IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 26.07.2017

PRONOUNCED ON : 10.09.2018

CORAM:
THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.A. No.147 of 2013

State represented by
The Inspector of Police,
Chennai City-II Detachment,
Vigilance and Anti-corruption,
Adyar, Chennai-20

...Appellant

Vs.

V.Venkatachalapathy

...Respondent

PRAYER : Criminal Appeal is filed under Section 378 of the Criminal Procedure Code against the judgment in C.C.No.122/2011 (Old C.C.No.32 of 2007) dated 30.10.2012 on the file of Hon'ble Special Court for the cases under Prevention of Corruption Act at Chennai and prays this Court to set aside the judgment of the trial court and convict the respondent / accused as charged.

For Appellant : Mr.R.Ravichandran,
Government Advocate (Crl.side)
For Respondent : Mr.S.Xavier Felix

J U D G M E N T

This Criminal Appeal is filed against the judgment in C.C.No.122/2011 (Old C.C.No.32 of 2007) dated 30.10.2012 on the file of Special Court for the cases under Prevention of Corruption Act, Chennai.

2. The case of the appellant is that the de facto complainant one Thiru.M.Kumar lodged a complaint before the Deputy Superintendent of Police, Vigilance and Anti Corruption Office @ Adyar on 18.07.2006 at 11.00 hrs alleging that on 23.06.2006, his mother Tmt.Tulukanammal gave a petition to the Revenue Inspector Thiru.V.Venkatachalapathy along with xerox copies of relevant records to obtain sale deed from Tamil Nadu Slum Clearance Board for the house allotted to his mother by the Tamil Nadu Slum Clearance Board. When the defacto complainant

pursued the matter with the Revenue Inspector Thiru.V.Venkatachalapathy later asked him to give Rs.6,000/- as bribe. Subsequently, on 15.07.2006, the said Revenue Inspector Thiru.V.Venkatachalapathy along with the Bill Clerk came to the house of the complainant and verified the xerox copies of the documents given by the complainant with the original records kept in this house. At that time, he again instructed the complainant to keep a sum of Rs.5,000/- ready otherwise he will not get the sale deed in favour of his mother. Since, the de facto complainant told him that he was not in a position to pay the amount and he does not have that much of money. Therefore, reduced his demand and asked him to bring Rs.4,000/- on 18.07.2006 afternoon. The Deputy Superintendent of Police received the complaint from the defacto complainant and called Thiru.R.Vedharathinam, Inspector of Police, Vigilance and Anti Corruption, Chennai City II Detachment, Adyar, Chennai-20 and introduced the defacto complainant and handed over the copy of the complaint and asked him to proceed further. After receipt of the complaint, Thiru.R.Vedharathinam, Inspector of Police and also as per the instruction, he enquired the defacto complainant and registered a case in Crime No.5/2006/AC/CC-II under Section 7 of Prevention of Corruption Act, 1988. After registering the FIR, a trap was organized in the presence of two official witnesses, namely Thiru.P.Somadevan, Statistical Officer and Thiru.P.Pandian, Statistical Officer, Department of Economics and Statistics, Chennai-6. After completing the Pre Trap Demonstration proceedings, they proceeded on the same day after noon to the Office of Thiru.V.Venkatachalapathy and when he accepted Rs.4,000/- from the defacto complainant in his office room in the presence of official witnesses Thiru.P.Somadevan, Statistical Officer Thiru.V.Venkatachalapathy, Revenue Inspector was subjected to phenopthalein test on both hands, the colour of the solution turned pink in the case of phenophthalein test conducted on his right hand fingers. The bribe amount of Rs.4,000/- which was kept in his left side pant pocket. The investigation reveal that the respondent had demanded and accepted the illegal gratification of Rs.4,000/- from the defacto complainant (PW1) for processing the application of Tmt.Tulukkanammal, mother of Thiru.M.Kumar for obtaining the sale deed in respect of the property allotted to her by the Tamil Nadu Slum Clearance Board in the presence of Official witnesses on 18.07.2006 between 16.45 hrs and 20.15 hrs. The respondent was arrested at 20.00 hrs on 18.07.2006 in his office room after informing the grounds of arrest and arrest intimation were also served to his superior officers. The respondent was released on bail at 20.30 hrs after obtaining proper surety. After the completion of trap proceedings, the Inspector of Police had filed the final report into Court on 17.09.2007 and the Hon'ble Principal Judge had taken the case on file as C.C.No.32 of 2007 on 28.11.2007 and made over the case to III

