper explanation that the sum of Rs.550/- was collected only as Flag Day collection and a receipt was



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supposed to be issued and even before issuance of the same, the accused were trapped, arrested and remanded to judicial custody.

10.The learned counsel appearing for the appellant in Crl.A.No.275 of 2016/ A1 submitted that the evidence of P.Ws.2 and 3 would go to show that there was no demand made by both the accused. The sanctioning authority did not accord sanction by applying its mind and it was accorded mechanically without considering the explanation. Even according to the evidence of P.W.2, there was no demand of any bribe during the inspection of the land. The trap laying officer has instructed P.W.2 to give the money to any person who demands the money and A2 reached the office before A1. Therefore, P.W.2 waited for A1 to come and handed over the money to A1. Therefore, the prosecution trapped the accused and charged them for other reasons. The accused also proved the motive to implicate them for the corruption charges by examining D.W.1 and D.W.2. They categorically deposed that there was order passed by A2 to vacate the premises of Village Administrative Officer, even then Village Administrative Officer, who is one of the witnesses herein failed to vacate the premises. Therefore, the Village Administrative Officer was forcibly evicted by A2 for which, A1 assisted him.



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11.The learned counsel appearing for the appellant in Crl.A.No.275 of 2016/ A1 further submitted that according to the case of the prosecution, on the date of the alleged trap, after receipt of the tainted money, A1 went into the room of A2 and obtained signature in the no objection certificate, whereas, P.W.6 categorically deposed that no one visited the office of the second accused to obtain any signature in the no objection certificate. P.W.6 is none other than the Assistant Block Development Officer, who is sitting adjacent to the room of A2. Further, the prosecution suppressed the first complaint lodged by the defacto complainant before the Deputy Superintendent of Police. Therefore, the trap laying officer cooked up the entire case and set up a trap. When the prosecution failed to prove the demand, the entire charges are vitiated and the trial Court ought not to have convicted the accused. Further, P.W.4 was very much available at the time of alleged demand made by A1 from P.W.2, however, the presence of P.W.4 was not even whispered by P.W.2. Therefore, inorder to strengthen the case of prosecution, P.W.4 was inserted. Therefore, the entire conviction and sentence imposed on the accused cannot be sustained and liable to be set aside.



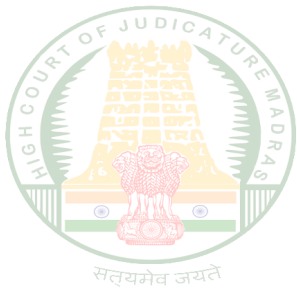
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12.The learned Counsel for Government of Tamil Nadu

(Criminal Side) submitted that the prosecution categorically proved the demand, acceptance and recovery of the tainted money. P.W.2 categorically deposed about the occurrence and corroborated by P.Ws.3 and 4. P.W.4 was not accompanied by P.W.2. P.W.4 was also present at the time of demand made by A1 from P.W.2. Therefore, there is absolutely no reason to dis-believe the evidence of P.W.4. Though the no objection certificate was signed prior to the trap, it was not issued to the defacto complainant and both the accused demanded bribe from the defacto complainant. When P.W.2 visited A1, A1 demanded bribe and P.W.2 refused to give bribe. Therefore, the defacto complainant wanted to see A2. When P.W.2 visited A2's Chamber, he suggested him to pay the money to A1 as demanded by him for issuance of no objection certificate. Therefore, the demand was proved by the prosecution. During the trap, A1 received the tainted money and caught red handed. The phenolphthalein test also resulted in positive. Hence, the trial Court rightly convicted the accused and it does not warrant any interference of this Court.

13.Heard the arguments advanced on either side and perused the materials placed on record.

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14. At the time of the alleged occurrence, A1 was the Fitter and A2 was the Block Development Officer. The defacto complainant was examined as P.W.2. The sanctioning authority deposed as P.W.1. P.W.2 had deposed that he dug up a borewell and as such he wants to have change over switch to operate the borewell motor pumpset from the well electricity service connection for which the electricity board insisted no objection certificate from the concerned authority. Therefore, on 16.12.1999 P.W.2 went to the office of the accused and applied for no objection certificate. A1 received the application. He asked P.W.2 whether he possess any two wheeler for inspection. On the next day, i.e., on 17.12.1999, P.W.2 went to the office of A1 along with two wheeler borrowed from other friend inorder to take A1 along with him to visit his land.

15. After inspection, A1 found that within the radius of 100 meters there is no other borewell situated from the bore well dug by P.W.2. Thereafter, he was dropped at bus stop. At that juncture, A1 demanded a sum of Rs.600/- as bribe to be paid to A2. P.W.2 said that he had no source of money. So, A1 reduced the bribe from Rs.600/- to Rs.550/- and directed P.W.2 to go to his office. On

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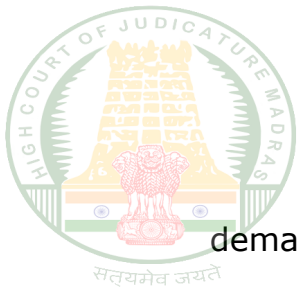
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21.12.1999, P.W.2 went to the office of A1 at about 12.00 noon.

