BAIL SLIP

That the Appellants herein/Accused viz., Krishnan Anbu, S/o,E.Krishnan(Appellant in Crl.A.No.1082/2006) and Boologam Loganathan, S/o.C.Boologam(Appellant in Crl.A.Nos.239/2007) was directed to be released on bail as per order of this Court, made in M.P.No.1/2006 in Crl.A.No.1082/2006, dated 2.1.2007 and M.P.No.1 of 2007 in Crl.A.No.239/2007, dated 7.3.2007 respectively.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.03.2015

CORAM

THE HONOURABLE MS.JUSTICE R.MALA

Crl.A.Nos.1082 of 2006 & 239 of 2007

Date of Reserving the Judgment	Date of Pronouncing the Judgment
05.03.2015	13.03.2015

Krishnan Anbu
S/o.E.Krishnan ... Accused No.1/Appellant in Crl.A.No.1082 of 2006

Boologam Loganathan
S/o.C.Boologam ... Accused No.2/Appellant in Crl.A.No.239 of 2007

Vs.

Inspector of Police
SPE : CBI : ACB : Chennai ... Respondent/Complainant in both the appeals

(FIR.No.RC MA1 2003-A-0022)

Common Prayer:
Criminal Appeals filed under Section 374(2) of Cr.P.C., against the judgment of conviction and sentence imposed upon the appellants by the learned Principal Sessions Judge for CBI Cases, Chennai in C.C.No.57 of 2003, dated 24.11.2006.

For Appellants : Mr.Arun Anbumani
in Crl.A.No.1082 of 2006
Mr.S.Sundar Raman
in Crl.A.No.239 of 2007

For Respondent : Mr.K.Srinivasan,
Special Public Prosecutor (CBI cases)
in both the Appeals

COMMON JUDGMENT

These Criminal Appeals arises out of the judgment of conviction and sentence dated 24.11.2006 made in C.C.No.57 of 2003 on the file of the learned Principal Sessions Judge for CBI Cases, Chennai whereby the appellants/accused are convicted and sentenced as follows:

Accused	Sections	Sentences
A1 & A2	120-B IPC r/w 7 and 13(2) r/w 13(1)(d) of P.C.Act	One year R.I, Fine of Rs.1000/- each, in default Two months R.I. each
A1	7 of P.C.Act	One year R.I, Fine of Rs.1000/-, in default Two months R.I.
A1	13(2) r/w 13(1)(d) of P.C.Act	One year R.I, Fine of Rs.1000/-, in default Two months R.I.
The Sentences imposed on the accused are ordered to run concurrently.		

2. The case of the prosecution based on the prosecution witnesses is as follows:

(a) For the sake of convenience, the appellant in Criminal Appeal No.1082 of 2006 is referred as A1 and the appellant in Criminal Appeal No.239 of 2007 is referred as A2.

(b) P.W.2/Ramachandran has applied for new telephone connection, for which he had submitted Ex.P.2/Application on 09.04.2003. Along with the application form, P.W.2 also enclosed the receipt for depositing Rs.2000/- in the Guduvancherry Post Office. Then, P.W.2 met the Assistant Engineer on 14.04.2003 who informed P.W.2 to meet him after one week. So, P.W.2 again met the Assistant Engineer on 21.04.2003 and at that time he also met the appellant/accused A1 as was instructed by the Assistant Engineer.

(c) Thereafter, on 22.04.2003, the appellant/accused A1 who was working as telecom mechanic visited the house of P.W.2/Ramachandran and since P.W.2 was not present in the house, A1 intimated P.W.2/Ramachandran's father to inform P.W.2 to meet him in his office. When P.W.2 met A1/Krishnan Anbu in his office, A1 demanded Rs.1200/- as bribe for installing new telephone connection at his residence. A2/Loganathan who was present in the office also supported the demand made by A1/Krishnan Anbu. Then, when P.W.2/Ramachandran went to the office of A1 in the last week of April, A1 demanded Rs.1000/-, however P.W.2 returned back without answering A1. Again on 05.05.2003 and 06.05.2003, A1/Krishnan Anbu demanded a sum of Rs.700/- as illegal gratification for installing new telephone connection in the residence of P.W.2/Ramachandran. Since P.W.2/Ramachandran was unwilling to pay the bribe as demanded by A1/krishnan Anbu and A2/Loganathan, he preferred Ex.P.3/Complaint on 07.05.2003.

