Bail Slip

The Accused Viz., Parvathi, was released on bail date 26/10/2010 made in Crl.M.P.No.1 of 2010 (Spl.care No.4 of 2001 on the file of the Special Court Cum Chief Judicial Magistrate Court, Chengalpattu, dated 29.09.2010) on the file of the High Court, Madras.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 17.07.2017
Pronounced on : 04.09.2018

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Criminal Appeal No.642 of 2010

Parvathi
W/o.Ramani ...Appellant/Accused

Versus

The State
Represented by
The Inspector of Police,
Vigilance and Anti-corruption,
Chennai City-I, Dept,
Adyar, Chennai - 600 020.
(Cr.No.7/A.C/99/CC-1) ...Respondent/Complainant

Criminal Appeal filed under Section 374(2) of Criminal Procedure Code, to call for the records relating to the judgment dated 29.09.2010 made in Spl. Case No.4 of 2001 on the file of the Special Court cum Chief Judicial Magistrate Court, Chengalpattu convicting the appellant under Section 7 and Section 13(2) r/w 13(1)(e) of the Prevention of Corruption Act 1988 and imposing the sentence of 6 months Rigorous Imprisonment and fine amount of Rs.150/- on default of payment of fine amount one month Rigorous imprisonment and 1 year Rigorous Imprisonment and fine amount of Rs.150/- on default of payment of fine amount one month Rigorous Imprisonment respectively, and set aside the same.

For Appellant : Mr.L.Baskaran for
Mr.D.Balachandran

For Respondent : Mr.R.Ravichandran
Government Advocate (Crl. Side)

J U D G M E N T

The accused in S.C.No.4 of 2001 is the appellant herein. She filed this Criminal Appeal against the judgment dated

29.09.2010, passed by the learned Special Judge-cum-Chief Judicial Magistrate, Chengalpattu made in Spl. Case.No.4 of 2001, whereby, she was convicted for the offences punishable under Sections 7 and 13(2) r/w 13(1)(e) of the Prevention of Corruption Act 1988, and sentenced to undergo six months Rigorous Imprisonment and imposed a fine of Rs.150/-, in default, to undergo one month Rigorous imprisonment and one year Rigorous Imprisonment and fine amount of Rs.150/-, in default, to under go one month Rigorous Imprisonment respectively.

2. The case of the prosecution is as under :- The appellant was working as Commercial Inspector in the office of Junior Engineer (O&M), Tamil Nadu Electricity Board, Perungalthur and she has committed offence under Sections 7 and 13(2) r/w 13(1)(e) of the Prevention of Corruption Act 1988. The allegation against the appellant is that one M.Marimuthu, who is having a shop at 75H, Kamarajar Nedunsalai, Perungalathur, Chennai-63, wanted to get new service connection from the Tamilnadu Electricity Board and thereby he had submitted an application along with the documents to the Assistant Executive Engineer, Tamilnadu Electricity Board, Tambaram on 25.05.1999 and paid registration fee of Rs.50/- on 07.06.1999. After the receipt of registration fee, the Assistant Executive Engineer, Tambaram sent his application to the Office of the Junior Engineer, Tamilnadu Electricity Board, Perungalathur for necessary action.

2.1. The appellant who was working as Commercial Inspector at the office of Junior Engineer, Tamilnadu Electricity Board, Perungalathur, made entry in the Application Register on 07.06.1999 and prepared the estimate and advise slip on 14.06.1999 and obtained signature from one Perumal, Junior Engineer, Tamilnadu Electricity Board, Perungalathur. She also obtained a petition from the complainant M.Marimuthu on 11.08.1999, permitting him to pay the service connection charges after the due date. She also wrote a note on the rear side of petition on 17.08.1999 and got it signed by the said Perumal, Junior Engineer for having revalidated and approved by P.L.Kalaiappan, Assistant Executive Engineer, Tamilnadu Electricity Board, Tambaram. However, new service connection was not given.

