

Bail Slip

Criminal Appeal No.948 of 2004

That the Appellant herein/Accused Viz., O.Krishna Rao, was directed to be released on bail as per the order of this court dated 12.08.2004 and made in Criminal MP.No.8417 of 2004 in CrI.A.No.948 of 2004.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.11.2015

CORAM:

THE HONOURABLE MR.JUSTICE A.SELVAM

Criminal Appeal No.948 of 2004

O.Krishna Rao

... Appellant/Accused

vs.

The Inspector of Police,
CBI, Shastri Bhavan
Chennai - 600 006

... Respondent/Complainant

Criminal Appeal filed under Section 374(2) of Cr.P.C., against the judgment made in C.C.No.126 of 1997 dated 30.06.2004 on the file of the Additional Sessions Judge (Special Judge for CBI Cases) Chennai,

For appellant : Mr.S.Ashokkumar, senior counsel for
Mr.M.S.Govindarajan

For Respondent : Mr.K.Srinivasan,
Spl. Public Prosecutor.

JUDGMENT

This Criminal Appeal has been directed against the convictions and sentences dated 30.06.2004 passed in Calendar Case No.126 of 1997 by the Additional District and Sessions Court for CBI Cases, Chennai.

2. The case of the prosecution is that during the relevant period, the accused has served as Assistant Controller of Drugs in Customs House, Chennai. For issuing No Objection Certificate, he demanded a sum of Rs.10,000/- as illegal gratification from the defacto complainant and accordingly, on 25.5.1993, a trap has been conducted, wherein the accused has demanded and received the said sum of Rs.10,000/- from the defacto complainant. The complaint given by the defacto complainant has been marked as Ex.P.3.

3. On receipt of Ex.P.3, the Inspector of Police (P.W.4), has made all arrangements to conduct trap and accordingly, the defacto complainant, viz., P.W.1 and trap witness, viz., P.W.2 have met the accused in his office, wherein the accused has demanded a sum of Rs.10,000/- from the defacto complainant and accordingly, the same has been given and subsequently, the Investigating Officer has conducted further proceedings, examined connected witnesses and after completing the same, laid a final report on the file of the trial court.

4. The trial court, after hearing arguments of both sides and upon perusing relevant records, has framed charges against the accused under Sections 7 and 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988 and the same have been read over and explained to him. The accused has denied the charges and claimed to be tried.

5. On the side of the prosecution, P.Ws.1 to 7 have been examined and Exhibits P.1 to 11 and Material Objects 1 to 7 have been marked.

6. When the accused has been questioned under Section 313 of the Criminal Procedure Code, as respects the incriminating materials available in evidence against him, he denied his complicity in the crime. On the side of the accused, D.Ws.1 to 3 have been examined.

7. On the basis of the evidence adduced on the side of the prosecution, the trial court has found the accused guilty under section 7 of Prevention of Corruption Act, 1988 and sentenced him to undergo 1 year Rigorous Imprisonment and also imposed a fine of Rs.3,000/- with usual default clause. The accused has also been found guilty under section 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988 and sentenced him to undergo 1 year Rigorous Imprisonment and also imposed a fine of Rs.3,000/- with usual default clause. Against the convictions and sentences passed by the trial court, the present Criminal Appeal has been filed at the instance of the accused as appellant.

8. The learned counsel appearing for the appellant/accused has contended that the specific case of the prosecution is that on receipt of Ex.P.3, Complaint, P.W.4, trap laying Officer has made all arrangements and his specific evidence in chief examination is that he has gone to the place of occurrence and after receipt of pre-arranged signal, he met the accused and also made subsequent proceedings, but the learned counsel appearing for the accused in the trial court has sought adjournment to cross-examine him and the same has been rejected and therefore, the appellant/accused has not been given sufficient opportunity to cross-examine the vital witness. Under the circumstances, the conviction and sentence passed by the trial court are liable to be interfered with.