(d) On 07.05.2003, after installing the telephone connection, when A1 made the second demand, the trap proceeding was initiated. P.W.7/Anandakrishnan, Trap Laying Officer after receiving signal from P.W.3/Dhanish rushed to the place of occurrence and after revealing his identity, P.W.7 arrested the accused A1 and A2 and the tainted money was seized from A2 in the presence of the official witnesses. Thereafter, the phenolphthalein test was conducted and the samples were marked as material objects. The accused were later released on bail after executing their personal bonds.

(e) Thereafter, P.W.9/Hariprasad, Inspector of Police took over the investigation from P.W.7/Anandakrishnan. After obtaining Ex.P.1/Sanction Order from P.W.1/Thiagarajan Sameul, Divisional Engineer (Administration & Legal) and after completing the investigation, P.W.9/Hariprasad filed the charge sheet under Section 120-B IPC r/w Section 7 and 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988 against the appellants/accused A1 and A2 and Section 7 and Section 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988 against A1.

3. The learned Trial Judge placed incriminating evidence against the accused under Section 313(1)(b) Cr.P.C. The accused denied the same in toto. After considering the oral and documentary evidence, the learned Trial Judge has convicted the appellants/accuseds as stated above.

4. Criminal Appeal No.1082 of 2006 has been preferred by A1, who is the line man-cum-telephone mechanic and Criminal Appeal No.239 of 2007 has been preferred by a private person. Challenging the conviction and sentence passed against the appellants, the learned counsel for the appellant/A1 would raise the following points:

(i) The first demand has not been proved by the prosecution. P.W.2/Ramachandran, the de facto complainant in his complaint has stated that he has applied for new telephone connection and for giving the said connection, A1 demanded Rs.1200/- as bribe at the first instance. Thereafter, A1 demanded Rs.1000/- in the last weeks of April and on 05.05.2003 and 06.05.2003, A1 demanded Rs.700/-. Further, the name of the A2 has not been mentioned in the Ex.P.3/Complaint which was preferred only on 07.05.2003. The delay in preferring the complaint is also fatal to the case of the prosecution. To substantiate the same, the learned counsel for the appellant relied upon the following decisions:

(a) (2006) 13 Supreme Court Cases 305, V.Venkata Subbarao v. State Represented by Inspector of Police.

(b) (2006) 2 Supreme Court Cases 250, Om Prakash v. State of Haryana.

(c) 2012 (1) MWN (Cr.) 448, R.Venkatraj v. State Represented by Inspector of Police.

(ii) The second limb of argument is that the scene of occurrence of the trap proceeding has not been proved by the prosecution. P.W.2/Ramachandran and P.W.3/Dhanish has deposed that the trap proceedings has been conducted inside the house of P.W.2/Ramachandran, de facto complainant. However, P.W.7/Anandakrishnan, the Trap Laying Officer had deposed that the trap proceeding was conducted outside the house of P.W.2/Ramachandran, near the moped.

(iii) The third limb of the argument is that the amount has not been recovered from A1. However, it was recovered only from A2, who is a private party. Further, P.W.7/Anandakrishnan, the Trap Laying Officer is not aware about A1 and A2 prior to the trap proceeding. In such circumstances, it is not clear as to how P.W.7 arrested A1 and A2 before they were identified by P.W.2. Furthermore, P.W.3/Dhanish is a stock witness of CBI.