2.2. On 17.08.1999, the complainant approached the appellant, at that time, the appellant demanded a bribe of Rs.300/- from the complainant for processing his application. The complainant went to the office of the Junior Engineer, Tamilnadu Electricity Board, Perungalathur on 18.08.1999 and came to know that the appellant was on leave and she would be back for the duty only on 23.08.1999.

2.3. Having not agreed with the said demand, the complainant came to the office of the Deputy Superintendent of

Police, Vigilance and Anti-corruption and lodged a complaint on 24.08.1999 at 9.45 a.m. On the endorsement of one S.J.Vijayakumar, Deputy Superintendent of Police, Chennai City-I, V& AC, Chennai, a case was registered in Cr.No.7/AC/99/CC.I on 24.08.1999 under Section 7 of Prevention of Corruption Act, 1988 and took up investigation by one R.Valsarajan, Inspector of Police, V&AC, CC.I, Chennai. A trap was arranged by him on the same day. During the pre-trap proceeding, on the same day i.e., on 24.08.1999, two official witnesses Kumaresan, Section Superintendent, Directorate of Technical Education, Chennai and K.Gopinathan, Superintendent, Anna University, came to the office of the Deputy Superintendent of Police and met the trap laying officer R.Valsarajan, Inspector of Police on 24.08.1999 at 10.45 Hrs. They were introduced to the complainant Marimuthu and vice versa. Both the above said official witnesses were shown the complaint and they perused it and thereby they were satisfied with the genuineness of the complaint. The trap laying officer R.Valsarajan, Inspector of Police, V& AC., CC.I, demonstrated the phenolphthalein test and explained its significance to them. Three numbers of 100 rupees currency notes, produced by the complainant to be given to the appellant as per demand, were noted in the entrustment mahazar and the currency notes smeared with Phenolphthalein powder was given to the complainant and instructed to pay them only on demand made by the appellant. The complainant was given instruction to make a signal by combing his hair to indicate the demand and acceptance of gratification was successful. P.Kumaresan was requested to accompany with the complainant. He was also instructed to observe the conversation that transpired between the complainant and the appellant. The proceedings was recorded between 11.15 and 12.30 hours at the office of Vigilance and Anti-corruption, Chennai.

2.4. Accordingly, on 24.08.1999, the complainant and P.Kumaresan, Official witness had gone to the office of the appellant viz., Junior Engineer, Tamilnadu Electricity Board, Perungalathur and went inside at about 13.30 hours. When they went to the office in the first floor of the building, the appellant was found sitting in her seat. At that time, the complainant met the appellant, who in turn gave the advise slip and asked him to pay a sum of Rs.950/- to Tamilnadu Electricity Board counter as service connection charges. Immediately, the complainant gave the advice slip and paid a sum of Rs.950/- to the Office Assistant, one N.V.Rajendran, Tamilnadu Electricity Board, Perugalathur and requested to remit the service connection charges. He also remitted the same to V.Sekaran, Revenue Supervisor and got the receipt for Rs.950/- and handed over the same to the complainant and left the place. V.Sekaran issued receipt from the permanent receipt book and accounted in the payment register. The appellant then demanded a sum of Rs.300/- from the complainant and in turn the complainant paid a sum of Rs.300/- to her as demanded by her at her office on 24.08.1999 at about 13.40 hours. The same was accepted as gratification other than legal remuneration as motive or reward. P.Kumeresan, official witness watched the conversation between the complainant and the appellant and the passing of Rs.300/- from the complainant to the appellant after her demand, she told him that she had to give the share to her higher officers.