When A1 asked about the money, P.W.2 replied that he had no money. Then, P.W.2 went inside the A2's chamber. On seeing P.W.2, A2 asked him, why are you coming without money and scolded P.W.2 that if he want to have no objection certificate, go and see A1 and pay the amount as demanded by A1.

16.Since P.W.2 did not want to give any bribe, he lodged complaint on 22.12.1999. After registration of FIR, trap was set up on 23.12.1999. However, on that day, at about 10.30 a.m. A1 was not available and they waited till 11.30 a.m. At that juncture, P.W.2 did not see A2. At about 12.45 p.m., A1 came to his office and P.W.2 asked about his no objection certificate. P.W.2 was present along with P.W.3. Immediately A1 asked about the money and the tainted money was given to A1. Thereafter, A1 went to the chamber of A2 and obtained signature in the no objection certificate. After obtaining signature from P.W.2, no objection certificate was issued to him. Thus it is clear that P.W.2 did not even see A2.

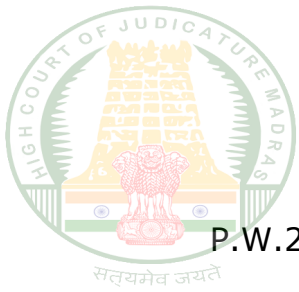
17.Further, during the cross examination, P.W.2 categorically deposed that on 16.12.1999, he did not see A2. Further A1 did not



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demand any money on the next day, even during inspection or in his office. Further he did not even whisper about the presence of P.W.4 in the office of A1. On 22.12.1999, P.W.2 went to the office of the Deputy Superintendent of Police, Vigilance and Anti Corruption and lodged the complaint. However, it was not brought to the notice of the trial Court and it was not marked by the prosecution. Further, he also deposed that the no objection certificate was taken by A1 from his records.

18.The specific case of the accused is that the no objection certificate was already signed as early as on 17.12.1999 itself i.e., on the date of inspection and it was kept in the office cupboard of A2. Therefore, once no objection certificate was signed by A2 on the date of inspection itself, there is absolutely no circumstances for demand of any bribe by the accused. It is the specific case of the accused that they collected donation for Flag Day. The person who accompanied P.W.2 deposed as P.W.3. He also deposed that they did not see A2. P.W.3 also admitted that he did not see the signature put up by A2 in the no objection certificate. The person who was available along with P.W.2 in the office of A1 has deposed as P.W.4. On the date of alleged second demand i.e., on 23.12.1999, he was there in the office of A1.



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P.W.2 asked about the no objection certificate, for which, A1 demanded money. According to P.W.2, he visited the office of A1 on 22.12.1999 and on the same day he lodged the complaint. On 23.12.1999, the trap was set up.

19. That apart, the presence of P.W.4 was not even whispered by P.W.2 in his evidence. Therefore, the evidence of P.W.4 has been inserted by prosecution in order to corroborate the evidence of P.W.2. The evidence of P.W.4 is not believable and failed to support the case of the prosecution. The Village Administrative Officer was examined as P.W.5. He deposed that in order to change his office, A2 took action and issued notice. The Writer of the Block Development Officer was examined as P.W.8. He deposed that A2 signed no objection certificate as early as on 17.12.1999, in which he also entrusted. Therefore, the evidence of P.W.8 is clear that the no objection certificate was signed by A2 as early as on 17.12.1999 and it is completely prohibitory to the evidence of P.W.2. According to P.W.2, certificate was signed by A2 on 23.12.1999, that too after the receipt of the bribe amount by A1.

20. The Junior Assistant of the Block Development Officer

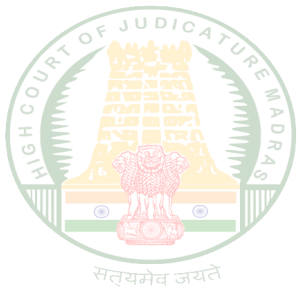


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deposed as P.W.12. P.W.12 deposed that on 17.12.1999, A1 inspected the land of P.W.2 and issued report that within the radius of 100 meters there is no other borewell situated from the bore well dug by P.W.2. It was handed over to A2 and on the same day, A2 signed the no objection certificate and it was ready for issuance. However, P.W.2 did not collect the same, which clearly shows that in order to set up a trap, at the instigation of other witnesses, the complaint was given by P.W.2 and a trap was set up on 23.12.1999. It is also seen that P.W.2 deposed that on 22.12.1999, he visited the office of the Deputy Superintendent of Police and lodged a complaint, however, it was not produced by the prosecution. Therefore, in overall circumstances, the prosecution failed to prove the charge, demand and the acceptance of the bribe.

