



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.591 of 2015
in
Crl.A(MD) SR.No.30526 of 2014

THE STATE REPRESENTED BY
THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS, (V & A.C., TIRUCHIRAPPALLI,
CRIME NO.7/2010) ... PETITIONER/APPELLANT/COMPLAINANT
Vs

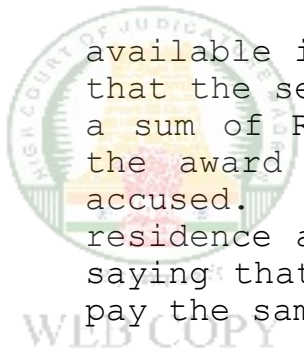
MUTHULAKSHMI ... RESPONDENT/RESPONDENT.
ACCYSED (A-2)

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to to grant special leave to file an appeal before the Honourable High Court, Madurai Bench, Madurai against the judgment passed in special case no.75/2012 dated 12/06/2014 on the file of the court of special court for trial of cases under Prevention of Corruption Act, TIRUCHIRAPPALLI.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.P.KANDASAMY, Additional Public Prosecutor for the petitioner the Court made the following order:-

The State has filed this application for Special Leave for filing criminal appeal against the order of acquittal of A2, dated 12.06.2014, in Special Case No.75 of 2012 on the file of the Special Court for trial of Cases under Prevention of Corruption Act, Tiruchirappalli. The Trial Court, vide judgment dated 12.06.2014, has convicted A1 and A3, however, acquitted A2.

2.According to the prosecution, the defacto complainant is the owner of some lands and those lands were acquired under the Land Acquisition Act and the compensation has also been awarded. The defacto complainant met the second accused on 24.02.2010 at her Office and received a cheque for a sum of Rs.5,46,693/- being the compensation, after recording his objection. The second accused said to have informed the defacto complainant that if he is aggrieved by the quantum of compensation, he can file an appeal for higher compensation after receipt of the proceedings relating to the award and to issue the said proceedings, the second accused said to have asked the defacto complainant to come after 10 or 15 days. Accordingly, the defacto complainant met the second accused on 10.03.2010 at about 12.30 p.m. and at that time she was not



available in the Office. The first accused, who was present informed that the second accused has been transferred already and he demanded a sum of Rs.5,000/- as bribe to issue the proceedings relating to the award of compensation and also asked him to meet the second accused. The defacto complainant met the second accused at her residence and the second accused had demanded a sum of Rs.1000/- by saying that she has only processed the matter and instructed him to pay the same to the first accused.

3.The defacto complainant aggrieved by the act of the accused lodged a complaint with PW12 and the same was registered in Crime No.7 of 2010, which marked as Ex.P11. PW-12 sent a report to the Office of the Chief Engineer, Public Works Department (Water Resources), Trichy to summon the services of PW3 and one Nagarajan to accompany the defacto complainant as trap witnesses at the time of paying bribe and he has also demonstrated about conducting of phenolphthalein test to them. Thereafter, he advised the defacto complainant to go along with the official witnesses and accordingly the defacto complainant / PW2 along with the official witnesses went and met the first accused reminding the earlier instructions, PW2 handed over a sum of Rs.6,000/- to the first accused and the first accused has accepted the same and replied that PW2 will receive the proceedings relating to the award of compensation. A1 has also counted the currency and called A3 and handed over the said sum to him and thereafter, PWs.2 and 3 came out of the Office and gave a prearranged signal to the team led by PW12.

4.PW-12 went into the Office and conducted phenolphthalein test and found test positive against A1 and A3. Thereafter, PW13 - Investigation Officer took up the investigation and completed the same and filed the final report charging all the three accused for the commission of the offences under Sections 7, 13(2) r/w 13(1)(d) of the Prevention of Corruption Act, 1988. A1 and A2, apart from the said Sections, are also charged for the commission of the offences under Section 12 of the Prevention of Corruption Act.

5.The prosecution in order to sustain their case has examined PWs.1 to 13 and marked Exs.P1 to P22 and also marked M.Os.1 to 7 and all the accused were questioned under Section 313(1)(b) of Cr.P.C. with regard to the incriminating circumstances made out against them in the evidence tendered by the prosecution and they denied it as false. On behalf of the accused, DW1, who is the sister of the second accused, was examined and Exs.D1 to D5 were marked.

6.The trial Court, on consideration of oral and documentary evidence, has acquitted A2 and convicted A1 and A3 for the commission of the offences under Sections 7, 13(2) r/w 13(1)(d) of the Prevention of Corruption Act.

7.Mr.Kandasamy, the learned Government Advocate (criminal side) has drawn the attention of this Court to the impugned judgment and contended that the demand on the part of A2 amply proved through the testimony of PW2, who himself an advocate and the testimony independent witness PW3 also amply proved the recovery of Rs.6000/-



from A1 & A3 and the reasons assigned by the trial Court for acquitting A2 are on the face of it unsustainable and therefore, prayed for grant of leave to file the appeal.

8. This Court carefully gone through the submission of the learned Government Advocate (criminal side) and also perused the impugned judgment.

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9. It is not in dispute that the phenolphthalein test conducted by PW-12 insofar as A1 & A3 proved positive and the money was also recovered from A3. In paragraph No.47 to 49 of the judgement, the trial Court recorded the findings that admittedly A2 was already transferred. According to PW2, since she has made all arrangements with regard to the award of compensation, she has demanded money at her residence. However, the second accused has denied such meeting. The trial Court has recorded further finding that the second accused has already been transferred on 10.03.2010 and she was on leave on 10.03.2010 and also on 11.03.2010. It is also admitted by PW2 - defacto complainant that he has already received the cheque for Rs.5,46,693/-. Coupled with the said fact and along with the fact of transfer, the trial Court has held that she has no role to play at all.

10. Admittedly, the second accused said to have asked PW2 the defacto complainant to come to her office after 10 or 15 days with regard to issuance of proceedings relating to the compensation. But, admittedly, on those two days A2 was on leave. Therefore, the trial Court has correctly recorded its finding that there is no corroboration of fact and there is no iota of evidence to establish that the second accused was in possession of the records.

11. Insofar as the acceptance of bribe is concerned, admittedly A2 was not at all available in the Office on that day and the money was not received by her. In fact, A1 who has received the money, has in turn handed over the same, to A3 and the phenolphthalein test was proved positive against A1 & A3. Therefore, they were convicted.

12. This Court, on an independent application of mind to the entire oral and documentary evidence, is of the considered view that the reasons assigned by the trial Court for acquitting the respondent / A2 are perfectly valid and there is no error or infirmity in the said findings.

13. In the result, the special leave petition is dismissed. Consequently, Crl.A. (MD) No. SR.30526 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,
TIRUCHIRAPPALLI

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2. THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS, (V & A.C., TIRUCHIRAPPALLI,

3. THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI

RL/4C - 28/1/2015

ORDER
IN
CRL OP(MD) No.591 of 2015
Date :19/01/2015