Additional Sessions Court. The same was renumbered as CC.No.122 of 2011. After furnishing the copies, when the Special Judge questioned, the respondent denied the allegations. Therefore, the Special Judge framed charges against the respondent. During the trial, in order to prove the case of the appellant, on the side of the prosecution as many as 9 witnesses were examined and 13 exhibits were marked and 5 MO's were exhibited. After completing the evidence of prosecution, when incriminating circumstances were put before the respondent under Section 313 Cr.PC, the respondent denied the allegations and stated that all the evidences of prosecution are false and on the side of the defence as many as 3 witnesses were examined and 10 exhibits were marked. After hearing the learned counsel on either side, the Special Court found the respondent guilty and acquitted from the charges framed against the respondent. Aggrieved with the judgment of acquittal passed by the Special Judge, the State has preferred the present appeal before this Court.

3. The main allegation levelled against the respondent by the appellant is that the respondent was a Lower Division Estate Inspector in Estate Office - 8, Lower Division Estate Office, Tamil Nadu Slum Clearance Board, K.K.Nagar, Chennai-78. As such, he is a public servant as defined under Section 2 (c) of the Prevention of Corruption Act, 1988. The defacto complainant one Thiru.M.Kumar, S/o Munusamy who was residing at Door No.134, Pachaiyappan Street, West Jaferkhanpet, Chennai made an application with respondent at his Office on 23.06.2006 for getting sale deed in the name of his mother Tmt.Tulukanammal for the above mentioned house as the house was in the name of his mother. On 24.06.2006, the respondent visited the house and verified the genuineness of the documents submitted along with the application and demanded Rs.5,000/- from the de facto complainant as a motive of reward for processing the application for executing a sale deed in favour of his mother. On 15.07.2006, the respondent once again inspected the house of defacto complainant at that time, the defacto complainant told that he could not pay that much of amount. Therefore, the respondent reduced his demand to Rs.4,000/- and asked him to give the amount in the afternoon of 18.07.2006. On 18.07.2006, at about 03.45 p.m. in the office of the respondent, the respondent reiterated his earlier demand and accepted a sum of Rs.4,000/- from the defacto complainant as a motive of reward for processing the application for granting sale deed in favour of his mother and thereby, the respondent committed the offence under Section 7 of Prevention of Corruption Act, 1988, and in course of the same transaction, on 18.07.2006 at about 03.45 p.m. in the office of the respondent, the respondent being a public servant has committed an offence punishable under Section 7 of Prevention of Corruption Act, 1988 by abusing his official position as public servant demanded Rs.4,000/- for himself as

pecuniary advantage. Therefore, the respondent committed an offence punishable under Section 7 & 13 (2) r/w 13 (1) (d) of Prevention of Corruption Act, 1988.

4. In order to prove the above said charges, on the side of the appellant/prosecution, 9 witnesses were examined and 13 documents were marked and 5 MO's were exhibited. The defacto complainant was examined as PW1, who has spoken about filing of the application for getting the sale deed in favour of his mother made before the respondent and the respondent demanded bribe, pre trap laying demonstration proceedings and acceptance of the bribe by the respondent. PW2, Gnanambikai, Retired Estate Officer has spoken about the recovery of money and also phenolphthalein test and arrest of the accused. One Bose, the Bill Collector was examined as PW3 has spoken about he accompanied with the respondent on 15.07.2006 to the house of the defacto complainant. One, Somadevan, Statistical Officer, who was examined as PW4 stated to have been an official witness accompanying with the respondent and demanded bribe from the defacto complainant. One, Mr.Bhaskar, Chemical Analyst was examined as PW5 who has spoken about receiving sample from the Special Court and after completing the chemical analysis test filed a report about the sample containing the phenolphthalein solution. One Vedarathinam, Trap Laying Officer was examined as PW6 has spoken about receiving the complaint from the de facto complainant from the Inspector of Police, Vigilance and Anti Corruption and also spoken about the Pre Trap Demonstration proceedings and also caught the respondent red handed. Then, handed over the investigation to PW8/investigating officer, for further investigation. Nedunchezhiyan, the sanctioning authority who was examined as PW7 has accorded the sanction for filing the case against the respondent before the Special Court, Chennai. One, Ravichandran, the Investigating Officer was examined as PW8 who has spoken about receiving the file from PW6 and has done the further investigation. Mr.Antony Raj who was examined as PW9 has spoken about the further investigation and laying of charge sheet. After framing of charges and trial, the Special Court found the respondent not guilty and acquitted him.