2.5. Thereafter, the complainant came out of the office and gave the pre-arranged signal at 13.40 hours which are intimated to the trap laying officer R.Valsarajan, Inspector of Police, V& AC, Chennai and he along with his party including a Woman Head Constable by name Lalitha Parameswari went into the office of the appellant. At that time, the complainant and the official witness Kumaresan identified the appellant to the trap laying officer R.Valsarajan. He disclosed his identity and that of official witnesses Kumaresan and Gopinathan. Wherein, sodium carbonate solutions were prepared in two clear glasses and the appellant dipped her both hands with fingers separately, the solutions turned into pink colour. They were transferred separately into two clean bottles, which were sealed and labeled with identification marks to indicate the left and right hand washes. The labels were attested by the official witnesses viz., Kumaresan and Gopinathan respectively. The three 100 rupee currency notes and the excess amount of Rs.4,700/- were seized in a mahazar, which was attested by the same official witnesses. The numbers found in the currency notes produced by the appellant from her black colour hand bag tallied with the currency notes mentioned in the entrustment mahazar. The connected records viz., the application given by the complainant to get new service connection along with xerox copy of the document and his representation for revalidation, the application register, estimate, advise slip, receipt of Rs.950/- bearing No.695387 dated 24.08.1999 and attendance register were also seized by the trap laying officer Valsarajan from the appellant and the said V.Sekaran, under a mahazar which was attested by the same official witnesses Kumaresan and Gopinathan. The appellant was arrested at 16.30 hours and the mahazar proceedings was completed at 16.45 hours.

2.6. On 28.04.2018 at about 13.40 hours, at the office of the Junior Engineer, Tamilnadu Electricity Board, Perungalathur, the appellant by corrupt or illegal means and by abusing her official position obtained herself the said amount of Rs.300/- as pecuniary advantage in the circumstances as stated above. The aforesaid acts of the appellant constitute the offences punishable under Sections 7 & 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988. Since the Superintending Engineer, Chennai Electricity Distribution Circle (South), Chennai being the competent authority to remove the appellant from the office, who worked as Commercial Inspector at the office of the Junior Engineer, Tamilnadu Electricity Boad, Perungalathur after carefully considering the materials place before him and on seeing the entire documents, accorded sanction for prosecution.

2.7. After completing the investigation, the Inspector of Police sent the file to the Superintending Engineer, Chennai Electricity Distribution Circle (South), Chennai and obtained sanction for prosecution and filed a charge sheet before the learned Special Judge-cum-Chief Judicial Magistrate, Chengalpattu. The learned Special Judge-cum-Chief Judicial Magistrate, after taken the case on file in Special Case No.4 of 2001 and after furnishing copy of the same to the appellant, when the appellant was questioned under Section 313(1)(b) Cr.P.C., she denied the same and thereafter charges were framed against her under Sections 7 & 13(2) r/w 13(1)(d) of the Prevention of Corruption Act, 1988.

3. In order to prove the case of the prosecution, as many as eight witnesses were examined as P.W.1 to P.W.8 and 19 documents were marked as Ex.P.1 to Ex.P.19 besides M.O.1 to M.O.5 material objects were exhibited.

3.1. One M.G.Himalaya, Superintending Engineer, Chennai Electricity Distribution Circle (South), K.K.Nagar, Chennai was examined as P.W.1, who deposed about the sanction for prosecution against the appellant. The complainant was examined as P.W.2, who spoke about his application for getting new electricity service connection for his shop and during that time the appellant had demanded a bribe of Rs.300/- and since he was unwilling to give bribe, he made a complaint before the Deputy Superintendent of Police (V&AC) and subsequently a case was registered in Cr.No.7/AC/99/CC.I and trap laying procedure was arranged and they went to the office of the appellant on 24.08.1999, where the accused demanded the bribe and accepted the same.

3.2. The official witness P.Kumaresan, who accompanied with the complainant to the office of the accused, is examined as P.W.3, who spoke about the complaint preferred by the complainant and also his presence with the complainant to the office of the appellant and observed the conversation between the complainant and the appellant and also observed the demand and acceptance of the bribe amount and he corroborated with the evidence of the complainant PW2.

3.3. One Perumal, Junior Engineer, Tamilnadu Electricity Board, Perungalathur was examined as P.W.4, who spoke about the system and procedure and duties of the appellant, who process the application of the complainant. Mahazar prepared at his office and he handed over all the documents to the Inspector of Police (V&AC).

