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Crl.A.No.321 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 04.08.2026

PRONOUNCED ON : 21.08.2026

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THE HON'BLE MR JUSTICE G.K. ILANTHIRAIYAN

Crl.A.No.321 of 2016

K.T. Suresh

... Appellant/Sole Accused

vs.

STATE: Represented by
Inspector of Police
Central Bureau of Investigation
Anti-Corruption Wing, Shastri Bhavan
RC MA1/2012/A/0039
Chennai-600006

... Respondent/Complainant

PRAYER: Criminal Appeal is filed under Section 374 (2) of the Code of Criminal Procedure, to set aside the judgment passed in C.C.No.9 of 2013, dated 21.04.2016 on the file of the XIV Additional Special Judge for CBI Cases, Chennai.

For Appellant : Mr.S.Ashok Kumar
Senior Counsel
for M/s.K.Selvaraj

For Respondent : Mr.K.Srinivasan
Special Public Prosecutor (CBI Cases)



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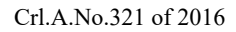
This Criminal Appeal has been filed as against the judgment passed in C.C.No.9 of 2013, dated 21.04.2016 on the file of the XIV Additional Special Judge for CBI Cases, Chennai, thereby convicted and sentenced the accused for the offences punishable under Section 7 and 13(2) read with 13(1)(d) of the Prevention of Corruption Act, 1988.

2. The case of the prosecution is that one V. Raghu, who is an approver, is the proprietor of M/s. SRR Logistics, and one R. Nandakumar, who is also an approver, was working in the said concern. They had submitted application for Export Inspection and Phytosanitary Certification before the Regional Plant Quarantine Station, Chennai. The officials of the Regional Plant Quarantine Station, after inspecting the consignments intended for export, would issue Phytosanitary Certificates on the applications submitted by the accused, who was then working as an Assistant Plant Protection Officer. It is the further case of the prosecution that, on 28.08.2012, the accused demanded a sum of Rs.1,00,000/- as illegal gratification from the said V. Raghu and R. Nandakumar for processing their applications. As they were unwilling to pay the bribe, a complaint was



lodged against the accused. Based on the said complaint, the respondent-police registered a case and laid a trap. However, during the course of the trap proceedings, the accused was allegedly caught red-handed while accepting a sum of Rs.2,000/- as illegal gratification in respect of a different application submitted by M/s. Caravel Logistics, Chennai. During the subsequent enquiry, the accused is stated to have voluntarily disclosed that he had already received a sum of Rs.1,00,000/- from one Nandha, an approver associated with M/s. SRR Logistics, and that the said amount had been kept in the X-ray Room of the Regional Plant Quarantine Station. Based on the said disclosure and the subsequent recovery, the offences were altered and the respondent-police filed the final report for the offences punishable under Section 7 and Section 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act, 1988 and the same was taken cognizance by the Trial Court.

3. In order to establish the charges, the prosecution had examined 13 witnesses i.e., P.W.1 to P.W.13 and marked 33 documents as Exs.P1 to P33. The prosecution has not produced any Material Objects. On the side of the accused, no one was examined and no document was marked before the Trial Court to disprove the charges.



5. Heard the learned counsel appearing on either side and perused the materials placed on record.

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Rs.2000 for processing the application submitted for issuing a import release order. Accordingly, a trap was laid by the Trap Laying Officer and the accused was caught red-handed. After subjecting the accused for phenolphthalein test, a personal search was conducted on the accused. Thereafter, based on his statement, a bribe amount of Rs.1,00,000/- given in respect of different application by one Nanda(approver) of M/s. SRR Logisttics was recovered from the X-ray Room. Hence, he was arrested for the offences punishable under Section 7 and 13(2) read with 13(1)(d) of the Prevention of Corruption Act, 1988.

7. Admittedly, even according to the case of the prosecution, no confession statement was recorded from the accused which allegedly led to recovery of the bribe amount of Rs.1,00,000/- from the X-ray room. Pursuant to the statement allegedly made by the accused, P.Ws.7 and 8 were also found to be involved in the receipt of illegal gratification for facilitating the clearance of import consignments. However, both P.Ws.7 and 8 were subsequently tendered pardon and examined as approvers. Significantly, the evidence of P.Ws.7 and 8 does not materially corroborate each other. On the other hand, their respective versions suffer from material inconsistencies and contradictions, which go to the root of the prosecution case. Their testimony



is also not corroborated by any independent witness or other reliable and cogent evidence with regard to the alleged demand, payment and recovery of the sum of Rs.1,00,000/-. In the absence of such independent corroboration, the evidence of the approvers, particularly when their versions do not inspire confidence and materially differ from each other, cannot safely be relied upon to sustain the conviction of the accused.