5. The learned counsel for the appellant would submit that the Special Court, Chennai has given much importance to the contradiction between the evidences of prosecution witnesses and also official witness. Phenopthalein test solution smearing of the left hand of the respondents does not change the colour and the appellant has not proved demand and acceptance and acquitted the respondent, whereas the contradiction relied on by the Special Court is not material contradiction. The contradiction will not vitiate the case of the prosecution. The official witnesses who have clearly spoken about the instruction of the

Superior Officer, they came to the Office of the PW6 and they have clearly spoken about the case, especially PW4, who accompanied with the defacto complainant at the time of Trap Laying Proceedings. Further, the smearing of right hand in the solution of the Phenopthalein test changed the colour and the evidence of PW3 and PW4 has clearly spoken about demand and acceptance of the bribe from the defacto complainant. Further PW3 has clearly spoken that on 15.07.2006, he accompanied with the respondent and went to the house of the defacto complainant. Exs.P6 to P9 shows that application was made by the defacto complainant to the Slum Clearance Board and also documents P1 and P2 series shows that house was allotted by the Slum Clearance Board in favour of the defacto complainant's mother and the registration of sale deed is pending. So due to that, the defacto complainant alleged to have approached the respondent that leads to the payment of bribe. It is clearly established that the demand, acceptance and recovery were proved beyond reasonable doubt through prosecution side oral and documentary evidences. The respondent being a public servant, accepted the illegal gratification. Therefore, prosecution proved the case beyond reasonable doubt. However, the Special Court has not given weightage to the oral and documentary evidence adduced and produced by the prosecution against the charges levelled against the respondent and given weightage to the immaterial contradictions in the evidence and acquitted the respondent. Hence, the appellant is before this Court with the present appeal.

6. The learned counsel for the respondent would submit that the prosecution has failed to prove the case beyond reasonable doubt and also calling of official witnesses from statistical Department, there is no documentary evidence to show that PW6 sent a letter to the Department of Statistics to call for two witnesses and pursuant to the letter they sent witnesses (PW3 and PW4) which will not be helpful to the case of the appellant. There is a material contradiction between PW1/defacto complainant and PW4/official witness who alleged to have accompanied with the defacto complainant. Further the smearing of left hand phenolphthalein test solution does not help the case of the prosecution which turned negative. When the prosecution is not able to prove the case beyond the reasonable doubt, two views are possible then benefits of doubt will always be extended in favour of the accused. So in this case, after considering the oral and documentary evidence produced by the respondent and exhibits exhibited by the respondent, the Special Court comes to the conclusion that the respondent not found guilty and rightly acquitted the respondent.

7. When appeal against acquittal, it is well settled principles of law that there are double presumption, one the

accused always presumed to be innocent unless proved that he has committed the offence; the prosecution has to prove the case against accused beyond reasonable doubt. Another is how Judgment of acquittal passed by the trial court found to be illegal or perverse. Since the trial court found that the prosecution has not established the case, when two view are possible, the benefit of doubt extends to the accused. Therefore, there is no merits in this case and the appeal is liable to be dismissed.

8. Considered the rival submissions made by the learned counsel on either side and also oral and documentary evidence produced on either side and also gone through the material available on records.