3.4. One Narayanan, Assistant Chemical Examiner, Tamilnadu Forensic Department, Chennai was examined as P.W.5, who spoken about the receipt of two bottles of pink colour solution from the learned Additional District Judge-cum-Chief Judicial Magistrate, Chengalpattu in reference letter in Dis No.4594/B/99 dated 20.09.1999 and conducted the test and sent the report.

3.5. Vijayakumar, Deputy Superintendent of Police (V & AC), Chennai was examined as P.W.6 and he spoke about the receipt of complaint from P.W.2 and made an endorsement and forwarded the same to R.Valsarajan, Inspector of Police (V& AC) for further action.

3.6. R.Valsarajan, Inspector of Police (V&AC) CC.I, Chennai was examined as P.W.7, who spoke about the registration of the case, laying of trap proceedings, preparation of mahazar, arrest of the appellant, seizure of the case properties and conduct of the further investigation of the case.

3.7. Ramasubramanian, Inspector of Police (V&AC) CC.I, Chennai, was examined as P.W.8, who spoke about the conduct of further examination of the witnesses and laying of charge sheet.

3.8. After examining the prosecution evidence, the appellant was questioned under Section 313(1)(b) Cr.P.C., and she pleaded that she was innocent and she has been falsely implicated in this case and she has also submitted her written statement. On the side of the defence neither examined any witnesses nor produced any documents.

3.9. After completing the oral arguments of the prosecution as well as the defence side, the Special Court found the appellant guilty and convicted her for the offences under Sections 7 and 13(2) r/w 13(1)(e) of the Prevention of Corruption Act 1988 and imposed sentence of 6 months Simple Imprisonment and imposed a fine of Rs.150/- in default of payment of fine, to undergo one month Simple Imprisonment in respect of the offence punishable under Section 7 of Prevention of Corruption Act and sentenced her to undergo one year Simple Imprisonment and fine amount of Rs.150/- in default of payment of fine, to undergo one month Simple Imprisonment in respect of the offence punishable under Section 13(2) r/w 13(1)(e) of the Prevention of Corruption Act and both the sentences to run concurrently. Against the judgment of conviction and sentence passed by the learned Special Judge-cum-Chief Judicial Magistrate, Chengalpattu, in Spl.C.C.No.4 of 2001 dated 29.09.2010, the accused has preferred the present appeal before this Court.

3.10. The case of the prosecution is that the appellant was working as Commercial Inspector at the office of the Junior Engineer, Tamilnadu Electricity Board, Perungalathur, Chennai and she demanded a sum of Rs.300/- as bribe from the complainant on 17.08.1999 to process his application for effecting single phase electricity connection and she received the said amount from the complainant on 24.08.1999 at 1.40 p.m., at her office. After trial, it was proved by the prosecution beyond all the reasonable doubts before the trial Court for the offences under Sections 7 and 13(2) r/w 13(1)(e) of the Prevention of Corruption Act 1988.

4. The learned counsel for the appellant would submit that P.W.2/the complainant was instigated to give a sum of Rs.300/- for the purchase of a meter box for getting his work done earlier which was not denied by the official witnesses. P.W.1 Junior Engineer has accepted the existence of such procedure in the Tamilnadu Electricity department. The case of the prosecution is based on the evidence of P.Ws.2, 3 and 7 and convicted the appellant. Though P.W.3 has stated that he does not know about the instigation, P.W.2 has also deposed that the appellant has informed him that the electricity service connection can be given only when there is electric meter available. From the above evidence, it shows that the evidence of P.W.2 and P.W.3, did not support the case of the prosecution in entirety.

4.1. The learned counsel for the appellant would further submit that the prosecution did not examine one Rajendiran, who is working as helper in the Tamilnadu Electricity Board and he is the main witness in this case. But the said Rajendiran was not examined before the trial Court and the non-examination of the said Rajendiran is fatal to the prosecution. If he is examined, he would reveal the actual fact that P.W.2 has given a sum of Rs.300/- only for the purpose of purchasing the electric meter and not towards bribe.