9. On the basis of the submissions made on the side of the appellant/accused, this Court has perused the evidence given by P.W.4 and ultimately that he is an important witness with regard to offences alleged to have been committed by the accused. The learned counsel appearing for the appellant/accused in the trial court has sought adjournment to cross-examine him, but the trial court has firmly rejected the request made by the counsel. Since the request made by the counsel has been rejected by the trial court, since P.W.4 is a vital witness in respect of the charge framed against the appellant/accused, this Court is of the view that sufficient opportunity must be given to the appellant/accused to cross-examine P.W.4. Under such circumstances, the conviction and sentence passed by the trial court are liable to be set aside and the case is remitted to the file of the trial court.

In fine, this Criminal Appeal is allowed. The conviction and sentence passed against the appellant/accused in C.C.No.126 of 1997 by the trial court are set aside and Calendar Case No.126 of 1997 is remitted to the file of the trial court. In the trial court, the appellant/accused is directed to make appropriate steps to cross-examine P.W.4. After cross-examination, the trial court is directed to hear arguments of both sides and pronounce judgment before the end of April 2016 and report the same to the Registry without fail. The fine amount, paid by the appellant/accused is ordered to be refunded forthwith.

ajr

Sd/-

Assistant Registrar (CS-III)

/True Copy/

Sub-Assistant Registrar

To :

1. The Additional Sessions Judge
(Special Judge for CBI Cases) Chennai,
2. The Inspector of Police,
CBI, Shastri Bhavan,
Chennai - 600 006
3. The Special Public Prosecutor,
High Court, Chennai

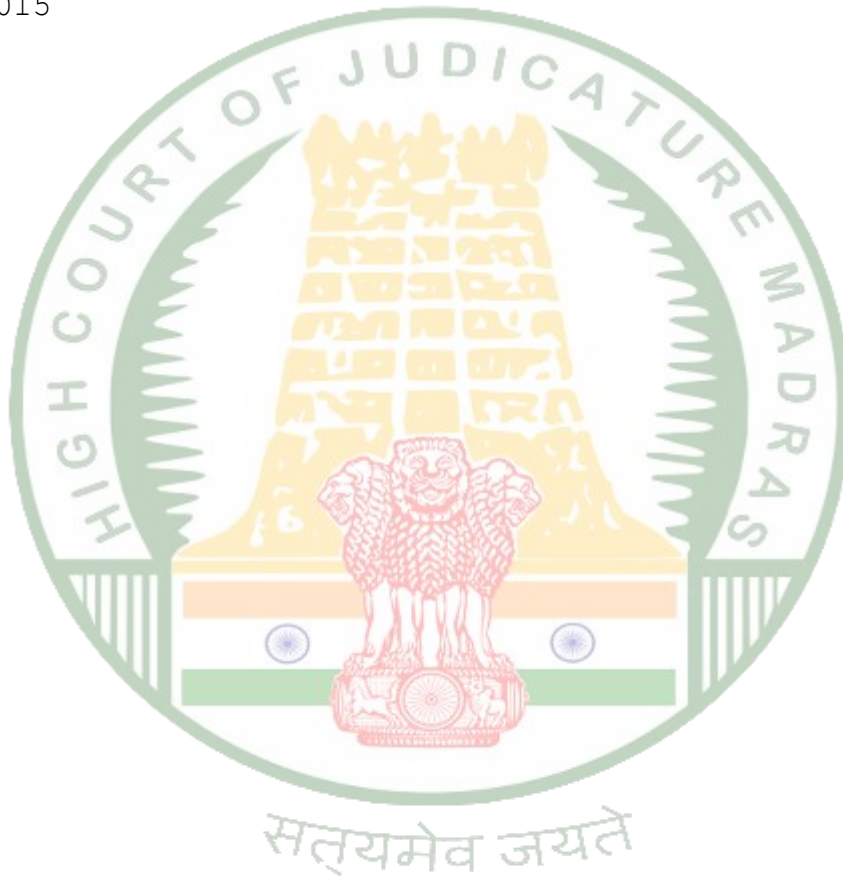
4. The Principal Sessions Judge,
Chennai

5. The Section Officer,
Criminal Section,
High Court, Madras

+1 C.C. To MR.M.S.Govindarajan, Advocate in SR.NO.65000

Crl.A.No.948 of 2004

UG(CO)
sd : 08/12/2015



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