



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Monday, the Nineteenth day of January Two Thousand Fifteen
PRESENT

The Hon`ble Mr.Justice M.SATHYANARAYANAN

CRL OP(MD) No.590 of 2015

IN

CRL A(MD)NO.SR33143 OF 2014

STATE.REP.BY
THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS,
(V & A.C., TIRUCHIRAPPALLI,
CRIME NO.11/2005)

... APPELLANT/PETITIONER/COMPLAINANT

Vs

S. PALANIYAPPAN

... RESPONDENT/ACCUSED (A-1)

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to grant special leave to prefer an appeal against the judgment of acquittal of the respondent/accused passed in Special Case No.120/2011 dated 24/06/2014 on the file of the Special Court for Trial of cases under Prevention of Corruption Act, Tiruchirappalli and convict the respondent/accused(A-1) as charged.

Prayer in CRL A(MD)NO.SR33143 OF 2014:

To set aside the judgment and acquittal of the respondent/accused (A-1) passed in Special Case No.120/2011, dated 24.06.2014 by the Special Court for Trial of cases under Prevention of Corruption Act, Tiruchirappalli and convict the respondent/accused as charged.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of MR.P.KANDASAMY, Govt.Advocatet(Crl.Side) for the petitioner, the court made the following order:-

The State has preferred this petition for Special Leave seeking to file an appeal against the order of acquittal, dated 24.06.2014, made in Special Case No.120 of 2011 on the file of Special Court for trial of cases under Prevention of Corruption Act, Tiruchirapalli.

2.1. The case of the prosecution is that on 16.06.2005, the defacto complainant / PW3 submitted an application for getting Legal Heir Certificate at the Taluk Office, Karur and the said application, after endorsement, was handed over to the defacto complainant / PW3. Thereafter, he met A1 / the respondent herein, who at the relevant point of time was working as Village Administrative Officer, Karur Village and requested him to make a positive recommendation for issuance of Legal Heir Certificate. According to the defacto complainant / PW3, the respondent / A1 has demanded a sum of Rs.1600/- as a gratification other than the legal remuneration to make such recommendation and it was demanded for himself and also for the expenses of the Taluk Office. The first accused further informed him that he would not make recommendation



6.Mr.Kandasamy, learned Government Advocate has brought to the attention of this Court to the impugned judgment and would submit that the demand and acceptance on the part of A1 has been amply proved by the prosecution beyond all probabilities by examining PW3 and PW4 and the trial Court, without properly appreciating the oral and documentary evidences, has chosen to acquit the respondent / accused without any proper or tenable reasons and therefore, prayed for allowing the application seeking leave to file the appeal.

7.This Court has carefully considered the submissions made by the learned Government Advocate (criminal side) appearing for the State and also gone through the impugned judgment.

8.A perusal of the impugned order would disclose the following fact;

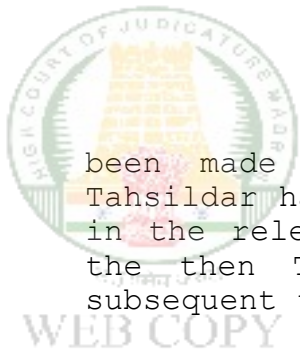
(a)The first accused was said to have made a demand of Rs.1600/- for making a positive recommendation for issuance of Legal Heir Certificate on 16.06.2005, which was said to have been reduced to Rs.1000/- on 22.06.2005. PW3 / defacto complainant, aggrieved by the said demand, has lodged a complaint - Ex.P4 with PW12 only on 08.07.2015 with the delay of 22 days and the trial Court, by placing reliance upon the judgment reported in **(2010) 3 MLJ (Cr1.) 182 (P.Meganathan Vs. State of Tamil Nadu, represented by the Inspector of Police, Vigilance and Anti-corruption Department, Chennai)**, held that in the absence of any possible explanation as to the belated lodging of the complaint, it creates a doubt in the case of the prosecution.

(b)Secondly, on 08.07.2005, the second accused demanded a sum of Rs.1600/- and he was persuaded by A1 to accept the lesser sum and thereafter, A2 alone received a sum of Rs.1000/- and kept in his pocket and on conducting the phenolphthalein test, it was proved positive against A2. Insofar as A2 is concerned, admittedly he died pendency of the trial.

(c)The defence version put forth by the respondent/A1 is that PW3 / defacto complainant was in arrears of tax and the amount received by A2 was only towards arrears of land revenue. In paragraph No.19 of the impugned judgment, the trial Court has extracted the relevant portion of the testimony of PW3 and the same is extracted hereunder for better appreciation;

"It is correct to say that there were tax due for our lands for the fasli No.1414-1. It is correct to say that I did not inform about the tax due for our lands with the vigilance police. It is correct to say that the 1st accused Palaniyappan told me that I have to pay the tax due. When the Vigilance Inspector examined me, I did not disclose about that I was asked by the 1st accused to pay the tax due."

(d) The arrears of land revenue due and payable was amply proved through the testimony of PW3 and the procedure for collecting the tax was also spoken to by PW8. PW3 in the course of testimony would further admit that he was required to bring his mother and sister for recording evidence for the purpose of issuing Legal Heir Certificate by the accused. But, admittedly they did not come to the Office of the first accused for recording their statement. Though such recommendation has



been made by the Village Administrative Officer, the jurisdiction Tahsildar has to act on the said application and only after making entry in the relevant register, they can issue Legal Heir Certificate. PW-11 the then Tahsildar issued Ex.P14 - Legal Heir Certificate to PW3 subsequent to the said occurrence.

9.The trial Court, in the light of the above said materials placed before it, had come to the conclusion that the prosecution has failed to prove its case beyond all probabilities and therefore by awarded the benefit of doubt to the respondent / A1.

10.The learned Government Advocate on instructions would submit that though the respondent / A1 has attained the age of superannuation, he has been placed under suspension and not allowed to retire.

11.This Court, on an independent application of mind to the entire oral and documentary evidence, is of the considered view that there is no error apparent or infirmity in the reasons assigned by the trial Court for acquitting the respondent / A1, who is at present aged about 58 years.

12.In the result, the Special Leave application is dismissed and consequently, Crl.A.(MD).SR.No.33143 of 2014 is rejected.

sd/-

19/01/2015

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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

- 1 THE SPECIAL COURT FOR TRIAL OF CASES
UNDER PREVENTION OF CORRUPTION ACT, TRICHY.
- 2 THE PUBLIC PROSECUTOR,
HIGH COURT,MADRAS
(VIGILANCE & ANTI CORRUPTION,TRICHY IN CRIME NO.11/2005)
- 3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL OP(MD) No.590 of 2015
IN
CRL A(MD)NO.SR33143 OF 2014
Date :19/01/2015

PA/27.01.15/4P/4C