(iv) Mere recovery of money alone is not sufficient, unless it is proved that the accused had received the money as illegal gratification.

The Trial Court without considering the above factum had convicted and sentenced the accused. Hence, the learned counsel for the appellants prayed for setting aside the judgment of conviction and sentence.

5. On the other hand, the learned counsel appearing for A2 would submit that there is no evidence to convict the appellant/A2 under Section 120(b) IPC. The name of the appellant/A2 has not been

mentioned either in the Ex.P.3/Complaint or in the Ex.P.24/FIR and also in the Ex.P.4/Entrustment Mahazar. These factum were not considered by the Trial court. He also adopted the argument of the learned counsel for the appellant/A1 that the shadow witness P.W.3/Dhanish is a stock witness and no independent witness was present. Hence, the learned counsel for A2 prayed for allowing the appeal.

6. Resisting the same, the learned Special Public Prosecutor (CBI Cases) would submit that the evidence of P.W.2/Ramachandran has been corroborated by the evidence of P.W.3/Dhanish, who is the shadow witness. Further, only the appellant/accused A1 received the tainted money from P.W.2/Ramachandran and handed over the same to A2. The Phenolphthalein test was also found to be positive. Furthermore, there is no evidence to show that P.W.3/Dhanish is a stock witness of CBI. In such circumstances, the Trial Court has rightly held that the accused A1 and A2 are guilt under the law and so, the conviction and sentence imposed by the Trial Court does not warrant interference by this Court. Thus, the learned Special Public Prosecutor prayed for dismissal of the appeals.

7. Considered the rival submissions made by both sides and perused the typed set of papers.

8. The case of the prosecution is that A1 was working as a telecom mechanic in BSNL and hence, he is a public servant. P.W.1/Thiagarajan Sameul who working as Divisional Engineer is the competent authority to accord sanction for prosecution. There is no dispute with regard to the validity of the sanction. So, the sanction accorded by P.W.1 to prosecute A1 is valid in law.

9. Now the point to be decided is whether the conviction and sentence imposed on the accused is sustainable?

The case of the prosecution is that P.W.2/Ramachandran has applied for new telephone connection, for which he had submitted Ex.P.2/Application on 09.04.2003. Along with the application form, P.W.2 also enclosed the receipt for depositing Rs.2000/- in the Guduvancherry Post Office. When that being so, on 22.04.2003, the appellant/accused A1 who was working as telecom mechanic visited the house of P.W.2/Ramachandran and since P.W.2 was not present in the house, A1 intimated P.W.2/Ramachandran's father to inform P.W.2 to meet him in his office. When P.W.2 met A1/Krishnan Anbu in his office, A1 demanded Rs.1200/- as bribe for installing new telephone connection at his residence. A2/Loganathan who was present in the office also supported the demand made by A1/Krishnan Anbu. Thereafter, when P.W.2/Ramachandran went to the office of A1 in the last week of April, A1 demanded Rs.1000/-, however P.W.2 returned back without answering A1. Again on 05.05.2003 and 06.05.2003, A1/Krishnan Anbu demanded a sum of Rs.700/- as illegal gratification for installing new telephone connection in the residence of P.W.2/Ramachandran. Since P.W.2/Ramachandran was unwilling to pay the bribe as demanded by A1/krishnan Anbu and A2/Loganathan, he preferred Ex.P.3/Complaint on 07.05.2003.

10. Thereafter, the trap proceeding was initiated and on 07.05.2003, after installing the telephone connection, when A1 made the second demand, P.W.2/Ramachandran handed over the tainted money to A1, who in turn handed over the same to A2. During the course of the occurrence, P.W.3/Dhanish made a signal and P.W.7/Anandakrishnan, Trap Laying Officer rushed to the place and after identifying himself and other trap team members arrested the accused A1 and A2 and recovered the money from A2 and conducted the phenolphthalein test. Admittedly, the name of A2/Loganathan has not been mentioned neither in the Ex.P.3/Complaint nor in the Ex.P.4/Entrustment Mahazar.