8. That apart, the Trap Laying Officer neither verified the genuineness of the complaint nor conducted any discreet preliminary enquiry before registration of the FIR. Further, as per Rule 14.27 of the CBI Crime Manual, the Investigating Officer is required to thoroughly examine all aspects of the case and record the statement of the accused so as to ascertain their defence and identify the relevant and potential evidence. Where the defence put forth by the accused is found to be probable and supported by the materials on record, the benefit of doubt must necessarily go in favour of the accused.

9. Admittedly the prosecution had registered only one FIR and filed two separate charge-sheets against the accused in respect of two distinct demand and payment of bribe. In this regard, reliance was placed upon the



judgment of the Hon'ble Supreme Court of India in the case of **Vishnu**

Kondaji Jadhav v. State of Maharashtra, reported in **1995 Supp (4) SCC**

408. The relevant observation of the Hon'ble Supreme Court is extracted hereunder:

“5. It is clear from the provisions of the section that for investigation into every offence under the Act, it was necessary for the Inspector of Police who was admittedly not authorised by the State Government either by general or special order, to take the prior permission of the Magistrate. The High Court has rejected this contention on the ground that the permission was taken by the Inspector of Police on earlier two occasions and the second permission taken on 20-6-1975 accrued for the benefit of the investigation into the demand for bribe made by the appellant on 6-7-1975. For the purpose, the High Court relied upon a decision of this Court in State of U.P. v. Bhagwant Kishore Joshi. We are afraid that the High Court has misled itself by relying upon the said decision. In that case, the accused had committed a criminal breach of trust in respect of a certain sum of money and he was booked for the said breach of trust and the investigation was made in respect of the same offence although the permission to investigate under the present Act was taken at a later stage. It is on these facts that the Court held that the investigation being indivisible as it was related to the very same act of the breach of trust, the



permission taken once accrued for the entire investigation, whatever the stages in the investigation.”

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Thus, the Hon’ble Supreme Court has held that, where separate and distinct demands for illegal gratification constitute independent offences, it is mandatory for the Investigating Agency to obtain prior permission from the Magistrate under Section 5A of the Prevention of Corruption Act for investigating each such distinct offence. Accordingly, the absence of such prior permission, would vitiate the investigation in respect of the separate and independent demand.

10. Further, the Sanctioning Authority P.W.1 did not accord separate sanctions for prosecuting the accused in respect of the two distinct offences. In this regard, reliance was placed upon the judgment of the Hon’ble Supreme Court of India in the case of ***Jaswant Singh v. State of Punjab***, reported in **AIR 1958 SC 124**. Wherein the Hon’ble Supreme Court held that the sanctioning authority must apply its mind to the facts and circumstances of the particular offence for which prosecution is sought and that, in the absence of sanction in respect of a particular offence, cognizance of such offence cannot validly be taken. Therefore, when the prosecution



itself has treated the two demands as separate and distinct offences by filing two separate final reports, a single sanction cannot be mechanically relied upon to prosecute the accused for both offences. In the absence of separate and valid sanction covering each distinct offence, the prosecution in respect of the offence for which no sanction was accorded cannot be sustained.

11. Further, P.W.7, who was subsequently tendered pardon and examined as an approver, has also not supported the prosecution case. His evidence, therefore, fails to provide the requisite assurance to the prosecution version. The relevant portion of the cross-examination of P.W.7, who was examined as an approver, is extracted hereunder:

“நான் போலீசார் விசாரிக்கும்போது, என்னை போலீசார் கைது செய்ததாகவோ, நிதிமன்ற காவலில் வைத்ததாகவோ சொல்லவில்லை என்றால், ஆமாம் அதே போல நிதிமன்ற நடுவா முன்னிலையிலும் நான் அளித்த வாக்குமூலத்தில் எதிரி கே.டி. சுரேசு; கைது செய்யப்பட்ட விவரத்தை நான் சொல்லவில்லை. நிதிமன்ற நடுவா முன்பு, நான் அளித்த வாக்குமூலத்தில் கே.டி. சுரேசு அவருடைய அலுவலகத்தில் 21ம் தேதி நேரடியாக சந்தித்தேன் என்று சொல்லியுள்ளேன். அப்போது என்னுடைய நிறுவனத்தில் உள்ள பில்களை கிளியர் செய்துவிட்டார் என்று சொல்லியுள்ளேன் என்றால் ஆமாம். 21ம் தேதியே கிளியர் செய்துவிட்டதாக சொல்லியுள்ளதால் 23ம் தேதி அவரை தொடர்புகொள்ள எனக்கு அவசியமில்லை என்று சொன்னால், மேற்படி கே.டி. சுரேசு;



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கையெழுத்துபோட்டால்தான், பிராசஸ் ஆகும் என்று சாட்சி பதில் அளிக்கிறார். எதிரி கே.டி. சுரேசு; லஞ்சம் கேட்டது சம்பந்தமாக மேல் அதிகாரிகளிடம் நான் புகார் எதுவும் செய்யவில்லை. கே.டி. சுரேசு; மட்டுமே மேற்படி பில்களை பிராசஸ் செய்யும் அதிகாரம் கொண்டவர் இல்லை. பல போர் உள்ளனர். கே.டி. சுரேசு; கையெழுத்துபோட்ட பேருக்கு மற்ற டேபிள்களுக்கு பில் செல்லும். போலீசார் என்னை விசாரிக்கும்போது எதிரி கே.டி. சுரேசு; மற்றும் அதிகாரிகளும் கைது செய்யப்பட்டார்கள் என்றும், அவர்களிடமிருந்து ரூ.1,00,000/- ரொக்கமாக கைப்பற்றப்பட்டுள்ளது என்றும் சொல்லியுள்ளேன். போலீசார் விசாரணையின்போது என்னை தவிர மற்ற ஏஜன்ட்களும் கையூட்டு பணம் தருவார்கள் என்று சொல்லியுள்ளேன் என்றால் ஆமாம். நீதிமன்ற விசாரணையின்போது எந்தெந்த பொருட்களை நாங்கள் ஏற்றுமதி செய்கிறோம் என்று தனிதனியாக சொல்லவில்லை. நீதிமன்ற நடுவர் முன்பு, நான் அளித்த வாக்குமூலத்தில் ஏற்றுமதி சம்பந்தமான நடைமுறைகளைப் போலீஸ் விசாரணையில் சொல்லியுள்ளது போல் சொல்லவில்லை. போலீஸ் விசாரணையில் ஒவ்வொரு பொருளுக்கும் எவ்வளவு கையூட்டு பெற்றார்கள் என்று தனிதனியாகச் சொல்லியுள்ளேன். ஆனால் அதேபோல தனிதனியாக நீதித்துறை நடுவர் முன்பு, வாக்குமூலம் அளிக்கும்போது சொல்லவில்லை. நீதிமன்ற நடுவர் முன்பு, அளித்த வாக்குமூலத்திலோ, போலீசார் விசாரணையிலோ எந்த பில்லுக்கு கையூட்டு பணம் கொடுக்கப்பட்டது என்று குறிப்பிட்டு சொல்லவில்லை."

12. Further, P.W.8, who was also tendered pardon and examined as an approver, failed to corroborate the evidence of P.W.7. In the absence of such corroboration, particularly when both witnesses are themselves

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approvers, their respective testimonies cannot be treated as mutually corroborative so as to safely sustain the conviction. The relevant portion of the cross-examination of P.W.8 is extracted hereunder:

"23ம் தேதி ரகு என்னிடம் எதிரி கே.டி. சுரேஷ்&படம் பேசியிருப்பதாகச் சொன்னார். ஆனால் இருவரும் என்ன பேசிக்கொண்டார்கள் என்று எனக்கு தெரியாது. 28ம் தேதி எதிரி சுரேஷ் சந்தித்து நான் ரகு கொடுத்த கவரைக் கொடுத்தேன். அந்த கவருக்குள் என்ன இருந்தது என்று எனக்குத் தெரியாது. அலுவலகத்தில் எதிரி சுரேஷ் தவிர்த்து மற்ற அதிகாரிகளும் இருந்தனர். நான் சென்றதாக சொல்லும் எக்ஸரே ரும் பூட்டியிருந்தது. மற்ற சிஎப்எஸ் ஏஜன்ட்டுகள் மற்ற அதிகாரிகளுக்கு லஞ்சம் கொடுப்பார்களா என்றால் எனக்குத் தெரியாது. போலீஸ் விசாரணையில் எந்தெந்த பொருட்கள் ஏற்றுமதி செய்வோம் என்ற குறிப்பிடப்பட்டுள்ளது. அந்த சங்கதிகள் நீதிமன்ற நடுவா முன்பு, அளித்த வாக்குமூலத்தில் குறிப்பிட்டு குறிப்பிடப்படவில்லை. போலீசார் விசாரணையின்போதோ நீதிமன்ற நடுவா முன்பு, அளித்த வாக்குமூலத்திலோ, என்னை கைது செய்தது பற்றியோ, நீதிமன்ற காவலில் அனுப்பியது பற்றியோ சொல்லவில்லை. போலீசார் விசாரணையின்போது ஏற்றுமதி சம்பந்தப்பட்ட நடைமுறைகளை சொல்லியுள்ளேன். ஆனால் மேற்படி சங்கதிகளை நீதிமன்ற நடுவா முன்பு, அளித்த வாக்குமூலத்தில் சொல்லவில்லை. இந்த வழக்கிலிருந்து என்னை காப்பாற்றிக்கொள்ள போலீசார் கேட்டுக்கொண்டதற்கிணங்க பொய்சாட்சி சொல்கிறேன் என்று சொன்னால் சரியல்ல.

ரகு என்னிடம் கவர் கொடுத்தார் அதை எதிரி சுரேஷ்&படம் கொடுக்க சொன்னார். அப்போது அந்த கவரில் என்ன இருந்தது என்று தெரியாது. அந்த கவரில் லஞ்ச பணம் இருந்ததாக அலுவலகத்தில் கேட்டு தெரிந்துகொண்டேன். எஸ்



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ஆர் . ஆர் . லாஜஸ்டீக்ஸ் நிறுவனமா அல்லது, ரிஜினல் பிளான்
குவாரன்டைன் ஸ்டேஷன் அலுவலகத்தில் கேட்டு தெரிந்துகொண்டேனா என்று
தற்போது ஞாபகம் இல்லை. அதன் பிறகு திரு ரகுவை சந்தித்தேன். இந்த
விவரத்தை பற்றி அப்போது பேசிக்கொண்டோம்.”

13. It is well settled that, though an approver is a competent witness, his evidence must be approached with caution. The Hon’ble Supreme Court has repeatedly held that it is hazardous, as a matter of prudence, to rely upon the testimony of a self-confessed criminal who, having been tendered pardon, is required to depose in terms of the pardon granted to him. Therefore, the evidence of an approver cannot ordinarily be made the sole basis for sustaining a conviction unless it receives independent corroboration in material particulars connecting the accused with the commission of the offence. In the present case, when the evidence of P.Ws.7 and 8 does not corroborate each other and is also not supported by any independent evidence, it would be unsafe to rely upon their testimony for sustaining the conviction.

14. That apart, the evidence on record discloses that the X-ray Room was secured with two keys and that access to the said room was not confined



exclusively to the accused. This aspect assumes significance while considering the alleged recovery of Rs.1,00,000/- from the X-ray Room, particularly when the prosecution has failed to establish the exclusive possession or custody of the said Room by the accused. The evidence of P.W.10 also supports the said position. The relevant portion of the cross-examination of P.W.10 is extracted hereunder:

“In the absence of Mr.Khan, I was instructed to take charge of the X-ray room by Mr. Jasvir Singh, Deputy Director. We take x-rays of random samples of Mangoes to be export. At that time the accused Mr. K.T.Suresh was assisting the duty officer and also he was incharge of the allotment of online duties. I do not know whether Mr. K.T.Suresh was having another key of X-ray room.”

15. The evidence of P.W.10 is further corroborated by the testimony of P.W.11, who also deposed regarding the accessibility and custody of the X-ray Room. The relevant portions of the chief-examination and cross-examination of P.W.11 are extracted hereunder:

“In my absence, I gave the key of the X-ray room to Mr.Rajendrapradhan, APPO, as per the direction of Deputy Director, (Entomology) and the other key was with Mr.Suresh, Duty officer. The key was kept in the duty officer room in a basket.