4.2. The learned counsel for the appellant would further submit that P.W.7 and P.W.8 have not inspected as to whether, there was sufficient number of electric meter available on the date of setting of the trap to charge the appellant under the Prevention of Corruption Act. Therefore, the prosecution has not proved the case beyond the reasonable doubt. Therefore, the benefit of doubt goes in favour of the appellant and the trial Court has failed to consider this facts and convicted the appellant without any legal basis.

4.3. It is well settled law that in any bribe cases, the demand, acceptance and recovery must be proved beyond reasonable doubt. In this case, the demand and acceptance has not been proved beyond reasonable doubt and alleged amount of Rs.300/- was paid by the complainant to the helper Rajendiran for purchasing the electric meter for immediate service connection. However, the trial Court failed to consider this fact and there is no proper appreciation of prosecution evidence and the trial Court simply found the appellant guilty and convicted her and sentenced her as above. Hence, the learned counsel for the appellant prayed that this appeal has to be allowed and the judgment of conviction and sentence passed by the trial Court is liable to be set aside.

5. The learned Government Advocate (Crl. Side) appearing for the respondent would submit that the charges framed against the appellant are that of the appellant committed offences under Sections 7 and 13(2) r/w 13(1)(e) of the Prevention of Corruption Act 1988. The prosecution has proved the case against the appellant beyond the reasonable doubts. From the evidence of prosecution, it would be seen that the appellant had demanded to pay the bribe of Rs.300/- on 17.08.1999 to process the application for effecting single phase electricity service connection and received the said bribe amount from P.W.2/complainant, on 24.08.1999 at 1.40 p.m., at her office. This fact has been clearly proved by the prosecution beyond all reasonable doubts before the trial Court.

5.1. Further, the learned Government Advocate (Crl. Side) would submit that the appellant at the time of investigation, immediately after the trap, has not whispered anything about the fact that she has received the money only for the purpose of purchasing the meter box. Therefore, the defence taken by the appellant, at the time of Section 313 Cr.P.C. proceedings, is only an after thought. Even assuming, that if it is true that she received Rs.300/- from the complainant for purchasing the meter box, the perusal of Ex.P.13, meter charges receipt would indicate that receipt of Rs.950/- including Rs.250/- for meter box, collected by the Tamilnadu Electricity Board and hence, the demand and acceptance of the bribe amount has been proved beyond the reasonable doubt.

5.2. The learned Government Advocate (Crl. Side) would further submit that from the evidence of P.Ws.2, 3, 4 and 7, it is established and proved that the appellant demanded the bribe from the complainant and accepted the illegal gratification and therefore she committed the offence as above and from the oral and documentary evidence, the prosecution has proved this case beyond reasonable doubts. Further, the learned trial Judge has considered all the materials placed by the prosecution and found the appellant guilty for the offences and convicted her for the offences stated supra. There is no illegality or perversity in the judgment of conviction and the sentence passed by the learned Special Judge and the appeal is liable to be rejected.

6. Heard the rival submission made by the learned counsel on either side and perused the materials placed before this Court.

7. It is the specific case of the prosecution that the complainant made an application before the Tamilnadu Electricity Board office at Tambaram and the same was sent to the office of the Junior Engineer, Tamilnadu Electricity

Board, Perungalathur where the appellant worked as Commercial Inspector. When the complainant approached the appellant, the appellant demanded a sum of Rs.300/- as bribe on 17.08.1999 and also accepted the same on 24.08.1999. In this regard, the complainant gave a complaint before the Superintendent of Police (V& AC) and they arranged for trapping proceedings and the appellant was caught red handedly. Oral and documentary evidence of the prosecution has clearly proved the same. Since this Court is the first appellate Court, in order to come to the conclusion, this Court has to give individual findings regarding the commission of offence, for which it has to be re-appreciated the entire evidences and come to the individual findings regarding the charges levelled against the appellant.