11. It is pertinent to note that according to the learned counsel for the appellant/A1, on 02.05.2003 itself, the telephone connection has been given and that has been proved by way of examining P.W.4/Mohana, Junior Telecom Officer and marking Ex.D.1/Copy of Telephone bill. P.W.4/Mohana in her evidence has stated that the telephone connection has been given on 02.05.2003. However, the said factum was not considered by the Trial Court. The learned counsel further submitted that the documents Ex.P.10 & Ex.P.11/Advice Notes and Ex.P.12/Telex Communication of JTO, it has been specifically mentioned that the telephone connection was given on 02.05.2003. Further, even in Ex.D.1/Copy of Telephone Bill, it has been mentioned that the date of installation is on 02.05.2003. That factum was also not considered by the Trial Court.

12. Now this Court has to decide whether the telephone service connection was given on 02.05.2003 or not ?

It is pertinent to note that as per the evidence of Ex.D.1, Ex.P.10, Ex.P.11 and Ex.P.12, the telephone connection was given to the residence of P.W.2/Ramachandran on 02.05.2003. But as per the evidence of P.W.6/Sultan Baig, who was working as Sub-Divisional Engineer in Guduvancheri Telephone Exchange, as per Ex.P.14 the new instrument and wire were given to A1 on 05.05.2003. In his cross-examination he has specifically mentioned as follows:

> "In the reverse side of Ex.P.10 it is stated that work completed on 2.5.03. The endorsement is not made by me. This means the concerned officer would have initiated the execution of number and dial tone on 2.5.03. I cannot say

that everything was completed on 2.5.03. The OMR will start running only when a consumer makes outgoing calls. The duty of the line man is not only installation of new telephone connection but also attending the day to day maintenance which includes attending the fault if any.”

13. However, the evidence of P.W.6/Sultan Baig has been contravened by the evidence of P.W.4/Mohana, who has deposed that the work was completed on 02.05.2003 as could be evidenced by Exs.P.10, P.11 and P.12. Even in the Ex.D.1/Telephone Bill, the date of installation has been mentioned as 02.05.2003. In such circumstances, I am of the view that the appellant/accused, A1 has proved that telephone connection was given on 02.05.2003. It is pertinent to note that in the criminal jurisprudence, it is the duty of the prosecution to prove the guilt of the accused beyond all reasonable doubt, whereas it is enough if the accused would prove his defence by preponderance of probabilities. In the instant case, the chief-examination of P.W.4/Mohana, the cross-examination of P.W.6/Sultan Baig and the documents Exs. P.10, P.11, P.12 and D.1 would prove that the telephone connection was given on 02.05.2003. So, the argument advanced by the learned counsel for the appellant that when the telephone connection was already given on 02.05.2003, there is no need for the appellant to demand money from the de facto complainant on 05.05.2003, 06.05.2003 and 07.05.2003 seems to be an acceptable one.

14. A perusal of the chief-examination of P.W.2/Ramachandran would show that he has given application for new telephone connection on 09.04.2003 and he met the Assistant Engineer on 14.04.2003 who informed P.W.2 to meet him after one week. So, P.W.2 again met the Assistant Engineer on 21.04.2003 and at that time he also met the appellant/accused A1 as was instructed by the Assistant Engineer. Again on various dates viz., 22.04.2003, 23.04.2003, 28.04.2003, 05.05.2003, 06.05.2003 and 07.05.2003, P.W.2/Ramachandran met the accused A1. The first demand of Rs.1200/- was alleged to be made on 23.04.2003. Further, it is the case of P.W.2 in his cross-examination that the appellant/accused A2 was also present along with A1 and A2 also supported the case of A1. On 28.04.2003, when P.W.2/Ramachandran met the appellant/accused at the telephone office, the bribe amount was reduced from Rs.1200/- to Rs.700/-. The demand for Rs.700/- was made on the subsequent dates as stated supra. However, these aspects have not been mentioned in the complaint preferred by P.W.2/Ramachandran.

