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CRL A No. 145 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 27.07.2026

Pronounced on : 13 .08.2026

CORAM

THE HON'BLE MR JUSTICE G.K. ILANTHIRAIYAN

CRL A No. 145 of 2019

1. K. Dhayalan (died)
S/o. Kalathi Pillai,
2. V.J. Annadurai
S/o. Jayaraman, Former Junior Assistant
Security Selection Grade, Sub Treasury
Tindivanam Villupuram District.
3. M. Arumugam
S/o. Moorthy, Former Office Assistant O/o.
The Assistant Executive Engineer, Agricultural
Engineerng, Tindivanam Villupuram District.
4. D. Kamaraj,
S/o. Mr.K.Dhayalan (deceased)
No.487, Senavaraya Street,
No.1 Mig, Maraimalai Nagar,
Chengalpet.

... Appellant(s)

Vs

The State Rep By Its
The Inspector Of Police, Vigilance and Anti-
Corruption, Villupuram District (Cr.No.5 Of 2004)

... Respondent(s)

Prayer: Criminal Appeal filed under Section 374(2) of Cr.P.C., praying to call for the records and set aside the orders passed in Special Case No.2 of 2013 on the file of the Special Court for Prevention of Corruption Act Cases- Villupuram, dated 13.03.2019 against these appellants/accused.



For Appellant(s):

P1- died
Mr. V.ARUNAGIRI
for P2 and P4
Mr. R.VENKATESAN FOR P3

For Respondent(s):

Mr. R.Ganesh Kumar
Counsel for Government of Tamil Nadu

JUDGMENT

This Criminal Appeal has been filed challenging the judgment passed in Special Case No.2 of 2013 on the file of the Special Court for Prevention of Corruption Act Cases, Villupuram, dated 13.03.2019, whereby the accused were convicted for the offences punishable under Sections 7, 12 and 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act, 1988 (hereinafter referred to as “PC Act”)

2. The case of the prosecution is that the first accused was working as the Assistant Treasury Officer from 23.06.1998 to 25.02.2004, the second accused was working as an Accountant from 29.05.1998 to 25.02.2004, the third accused was working as a Junior Assistant from 10.09.2003 to 25.02.2004 in the office of the Sub-Treasury, Tindivanam, and the fourth accused was working as an Office Assistant in the office of the Assistant Executive Engineer (Agricultural Engineering), Tindivanam, from 21.06.2000 to 25.02.2004. Thus, all the accused were public servants as defined under Section 2(c) of the Prevention of Corruption Act, 1988.



2.1. The de facto complainant, who was working in the office of the Child Development Project Officer, World Bank Assisted Integrated Child Development Services-III Project, Marakkanam, Villupuram District, visited the Sub-Treasury, Tindivanam, on 20.02.2004 at about 12.45 p.m. with two bills relating to the feeding charges of children. She met the third accused and presented the said bills. Upon receipt of the bills, the third accused made the necessary entries in the register, issued two official metal tokens and demanded a sum of Rs.500/- as illegal gratification, other than legal remuneration, as a motive or reward for passing the bills.

2.2. It is the further case of the prosecution that the third accused directed the de facto complainant to pay separate amounts to the bill-passing Accountant and the Assistant Treasury Officer. Thereafter, when she met the second accused, he demanded a sum of Rs.1,500/- as illegal gratification and also instructed her to pay a separate amount to the first accused. When she met the first accused, he demanded 2% of the bill amount as illegal gratification, other than legal remuneration, for passing the said bills. Since the de facto complainant was not willing to pay the bribe amount, she lodged a complaint before the respondent police on 23.02.2004.



2.3. Based on the said complaint, the respondent registered an FIR and arranged a trap on 24.02.2004. During the trap proceedings, the de facto complainant and the official witness visited the office of the Sub-Treasury, Tindivanam, and met accused Nos.2 and 3. Since the first accused was on leave on that day, accused Nos.2 and 3 reiterated their respective demands and directed the de facto complainant to return on the next day.