21. In this regard, it is relevant to rely upon the judgment of the Hon'ble Supreme Court of India reported in **MANU/SC/1158/2015** in the case of **N.Sunkanna Vs. State of Andhra Pradesh**, the relevant portion of the same is extracted hereunder:

"6. The prosecution examined the other fair price shop dealers in Kurnool as PWs 3, 4 and

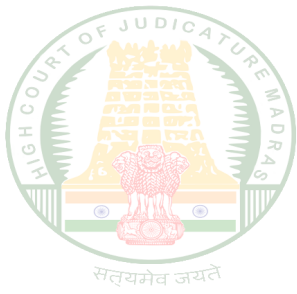


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6 to prove that the accused was receiving monthly mamools from them. PWs 4 and 6 did not state so and they were declared hostile. PW-3 though in the examination-in-chief stated so, in the cross-examination turned round and stated that the accused never asked any monthly mamool and he did not pay Rs.50/- at any time. The prosecution has not examined any other witness present at the time when the money was demanded by the accused and also when the money was allegedly handed-over to the accused by the complainant. The complainant himself had disowned his complaint and has turned hostile and there is no other evidence to prove that the accused had made any demand. In short there is no proof of the demand allegedly made by the accused. The only other material available is the recovery of the tainted currency notes from the possession of the accused. The possession is also admitted by the accused. It is settled law that mere possession and recovery of the currency notes from the accused without proof of demand will not bring home the offence under Section 7, since demand of illegal gratification is sine-qua-



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*non to constitute the said offence. The above also will be conclusive insofar as the offence under Section 13(1)(d) 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. 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. Unless there is proof of demand of illegal gratification proof of acceptance will not follow. Reference may be made to the two decisions of three-Judge Bench of this Court in **B. Jayaraj vs. State of Andhra Pradesh** [(2014) 13 SCC 55] and **P. Satyanarayana Murthy vs. The District Inspector of Police and another** [(2015 (9) SCALE 724)]."*

22.The above judgment is squarely applicable to the case on hand. When the prosecution failed to prove the demand of bribe, the conviction for the charges under the Prevention of Corruption Act cannot be sustained since the demand of illegal gratification is *sine*



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qua non to constitute the offence under Section 7 of the Prevention of Corruption Act.

23.In view of the above, the prosecution failed to prove the charges beyond reasonable doubt and the benefit of doubt goes in favour of the accused. Though both the accused died, the conviction and sentence imposed against them cannot be sustained and are liable to be set aside.

24.Both the criminal appeals are allowed. The conviction and sentence passed by the learned Chief Judicial Magistrate/ Special Judge Namakkal in Spl. Calendar Case No.12 of 2002 under judgment dated 29.03.2016 as against the deceased appellants are set aside. The deceased appellant in Crl.A.No.278 of 2016/ A2 is acquitted from the charge under Section 7 of the Prevention of Corruption Act. The deceased appellant in Crl.A.No.275 of 2016/ A1 is acquitted from the charge under Sections 7 and 13(2) r/w 13(1)(d) of the Prevention of Corruption Act. The fine amount, if any, paid by the deceased appellant in Crl.A.No.278 of 2016 is ordered to be refunded to his legal heir/ second appellant in Crl.A.No.278 of 2016 and the fine amount, if any, paid by the deceased appellant in Crl.A.No.275 of 2016 is ordered



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to be refunded to his legal heirs/ appellants 2 to 4 in Crl.A.No.275 of 2016. The bail bonds, if any, executed by the deceased appellants, shall stand terminated/ discharged.

17.07.2026

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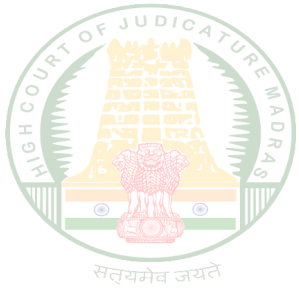
Index: Yes/ No

Speaking Order: Yes/ No

NCC: Yes/ No

To

- 1.The Chief Judicial Magistrate/ Special Judge,
Namakkal.
- 2.The Deputy Superintend of Police,
Vigilance & Anti-Corruption,
Salem
(Cr.No.9/AC/99)
- 3.The Inspector of Police,
Vigilance and Anti Corruption,
Salem @ Namakkal
(Cr.No.9/AC/1999)
- 4.The Public Prosecutor,
High Court of Madras,
Chennai – 600 104.



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G.K.ILANTHIRAIYAN,J.
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**Pre-delivery Judgment in
Crl.A.Nos.278 and 275 of 2016**

17.07.2026