9. It is the specific case of the appellant that the respondent demanded the bribe of Rs.4,000/- from the defacto complainant to register the sale deed in favour of the mother of the defacto complainant. Since the defacto complainant was not willing to pay the bribe they approached the Deputy Superintendent of Police, Vigilance and Anti Corruption Office @ Adyar. In turn, the Deputy Superintendent of Police, after accepting the complaint, given instruction to PW6/ the Inspector of Police, Vigilance and Anti Corruption, Chennai City II Detachment, Adyar, Chennai-20, to file a case and proceed further against the respondent. In turn, PW6, the Inspector of Police arranged for trap and also he called the independent official witnesses and also conducted pre trap demonstration proceedings and successfully caught red handed of the respondent and filed a report, prosecution after investigation filed a charge sheet against the respondent. Since, the first Appellate court has to independently appreciate the oral and documentary evidences and give an independent conclusion that whether the accused is found guilty and whether the prosecution proved their case beyond reasonable doubt and the accused found guilty. In order to do that exercise, it is relevant to refer the deposition of the prosecution witnesses. The defacto complainant one Kumar was examined as PW1 and who has deposed that the house at No.134 Pachaiyappan Street, West Jafferkhanpet, Chennai-83 was allotted by the Tamil Nadu Slum Clearance Board to his grand father. After the death of his grand father name transfer was done in the name of Smt.Thulukanamal as legal heirs and necessary taxes are being paid. On 23.06.2006, he submitted an application requesting to execute sale deed (Ex.P1) along with necessary documents at K.K.Nagar, Sivalingapuram, Tamil Nadu Slum Clearance Board Office. The respondent on 24.06.2006 visited the house and demanded Rs.6,000/- for getting sale deed immediately and when he enquired whether receipt would be given, the respondent replied that Rs.500/- for admission fees, Rs.500/- for document

fees and Rs.5,000/- for himself. On 15.07.2006, the respondent along with PW3 Thiru.Bose, Bill Collector visited his house and verified the genuineness of the documents enclosed with the application (Ex.P2), then asked him whether he had arranged the money. When the defacto complainant expressed his inability for arranging such huge amount, the respondent reduced the bribe amount to Rs.4,000/- and asked him to come in the afternoon on 18.07.2006 to his Office. Since he was not willing to give the bribe amount, he gave a complaint/Ex.P3 to the Vigilance and Anti Corruption Office and on that basis, a case was registered. Signature of the defacto complainant was marked as Ex.P4 says about the arrival of official witnesses and the demonstration conducted at the Vigilance Office, the money which was brought by him was smeared with phenolphthalein solution says about the preparation of entrustment Ex.P5 and his attestation. It says that along with vigilance party left the Vigilance Office and arrived the Office of the respondent at about 03.45 p.m. says that he and the official witness Thiru.Somadevan (PW4) went and met the accused in his office says that on seeing him, the respondent asked as to whether he brought the money says that on demand of the respondent, he took the bribe amount from the shirt pocket and handed over to the respondent which was received by the respondent by his right hand and counted using both hands and kept the money purse in the left side pant pocket and the respondent enquired about Thiru.Somadevan with him, for which he said that he is his friend and he wanted the sale deed. The respondent further stated that he would arrange for sale deed. Then, the respondent left the office saying that his superior officer had called him. After 10 minutes, the respondent came to his seat and asked them to go. He gave signal and the Inspector of Police, Vedarathinam came there and Somadevan had narrated the facts to the Inspector of Police and identified the currency notes which were marked as MO's 1 and 2 series and money of the accused marked as MO3. PW2 is a Retired Estate Officer and was also working in the respondent's Office who has specifically stated on 18.07.2006 she came to Office at about 5.30 p.m. when the inspection was conducted by the Inspector, Thiru.Vedarathinam, the respondent produced the bribe amount from his left side pant pocket. PW3 has deposed about that the receiving of application Ex.P1 dated 23.06.2006. Further says that on 15.07.2006 he accompanied the accused and visited the house mentioned in the application for getting sale deed. The respondent verified the documents enclosed with the application and all the originals and signed the enclosed documents as verified. After verification of the documents, the respondent conversed with the defacto complainant. Further says about the Vigilance Team came to his office on 18.07.2006 and recovered Rs.4,000/- from the respondent.