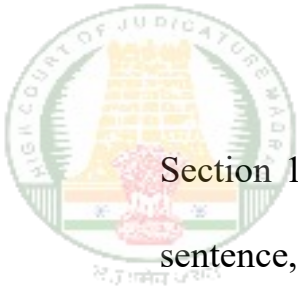
2.4. Accordingly, on 25.02.2004 at about 11.15 a.m., the de facto complainant, accompanied by the official witness, met the second accused. He informed her that the two bills had been passed and demanded a sum of Rs.1,500/-, which was paid by the de facto complainant in the presence of the official witness. Thereafter, the fourth accused, who had been authorised to receive the bill amount from the Sub-Treasury, Tindivanam, was standing near the first accused. When the de facto complainant and the official witness met the first accused, he informed her that he had signed the pay order relating to the bills and demanded a sum of Rs.2,000/- as illegal gratification. When the de facto complainant attempted to hand over the amount to the first accused, he instructed her to hand over the same to the fourth accused. Accordingly, she handed over the amount to the fourth accused.

2.5. Thereafter, the de facto complainant and the official witness met the third accused and, in accordance with his earlier demand, she paid a sum of



Rs.500/- as illegal gratification. Immediately thereafter, the trap laying officer and his team apprehended all the accused and caught red-handed. After completion of formalities, they were arrested and remanded to judicial custody. After completion of the investigation, the respondent filed the final report, which was taken on file by the Trial Court. To substantiate the charges, the prosecution examined P.Ws.1 to 15, marked Exs.P1 to P42 and produced M.Os.1 to 7. On the side of the defence, D.Ws.1 to 4 were examined and Ex.D1 was marked.

2.6. Upon perusal of oral and documentary evidence, the Trial Court convicted accused Nos.1 to 3 for the offences punishable under Sections 7 and 13(2) read with Section 13(1)(d) of the PC Act. The fourth accused was convicted for the offence punishable under Section 12 of the PC Act. Accused Nos.1 to 3 were sentenced to undergo rigorous imprisonment for four years and to pay a fine of Rs.1,000/- each, in default to undergo simple imprisonment for three months, for the offence under Section 7 of the PC Act. They were further sentenced to undergo rigorous imprisonment for five years and to pay a fine of Rs.5,000/- each, in default to undergo simple imprisonment for six months, for the offence under Section 13(2) read with Section 13(1)(d) of the PC Act. The fourth accused was sentenced to undergo rigorous imprisonment for four years and to pay a fine of Rs.1,000/-, in default to undergo simple imprisonment for one month, for the offence punishable under



Section 12 of the PC Act. Aggrieved by the said judgment of conviction and sentence, the present appeal has been filed.

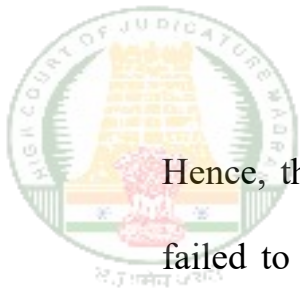
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3. Pending appeal, the accused Nos.1 and 2 died.

4. The learned counsel appearing for the third accused submitted that the de facto complainant, who was examined as P.W.3, had categorically deposed that she paid a total sum of Rs.4,000/- only to the second accused. According to him, no bribe amount was paid to accused Nos.1, 3 and 4. He further submitted that there are material contradictions between the evidence of P.W.3 and that of P.W.5, the official shadow witness.

4.1. The learned counsel further submitted that the bills originally submitted by the de facto complainant had been returned by the first accused pointing out certain defects. Therefore, the de facto complainant had a motive to lodge a false complaint against the accused. The returned bills were marked as Ex.D1. It is further submitted that the third accused, who examined himself as D.W.2, deposed that the table at which he was allegedly sitting did not have any drawer and, therefore, the allegation that he kept the tainted money in the drawer is false. The said evidence was also corroborated by D.W.4.