15. The learned counsel for the appellant mainly focused on the point that the delay in preferring the complaint would show the

malafide intention and ulterior motive of P.W.2/Ramachandran to implicate A1 and A2 into the case. At this juncture, it would be appropriate to consider the decisions relied on by the learned counsel for the appellant.

16.1. In the decision reported in (2006) 13 Supreme Court Cases 305, V.Venkata Subbarao v. State Represented by Inspector of Police, it was observed that the complaint was filed 15 days after the alleged demand, when the cause for making that demand had disappeared. It would be appropriate to incorporate paragraph 14 of the said decision.

> "14. Illegalities committed in the trap proceedings are galore. The complaint Exhibit P.3 was made on 11.12.1988. P.W.2 did not state that he was asked to report on the next day."

But the above citation is not applicable to the facts of the present case on hand.

16.2. In the decision reported in (2006) 2 Supreme Court Cases 250, Om Prakash v. State of Haryana, it was held that the delay of 4 hours in lodging the FIR would raise doubt on the prosecution case. It is appropriate to incorporate paragraph 17 of the said decision:

> "17. It is not in dispute that the offence took place aroung 7 o'clock in the morning. The police station was about 50 yards away from the police lines where PW2 used to reside. It further stands admitted that the telephone services were available both at the civil lines as also the police station. No attempt was made by PW2 to inform the SHO of the police station immediately. The first information report was admittedly lodged after a long delay. Having regard to the distance of the police station as well as the CIA office, we fail to understand as to why the DSP could come to the place of occurrence only at about 11.30 a.m. We further fail to comprehend as to why the DSP had remained at the spot for about three hours. It is also difficult to understand as to why the statement of Ganeshi Lal was not recorded by the DSP. Ganeshi Lal himself said that his supplementary statement had been recorded by PW4, but the same was not produced in court."

16.3. The next decision relied on by the learned counsel for the appellant is reported in 2012 (1) MWN (Cr.) 448, R.Venkatraj v. State, Represented by Inspector of Police. It is appropriate to incorporate paragraph 10 of the said decision.

> "10. Even though PW1 decided that no bribe should be given for getting the certificate on 25.1.2000, he made the

Complaint only on 30.1.2000 after 6 days. In the Complaint there is no explanation for the said delay. But in the evidence, he says that he was waiting for 2 or 3 days but he would not secure the money, however, he did not want to get the certificate after paying the illegal gratification. The absence of explanation for delay in lodging the Complaint is fatal to the prosecution as to the evidence."

Considering the facts of the present case in the light of the above citation, as already stated when the work has been completed on 02.05.2003, there is no necessity to make a demand on the subsequent dates viz., 05.05.2003, 06.05.2003 and 07.05.2003. Hence, the delay in preferring the complaint is fatal to the case of the prosecution.

16.4. In the decision reported in (2005) 6 Supreme Court Cases 211, Ganga Kumar Srivastava v. State of Bihar, at paragraph 22, it has been held as follows:

"22. There is yet another aspect of the matter. Admittedly, supply of electricity was restored or his house was connected with electric supply. According to the prosecution case, the supply of electricity was restored in the month of July 1985 whereas the appellant took a stand that before the complaint was made by him regarding the allegation of bribe the electric supply was already given to the complainant. According to the appellant, such connection was given to the complainant on 22nd June 1985. If this restoration of electric connection dated 22nd June 1985 to the complainant can be accepted to be correct then there could have been no occasion for demand and acceptance of bribe either on 25th June 1985 and 28th June 1985 for the supply of electric connection. As noted hereinearlier, according to the prosecution case and also from the materials on record the electric connection to the complainant was alleged to have been given on 8th July 1985. As noted hereinearlier, the appellant however took a stand that the electric connection was made on 22nd June 1985. The necessary entry regarding electric connection was proved by the appellant by relying on Ext.F. Ext.G was also relied on by the appellant which was an intimation by Shri Bachhu Tiwary bearing endorsement of the appellant to the effect that connection was given on 22nd June 1985."