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I cannot say that whether the duty officer room can be accessible to any one. Suresh (accused is not only person who has access to the duty officer room. Apart from handing over the key to Mr. Rajendra Pradhan I do not know anything directly as I was on leave.”

16. Further, admittedly, no confession statement was recorded from the accused which led to the alleged recovery of a sum of Rs.1,00,000/- from the X-ray Room. This aspect has also been categorically admitted by P.W.13 in his evidence. The relevant portion of the cross-examination of P.W.13 is extracted hereunder:

“I did not come across any register maintained in the operation in the X-ray room. I did not come across any separate confession statement recorded from the accused that led to the recovery of Rs.1,00,000/- in this case. The contents of the recovery proceedings of Ex.P2 is not in the language of the accused. It is the narration of the TLO as if stated by the accused. Apart from the content of Ex.P2, there is no evidence I have come across to show that the two Whisky bottles recorded belongs to the accused.”

17. Therefore, the evidence of P.W.10 and P.W.11 clearly establishes that the accused was not in charge or exclusive custody of the X-ray Room.



On the contrary, P.W.10 was admittedly in charge of the said room. The X-ray Room was accessible to other persons and was not under the exclusive control or usage of the accused. Hence, the possibility of the accused having kept the alleged bribe amount of Rs.1,00,000/- in the X-ray Room cannot be accepted. Further, there is no evidence on record to establish that the accused had accessed the X-ray Room at the relevant point of time or that he had kept or concealed the alleged bribe amount therein. In the absence of such evidence, the alleged recovery of Rs.1,00,000/- from the X-ray Room cannot be conclusively attributed to the accused.

18. The object of Rule 14.27 of the CBI Crime Manual is to ascertain the defence of the accused and to identify the sources from which evidence could be gathered for the purpose of verifying such defence. The provision is intended to ensure a fair and comprehensive investigation by enabling the Investigating Agency to examine the defence put forth by the accused and collect the relevant materials to test its truthfulness. Where the defence is found to be probable and supported by the materials collected during investigation, the benefit thereof must necessarily enure to the accused. However, in the present case, the prosecution has failed to establish that the Trap Laying Officer or the Investigating Officer recorded any statement

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from the accused regarding his defence, despite the fact that the accused had an explanation to offer with regard to the alleged recovery and the circumstances surrounding the transaction. Thus, the investigating agency failed to examine a material aspect of the defence in the manner contemplated under Rule 14.27 of the CBI Crime Manual. Such failure assumes significance, particularly when the prosecution seeks to rely upon the alleged statement of the accused as the basis for the recovery of Rs.1,00,000/-.

19. Further, it is well settled that each distinct demand for illegal gratification constitutes a separate and independent offence. Consequently, where the prosecution seeks to prosecute the accused in respect of separate and independent demands, a separate and specific sanction from the competent Sanctioning Authority is required in respect of each such offence. In the present case, the prosecution has failed to obtain separate sanction for the distinct offences alleged against the accused. In overall circumstances of the case, this Court finds that the prosecution has failed to establish the charges framed against the appellant/accused beyond reasonable doubt. Accordingly, the appellant/accused is entitled to the benefit of doubt.



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20. In view of the above discussions, the judgment passed in C.C.No.9 of 2013, dated 21.04.2016 on the file of the XIV Additional Special Judge for CBI Cases, Chennai, is hereby set aside. The fine amount, if any paid, shall be refunded to the appellants forthwith. The bail bonds, if any executed, shall stand cancelled.

21. Accordingly, this Criminal Appeal stands allowed.

21.08.2026
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Index :Yes / No
Speaking order :Yes / No
Neutral Citation :Yes / No
dm

To

1.The XIV Additional Special Judge for CBI Cases,
Chennai.

2.The Inspector of Police
Central Bureau of Investigation
Anti-Corruption Wing, Shastri Bhavan
RC MA1/2012/A/0039
Chennai-600006

3.The Public Prosecutor,
High Court of Madras,
Chennai.

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G.K. ILANTHIRAIYAN, J.

dm

Pre-delivery judgment made in
Crl.A.No.321 of 2016

21.08.2026
(2/2)