4.2. The learned counsel also contended that the de facto complainant lodged the complaint without obtaining prior permission from her department.



Hence, the complaint itself was motivated. According to him, the prosecution failed to establish the essential ingredients of demand as against the Accused Nos.1 to 3. Mere acceptance and recovery of the tainted money, in the absence of proof of demand, are not sufficient to convict the accused.

5. Per contra, Mr. R. Ganesh Kumar, learned Government Advocate (Criminal Side), appearing for the State, submitted that though the de facto complainant was a Government servant, the accused demanded illegal gratification for passing the bills submitted by her. The de facto complainant belonged to a different department and had approached the office of accused Nos.1 to 3 only for the purpose of getting the bills passed. He further submitted that all the three accused, namely accused Nos.1 to 3, demanded illegal gratification for clearing the bills submitted by the de facto complainant. Though the defence side examined D.Ws.1 to 4 and marked Ex.D1, there is absolutely no evidence to disprove the prosecution case. It is further submitted that the de facto complainant was examined as P.W.3 and the shadow witness was examined as P.W.5. The evidence of P.W.3 is fully corroborated by P.W.5 and the minor discrepancies pointed out by the defence are not sufficient to disprove the prosecution case.

5.1. According to the learned Government Advocate, the prosecution has clearly established the prior demand as well as the acceptance and recovery of



the tainted money. On the first day of the trap, the first accused was on leave and, therefore, accused Nos.2 and 3 directed the de facto complainant to come on the next day. On the next day, all the three accused demanded and received the bribe amount. Insofar as the fourth accused is concerned, it was submitted that he received the tainted money on behalf of the first accused, at the instance of the first accused. Therefore, the prosecution has proved the charges beyond reasonable doubt and the Trial Court has rightly convicted all the accused. Hence, the judgment of conviction and sentence passed by the Trial Court does not warrant any interference by this Court.

6. Heard the learned counsel appearing on either side and perused the materials available on record.

7. Altogether, there were four accused in the case. Pending the appeal, accused Nos.1 and 2 died. After the demise of the first accused, his legal heir has been impleaded as the fourth appellant to prosecute the appeal, so as to secure the benefit of acquittal, if any, in respect of the first accused.

8. The de facto complainant was examined as P.W.3. She deposed that she visited the Sub-Treasury Office, Tindivanam, on 20.02.2004 to present two bills for sums of Rs.56,636/- and Rs.55,796/- towards feeding charges for children under the World Bank Assisted Integrated Child Development



Services-III Project. At the relevant point of time, the first accused was working as the Assistant Treasury Officer, the second accused as the Accountant and the third accused as the Junior Assistant. The bills were marked as Exs.P3 and P4. Both the bills were entered in the relevant register, which was marked as Ex.P5. The third accused received the bills, made the necessary entries in Ex.P5 and demanded a sum of Rs.500/- as illegal gratification for processing the bills.

9. According to P.W.3, the second accused demanded a sum of Rs.1,500/- and the first accused demanded a sum of Rs.2,000/- as illegal gratification for passing the bills. Since she was not willing to pay the bribe amount, she lodged a complaint on 23.02.2004, which was marked as Ex.P7. P.W.14, the Inspector of Police, registered a case in Crime No.5 of 2004 for the offence under Section 7 of the Prevention of Corruption Act. The First Information Report was marked as Ex.P.39. Thereafter, he organised a trap and secured the presence of two official witnesses. Accordingly, P.W.5 accompanied P.W.3 during the trap proceedings. A total sum of Rs.4,000/- was entrusted to P.W.3 after the usual pre-trap formalities. Accordingly, P.Ws.3 and 5 visited the office of the Sub-Treasury, Tindivanam, on 24.02.2004 at about 8.30 a.m. Since the first accused was on leave, accused Nos.2 and 3 directed them to come on the next day.