17. As already stated, the telephone connection had been given to the residence of P.W.2/Ramachandran as early as 02.05.2003 and hence, there is no need to make a demand on the subsequent dates. So, there is discrepancy in the Ex.P.3/Complaint given by P.W.2/Ramachandran.

Considering the above facts and circumstances, I am of the view that the delay in preferring the complaint itself is motivated.

18. The next issue raised by the learned counsel for the appellant is that the evidence of P.W.3/Dhanish is not reliable because he is a stock witness and that he was examined in several case as shadow witness. On perusal of the evidence of P.W.7/Anandakrishnan, Inspector of Police, it is seen that when a suggestion was posed to him that P.W.3/Dhanish is a stock witness, P.W.7 had deposed that he was not aware of the fact as to whether Mr.Dhanish was also a witness in several cases. In such circumstances, I am of the view that the evidence of P.W.3/Dhanish cannot be considered as an independent witness and hence, it needs corroboration.

19. As far as A2 is concerned, his name has not been mentioned either in Ex.P.3/Complaint or in Ex.P.4/Entrustment Mahazar. However, P.W.2/Ramachandran in his evidence has deposed that when he met A1 on 23.04.2003 and when A1 demanded Rs.1200/- from P.W.2, A2 was present at that time and A2 also supported the demand made by A1. However, if really A2 had supported the demand made by A1, the name of A2 would have found place in the Ex.P.4/Entrustment Mahazar or in Ex.P.3/Complaint. In such circumstances, I am of the view that the evidence of P.W.2/Ramachandran is also not reliable. So, there is no corroborating evidence for P.W.3.

20. The next issue raised by the learned counsel for the appellant is that the scene of occurrence has not been proved by the prosecution. P.W.2/Ramachandran and P.W.3/Dhanish had stated that the place of occurrence of the trap proceedings is inside the house of P.W.2. Whereas, P.W.7/Anandakrishnan, Trap Laying Officer had deposed that the trap proceeding had taken place outside the house of P.W.2, near the moped. So, there is contradiction in the evidences let in by P.W.2/Ramachandran, P.W.3/Dhanish and P.W.7/Anandakrishnan. Further, the recovery has not been made from A1/Krishnan Anbu, but it was made only from A2/Boologam Loganathan, who is an individual and not connected with the telephone department. The learned counsel for the appellant also contended that Ex.P.5/Recovery Mahazar has not been recorded in the place of occurrence, but it was recorded at the Government Guest House and no reason has been assigned for the same. At this juncture, it would be appropriate to incorporate the relevant portion of the evidence let in by P.W.7/Anandakrishnan/Trap Laying Officer.

> "On seeing the signal, I alerted Shri.Kumaresan and rushed to the residence of Shri.Ramachandran. Once I reached the house, I found that Shri.Ramachandran was

talking with Shri.Anbu and Shri. Loganathan was also standing nearby and they are moving towards the moped. I stopped them near the moped and revealed my identity and also revealed the identify of other trap team members who joined by then. I also asked both of them whether they demanded and accepted bribe from the complainant.”

21. The above evidence would show that P.W.2/Ramachandran has not identified the accused. Furthermore, P.W.7/Anandakrishnan in his cross-examination has also fairly conceded that he was not aware of the fact as to whether Mr.Dhanish was also a witness in several cases like this and that it is not correct to say that he has picked and chosen Mr.Dhanish as witness.