8. As stated earlier, the charges framed against the appellant is that she has committed the offences under Sections 7 and 13(2) r/w 13(1)(e) of the Prevention of Corruption Act 1988. In order to prove the case of the prosecution against the appellant, before the trial Court, on the side of prosecution as many as eight witnesses were examined and 19 documents were marked and five material objects were exhibited. The complainant/Marimuthu was also examined on the side of the prosecution as P.W.2, who has deposed that he applied for new service connection on 25.05.1999; further he did not peruse the application since he became sick. Thereafter, the complainant went to the office of the Junior Engineer, Tamilnadu Electricity Board, Perungalathur, where he met one Rajendiran, who worked as helper in the said office and he took him to the appellant, who was employed as Commercial Assistant; it was informed to P.W.2 that the residential address, which was given by him, was not correct and the appellant was said to have corrected the new address given by the complainant in the concerned register. Thereafter, P.W.2 came to know that the order passed by the Junior Eningeer on 14.06.1999 has lapsed after the period of two months and therefore, the appellant directed the complainant to get an order for revalidation on his application from the Assistant Executive Engineer, Tambaram; accordingly, he got it revalidated; the appellant thereafter informed the complainant that he has to pay a sum of Rs.950/- for new service connection; at that time, the appellant has stated that apart from Rs.950/-, he has to pay Rs.300/- to her as bribe. Since, the complainant was working in Army and he was not willing to give the said amount, he approached P.W.6, the Deputy Superintend of Police (V&AC), Chennai and lodged a complaint; After the receipt of the complaint from the complainant, P.W.6 instructed P.W.7, Inspector of Police (V&AC) to inspect the case for laying a trap. P.W.7, Inspector of Police (V&AC) laid a trap on 24.08.1999, P.W.2 went to the office of the Junior Engineer, Tamilnadu Electricity Board, Perungalathur along with P.W.3, the official witness and met the appellant, she again on that day also demanded Rs.300/- and obtained the same in the presence of P.W.3.

9. One P.Kumaresan, the official witness was examined as P.W.3, who said to have been accompanied with P.W.2 complainant, at the time of laying trap and he has also spoken about the complaint given by P.W.2 and based on the complaint, P.W.7, summoned him and asked him to peruse the same for laying trap procedure and also directed him to observe the conversation between the complainant and the appellant and he has corroborated the evidence of PW2.

10. P.W.4/Junior Engineer, Tamilnadu Electricity Board worked in Perungalathur has spoken about the procedure for giving new electricity connection. P.W.5/Chemical Examiner, who has spoken about the examination of Chemical analysis regarding the samples of phenolphthalein and sodium carbonate solutions and gave the report. P.W.7 is the Inspector of Police, who arranged the trap proceeding. He spoke about the receipt of the complaint, procedure of trap laying, seizure of material objects under the mahazar and also the investigation.

11. From the evidence of P.Ws.2, 3, 4, 5 and 7, the prosecution established the case. The entire perusal of the oral and documentary evidence and also the statement filed by the appellant before the trial Court during Section 313 of Cr.P.C. proceedings, would show that the appellant received a sum of Rs.300/- from the complainant and Rs.950/- for installation charges and Rs.950/- was handed over to one Rajendiran, helper in the office of Tamilnadu Electricity Board, Perungalathur, who remitted the same and got the receipt. Further, the appellant has stated that she received a sum of Rs.300/- only for the purchase of meter box, since the meter box was not available at that time and the complainant urged to give the electricity connection immediately. Therefore, she got the money of Rs.300/- only for the purchase of electric meter and not as a bribe and the non-examination of said Rajendiran is fatal to the prosecution.

12. From the evidence of P.W.2, it came to light that the bribe amount of Rs.300/- was recovered from the black hand bag of the appellant and also the same was recovered through mahazar. In addition to that a sum of Rs.4,700/- were also recovered from the bag of the appellant. The appellant is the only person to access her hand bag and put the bribe amount of Rs.300/- in her bag. P.W.4 has not stated anything about the availability of electric meter box in the office during the relevant point of time. Further, from Ex.P.17/attendance register, would disclose the presence of the appellant on that day and Ex.P.18, Electric meter box register also did not show anything about the non-availability of the meter box and there is no relevant materials in support of the defence taken by the appellant. All the documents were recovered from the Office of the Tamilnadu Electricity Board, Perungalathur, and it does not reveal that during the time, there is no sufficient electric meter box. Even assuming that, Ex.P.8, receipt shows that Rs.250/- was charged for electric meter box