10. On 25.02.2004, P.Ws.3 and 5 again visited the office. The third



accused informed P.W.3 that the bills had been processed, demanded a sum of Rs.500/- and received the same. Thereafter, the second accused informed her that the bills had been passed, demanded a sum of Rs.1,500/- and received the amount. Finally, the first accused informed P.W.3 that he had passed the bills and demanded a sum of Rs.2,000/- as illegal gratification. When P.W.3 attempted to hand over the amount to the first accused, he directed her to hand it over to the fourth accused, who was standing beside him. Accordingly, the fourth accused received the tainted money in his right hand and kept it in the left pocket of his trousers. The said evidence is corroborated by the testimony of P.W.5.

11. Thereafter, the tainted money was recovered from the respective accused. Phenolphthalein tests were conducted on the accused, and the test results were positive. The Investigating Officer was examined as P.W.14. His evidence corroborates the testimony of P.W.3, the de facto complainant, and P.W.5, the official witness. Though the accused examined D.Ws.1 to 4 in defence, nothing substantial was elicited to discredit or disprove the prosecution case. D.W.2, the third accused, deposed that he was compelled to receive a sum of Rs.500/- and that he was unaware that it was tainted money. He further stated that he had never demanded any bribe from P.W.3. Admittedly, the third accused was working in the Sub-Treasury, Tindivanam, and was present at the office on the date and time of the trap proceedings.



12. D.W.4 deposed that the table used by the third accused did not have a drawer. However, during cross-examination, D.W.4 failed to substantiate his chief examination. Moreover, D.W.4 is a retired employee. If the third accused had intended to effectively disprove the prosecution case, he ought to have examined the employees who were actually working in the office at the relevant point of time. He failed to do so. Therefore, this Court is of the considered view that the prosecution has successfully established the charges against accused Nos.1 to 3 beyond reasonable doubt. The Trial Court has rightly appreciated the evidence and convicted accused Nos.1 to 3. Insofar as the fourth accused is concerned, it is an admitted fact that he was working as an Office Assistant in the office of the Assistant Executive Engineer (Agricultural Engineering), Tindivanam, and had visited the Sub-Treasury Office in connection with his official work. According to the prosecution itself, the tainted money was recovered from the fourth accused.

13. However, mere recovery of tainted money, by itself, is insufficient to attract the presumption under Section 20 of the Prevention of Corruption Act. The prosecution must establish the entire chain of circumstances, namely, the demand, acceptance and recovery of the illegal gratification. Both P.W.3 and P.W.5 have deposed that the fourth accused was standing near the first accused when the bribe amount was handed over. They have further stated that the first



accused directed P.W.3 to hand over the tainted money to the fourth accused.

Thus, the fourth accused merely received the amount on the instructions of the first accused.

14. The evidence on record does not disclose any communication between P.W.3 and the fourth accused regarding the demand for illegal gratification. The mere presence of the fourth accused and his passive receipt of the money, without proof of knowledge or culpable intention, is insufficient to fasten criminal liability upon him. The fourth accused was only an Office Assistant in the Agricultural Engineering Department and had visited the office of the first accused in connection with his official work. It was only on the direction of the first accused that he received the tainted money from P.W.3. In the absence of any evidence establishing his knowledge or mens rea, the statutory presumption under Section 20 of the Prevention of Corruption Act cannot be invoked against him. Further, the prosecution has not adduced any evidence to establish a consistent course of conduct indicating that the fourth accused was a habitual intermediary or was facilitating the acceptance of illegal gratification by the first accused. The solitary incident of recovery of tainted money is insufficient to infer such conduct. Therefore, this Court is of the considered view that the prosecution has failed to prove the charge against the fourth accused beyond reasonable doubt. Consequently, the benefit of doubt must necessarily enure to the fourth accused.