10. PW4 who is an official witness has spoken about the Pre Trap Demonstration and after completing the Pre Trap Demonstration, he accompanied with the defacto complainant to the respondent Office at about 3.00 p.m. When they went to respondent Office which was situated in the third floor of the building, on seeing PW1, the respondent asked whether he had brought the money. After demanding the bribe money from the PW1, PW1 took Rs.4,000/- from the pocket and handed over to the respondent. After receiving the same, counted the money with both the hands kept the same at money purse in left side pant pocket. Then, he left the seat by saying that his Superior Officer had called him and returned after 10 minutes. Further saying that why they are waiting till then, they will make all the arrangements to get the sale deed. After that, he went outside and issued pre arranged signals and then immediately the trap laying team came to the seat of the respondent and when they enquired PW1 narrated the same and the Trap Laying Officer conversed with him and then, recovered the money and also conducted trap laying proceedings like smearing the hands in the phenolphthalein test and collected the solution. PW5, Chemical Analyst has deposed that he received the sample from the Special Court and after conducting test report was sent. PW6/Vedarathnam, who is the Trap Laying Officer has deposed that he received complaint through the Superintendent of Police from PW1 and registered FIR. After Pre Trap Demonstration proceedings, PW6 arrested the respondent and handed over the investigation to PW8. PW7 is a sanctioning authority after receiving the file and gone through the materials and accorded the sanction against the respondent. PW8 has spoken about further investigation. PW9 has spoken about laying of charge sheet. Therefore, from the evidence of PW1 and PW2 and Exs.A1 and A2 clearly shows that the house at No.134, Pachaiyappan Street, West Jaffarkhanpet, Chennai-83 was allotted originally to the grant father of the defacto complainant. After his death, it was transferred to his mother and sale deed was not executed by the Slum Clearance Board in favour of the allottee. Hence, they have filed the application to get sale deed in favour of the mother of the defacto complainant. Since the respondent is the Revenue Officer in the Office concerned, he made an inspection on 15.07.2006 along with PW3. PW3 confirmed that on 15.07.2006, he accompanied with the respondent and both went to the house of the defacto complainant. At the time, they gave original documents, respondent also compared the original documents along with the xerox copies enclosed with the application and made an endorsement, Ex.P2 series as verified. It shows that for execution of sale deed in favour of the mother of the defacto complainant, the respondent along with PW3 visited the house of the defacto complainant. From the evidence of PW1 has clearly stated that the respondent has demanded

Rs.5,000/-, in addition to admission fees and documentation fees. At the time, the respondent visited the house on 15.07.2006, the defacto complainant expressed his inability to pay such huge amount, then the respondent reduced the amount to Rs.4,000/- and asked him to come and give the money on 18.07.2016 afternoon. From the evidence of PW1, since he is not willing to pay the amount, he approached the Deputy Superintendent of Police. From the evidence of PW6, it is clear that he received the complaint from the defacto complainant/PW1 through the Deputy Superintendent of Police and arranged Pre Trap Demonstration and subsequently trap proceedings was completed successfully. From the evidence of PW2, on 18.07.2016, the Trap Laying Officer, the team were in the Office and when she came to office at 5.30 p.m., the team were doing the phenopthalein test and also they arrested the accused. Evidence of PW4 has clearly stated that as per the instructions of his superior officer, they went to the office of PW6 and after completing the Pre Trap demonstration proceedings at 3.45 p.m. they went to the Office of the respondent and narrated the things which was happened in the respondent Office and has clearly stated that after the respondent reaching to his seat, on seeing PW1, the respondent only first demanded the money as demanded earlier. Then only, PW1 took Rs.4,000/- from his pocket and gave it to the respondent. The respondent using both the hands counted the money and after counting the money, he kept it in his purse and kept the same in his left side pant pocket. Then came out of the office and showed pre arranged signal to the Trap Laying Officer subsequently, the Trap Laying Officer approached the respondent where PW1 identified the respondent and later completed the trap proceedings, the respondent was arrested and released on condition. Further PW6 has spoken about the receipt of complaint and also Pre Trap Demonstration and also recovery of money from the respondent and done the phenopthalein test and collected the sample and sent the same to the Special Court. The Chemical Analyst stated about the examination of phenolphthalein solution and filed their report. From the evidence of PW1, PW3, PW4, PW5, PW6 and PW7, the prosecution had proved the case beyond the reasonable doubt, the demand, acceptance and recovery were also proved.