also. Therefore, the defence so raised by the appellant can not be accepted and the non-examination of one Rajendiran is no way affected the case of the prosecution. Once the payment, demand, acceptance and recovery were proved through P.Ws.2, 3, 4 and 7, there is a presumption under Section 20 of the Prevention of Corruption Act, the burden of proof lies on the appellant, who should rebut the same to prove that tainted money which was obtained from the complainant was not a bribe, whereas, in this case the appellant failed to prove that the tainted money recovered from her was not a bribe amount. Further, the demand and acceptance of the tainted money by the appellant and recovery also proved through P.Ws.2, 3, 4 and 7. There is no satisfactory explanation given by the appellant to support her defence. On the other hand, the main ingredients of demand, acceptance and recovery have been proved by the prosecution.

13. It is a settled proposition of law that when the appellant was found in possession of the tainted money, the only presumption drawn is that she accepted the same and thus she accepted the pecuniary advantage. That is why, the appellant has to rebut the statutory presumption. No doubt the presumption is rebuttable presumption. Unless the contrary proof, the appellant is liable for the same. In this case, P.W.2 has clearly stated that on 24.08.1999, at about 1.30 p.m., on the instruction of the trap laying Inspector, he went along with P.W.3, the independent witness, to the office of the appellant, where she received the amount of Rs.950/- for processing charges (the receipt shows including meter box charges). Thereafter, she demanded money, what she asked for her and the complainant gave the money and the appellant has also accepted the said money. P.W.3 had also observed the same. After the demand and acceptance was completed, they came out of the office and gave the pre-arranged signal. Immediately, the trap laying party went into the office and the appellant has identified by P.W.2 and P.W.3, the trap laying officers introduced themselves and recovered the money from the appellant's hand bag. Except her, no one can put the money in her hand bag and recovered the tainted money from her hand bag before the official witnesses. The appellant also accepted the same during Section 313 Cr.P.C. proceedings that Rs.300/- had obtained from the complainant not as a bribe but only for purchasing the meter box. Therefore, it is the duty of the appellant to prove the same by adducing sufficient evidence. Even at the time of producing the appellant before the Magistrate also she did not say anything about the acceptance of money only for the purpose of purchasing meter box. Whereas, the prosecution proved their case beyond reasonable doubt.

14. As already stated under Section 20 of the Prevention of Corruption Act, the only presumption is that the tainted money recovered from the appellant is only received as bribe and it is the duty of the appellant to disprove the same and

the presumption has to be rebutted. But in this case, the appellant has not adduced any evidence to rebut the presumption and the prosecution has proved their case beyond the reasonable doubt and the trial Court has rightly found the appellant guilty and convicted her and sentenced her as stated supra. This Court has also found that the appellant found guilty for the offence punishable under Sections 7 and 13(2) r/w 13(1)(e) of the Prevention of Corruption Act 1988 and there is no reason to interfere with the conviction and sentence passed by the trial court.

15. In view of the above, this Court finds that there is no merits in the appeal and no perversity in the judgment passed by the trial court, therefore, the criminal appeal stands dismissed and the judgment passed by the trial Court is hereby confirmed and the respondent police is directed to secure the custody of the appellant/accused to undergo the remaining period of sentence, if any.

Sd/-
Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

rts
To
1. The Presiding Officer,
The Special Court cum
Chief Judicial Magistrate Court,
Chengalpattu.

2. The Public Prosecutor,
High Court, Madras.

3. The Inspector of Police,
Vigilance and Anti-corruption,
Chennai City-I, Dept,
Adyar, Chennai - 600 020.

+ 1 cc to M/s. D. Balachandran, Advocate Sr.61142

Criminal Appeal No.642 of 2010

CP(CO)
EU(24/09/2018)