15. In this regard, it is relevant to refer to the judgment of the Hon'ble Supreme Court in **A. Karunanithi v. State represented by Inspector of Police**, reported in **2025 SCC OnLine SC 1677**, wherein it was held as follows:

“15. We first take up the case of A-2. It is no one's case that A-2 ever demanded any illegal gratification. He undoubtedly accepted the money on the directions of A-1 and kept the same with him. So, there was no demand of illegal gratification on his part. The demand made by A-1 cannot be attributed to A-2 as no evidence was adduced which could establish that A-2 was a habitual offender working in aid with A-1 or was facilitating A-1 in demanding and receiving illegal gratification. Accordingly, in the absence of any allegation or evidence that A-2 demanded bribe from the complainant or he was acting in connivance with A-1, he cannot be prosecuted for the commission of the crime of demanding and receiving illegal gratification.

16. Admittedly, A-2 was not charged with the abetment of the aforesaid crime. He had accepted the money on the direction of A-1 only. He could have received the money innocently on the direction of A -1 or he may have received it knowingly. Both the views are possible. However, as no evidence was adduced to prove that both of them have connived to demand and accept the bribe, even if a fair trial may have been given to the A-2, it cannot be said with any certainty that he was an accomplice to the crime. Accordingly, in the absence of charge of abetment and the proof of connivance between A-1 and A-2, we are of the opinion that A-2 could not have been convicted.

17. In Mahendra Singh Chotelal Bhargad v. State of Maharashtra, this Court had an occasion to deal with the case where the bribe was demanded by one person and was accepted and recovered from a third person. The conviction of the said

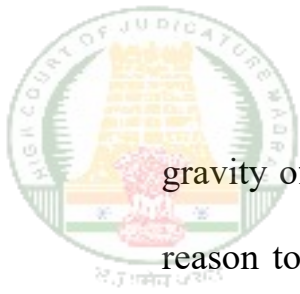


third person was set aside, holding that accepting money on behalf of another person may certainly constitute an abetment of an offence, but in the absence of a charge of abetment, the person accepting the bribe is not liable to be convicted. Accordingly, the Trial Court as well as High Court manifestly erred in convicting him for an offence under Section 7 and 13 of the Act.

18. Now, coming to the conviction of A-1. The evidence on record amply proves that he demanded bribe from the complainant not only once but twice, and thereafter when the trap was laid. The bribe on his behalf was accepted by A-2. The evidence proves that A-2 accepted the money on the dictates of A-1. Therefore, both the ingredients of demand and receipt stand duly proved against A-1. The evidence in this regard of PW-1 and PW-2, despite some minor contradictions stand unshaken. Therefore, in our opinion, his conviction as held by the Trial Court and affirmed by the High Court is not liable to be interfered with.”

16. The ratio laid down in the above judgment squarely applies to the facts of the present case. In the instant case also, the demand for illegal gratification was made by the first accused, while the tainted money was received and recovered from the fourth accused. Mere acceptance of the money on behalf of another accused may amount to abetment; however, in the absence of a specific charge of abetment and evidence establishing connivance, the person receiving the money cannot be held guilty.

17. Accordingly, the conviction and sentence imposed on the fourth accused cannot be sustained and are liable to be set aside. Considering the



gravity of the offence and the evidence available on record, this Court finds no reason to interfere with the conviction recorded against Accused Nos.1 and 3.

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18. In result, this Criminal Appeal is partly allowed. The conviction and sentence imposed on Accused Nos.1 and 3 are hereby confirmed, and the appeal insofar as the Accused Nos. 1 and 3, stands dismissed. The conviction and sentence imposed on the fourth accused are hereby set aside, and the appeal insofar as the fourth accused is concerned, is allowed. No costs.

13-08-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

MPA

To

- 1.The Special Court for Prevention of Corruption Act Cases-Villupuram,
- 2.The Inspector Of Police, Vigilance And Anti Corruption, Villupurma District.
3. The Public Prosecutor,
High Court of Madras.



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G.K.ILANTHIRAIYAN, J.

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