22. P.W.8/Srinivasan, who was working as Telecom Mechanic (Indoor) at Guduvancherry Telephone Exchange, in his chief-examination has stated that on 02.05.2003, he cannot through the number 261133 because the last digits 69 was a faulty pair and he intimated the same to A1/Krishnan Anbu, who in turn gave another pair. So, on 06.05.2003 only, P.W.8 was able to through the number. In his cross-examination, P.W.8 has deposed that 02.05.2003, when he checked the telephone line given to the house of P.W.2/Ramachandran, he found that it was very noisy and so, he informed about the same to A1/Krishnan Anbu on 04.05.2003. When a suggestion was posed to P.W.8, whether P.W.2/Ramachandran came to his office on 03.05.2003 and preferred a complaint about the disturbance in the telephone connection provided to his house, P.W.8 had replied in negative. P.W.8 had further stated that on 06.05.2003 fresh connection was given. In such circumstances, I am of the view that there is no necessity for making demand and receipt of tainted money on 07.05.2003. Further, as already stated, the place of occurrence has also not been proved by the prosecution and there is contradiction in the evidence of P.W.2/Ramachandran, P.W.3/Dhanish and P.W.7/Anandakrishnan regarding the place of occurrence of the trap proceedings.

23. Considering the over all circumstances, I am of the view that the following conclusion could be arrived at .

(i) The prosecution has not proved beyond all reasonable doubt that A1/Krishnan Anbu and A2/Loganathan had conspired together and demanded illegal gratification to install new telephone connection in the residence of P.W.2/Ramachandran.

(ii) There is material contradiction between the oral evidence of P.W.2/Ramachandran and Ex.P.3/Complaint.

(iii) P.W.3/Dhanish is a stock witness of the respondent CBI and so, the evidence of P.W.3/Dhanish is not wholly reliable.

(iv) There is enormous delay in preferring the complaint. Though the first demand was made on 23.04.2003, the complaint was preferred by P.W.2/Ramachandran only on 07.05.2003, even though as per the oral evidence of P.W.2, the accused persons had made five demands from 23.04.2003 to 06.05.2003.

(v) The work has been completed on 02.05.2003, but as there was come disturbance in the connection, as per the evidence of P.W.4/Mohana and P.W.8/Srinivasan, the connection work was completed on 06.05.2003. So, there is no necessity for making a demand on 07.05.2003.

(vi) The place of occurrence of the alleged trap proceeding has not been proved beyond reasonable doubt. Further, the tainted money has not been recovered from A1, but it was recovered only from A2, who is not a public servant.

24. Considering all the above aspects, I am of the view that the conviction and sentence imposed against the appellants/accused A1 and A2 are unsustainable and hence, it is hereby set aside.

25. In fine,

(a) The Criminal Appeals are allowed.

(b) The judgment of conviction and sentence imposed upon the appellants by the learned Principal Sessions Judge for CBI Cases, Chennai in C.C.No.57 of 2003, dated 24.11.2006 is hereby set aside.

(c) The appellants are acquitted from the charges levelled against him and they are set free.

(d) The fine amount paid by the appellants/accused is ordered to be refunded.

(e) The Bail bond, if any executed by the appellants, shall stand canceled.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

pgp

To

1. Learned Principal Sessions Judge for CBI Cases, Chennai

2. The Public Prosecutor, High Court, Chennai.

3. The Section Officer, Criminal Section,
   High Court, Chennai.

4. The Superintendent,
   Central Prison, Puzhal,
   Chennai 600 066.

5. The Inspector of Police,
   SPE/CBI/ACB, Chennai.

6. The District Collector,
   Chennai.

7. The Director General of Police,
   Chennai.

+1cc to Mr.P.T.Ram Kumar, Advocate, S.R.No.14601
+1cc to Mr.S.Sundara Raman, Advocate, S.R.No.14434
+1cc to Mr.K.Srinivasan, Special Public Prosecutor for CBI,
S.R.No.14353

Crl.A.Nos.1082 of 2006
& 239 of 2007

BVR(CO)
CA(20/03/2015)