11. Though the learned counsel for the respondent would submit that there is a material contradiction between the prosecution witness and also doubt in the official witness and also the smearing of the left hand in the phenolphthalein solution found negative and the prosecution has not sent any money purse from where amount was said to have been recovered from the respondent for test. Therefore, prosecution has not proved their case beyond reasonable doubt. Therefore, the trial court extended the benefit of doubts in favour of respondent. Even the Special Judge also has observed in his judgment that

the weakness of the prosecution has failed to prove the case beyond reasonable doubt and hence, the respondent was acquitted.

12. On a careful perusal of the materials placed before this Court, the complaint given by the defacto complainant, Ex.P3, and also the evidence of PW1, PW3, PW4, PW5, PW6 and PW7 clearly established that the said house was occupied by the mother of the defacto complainant and the sale deed yet to have been executed in favour of her and at the relevant point of time, the respondent was working as Revenue Inspector and from the evidence of PW3 it is clearly stated that the respondent went to the house of the PW1 and also the endorsement was also made in Ex.P2 series which shows that the respondent verified the documents and put the signature. He has not at all denied the signature found in Ex.P2. As far as submission regarding left hand phenolphthalein test has turned negative is concerned, the evidence of PW1 and PW4 have clearly spoken that after receiving the bribe money of Rs.4,000/-, the respondent have counted the money with both the hands kept in the money purse and kept the money purse in his left side pant pocket and left the place by saying that his superior officer called him, after 10 minutes, he came and he found the witnesses PW1 and PW4 were still in the Office of the respondent and asked them to go and he would make all the arrangements for getting the sale deed when they say that he came after 10 minutes not even put any such defence from the prosecution witness that regarding after getting money he left for 10 minutes and after 10 minutes he came there which shows that even after getting the money from the defacto complainant he counted the money with both the hands, later on, definitely by holding the money purse with the left hand should have kept the money with right hands into money purse. Then later on, somewhere he might have put his left hand while he was in out of his seat for 10 minutes, only after the respondent reaching to his seat, PW1 and PW4 went outside and showed the pre arranged signals. Immediately Trap Laying Officers came to PW1 and PW4 and proceeded to the Office of the respondent and PW1 identified the respondent and then immediately, PW6 asked about the money, then he took the money from the money purse and handed over the money. Therefore, since he handled with the money purse and also left the place for 10 minutes, this fact was not denied by the defence by putting suggestion either before PW1 or PW4. Therefore, regarding smearing of the left hand turned negative is not the fatal to prosecution. Further the right hand solution is turned positively. Evidence of PW1 and PW4 has clearly spoken about the demand and acceptance. Further PW1, PW4, PW6 and other witnesses have clearly spoken about the recovery. Even PW2 was present at the time of preparation of recovery mahazar and PW6 arrested the respondent and taken him from the office. Therefore, evidence of PW6 also clearly shows that smearing of right hand in the solution of

phenolphthalein shows as positive. Non sending of money purse by the prosecution for chemical test alone cannot be fatal to the prosecution case.

13. Once the demand, acceptance and recovery are proved, it is the duty of the respondent to rebut the presumption. Once the demand and acceptance are proved amount is recovered from the respondent, presumption is that tainted money is bribe money. It is the duty of the respondent to show how the money came to his purse and the purpose for which he received.

14. In this case, though he made an attempt to say that only PW1 gave the money, after counting the same, the respondent returned the money but PW1 refused to receive the same. The presence of PW1 and PW4 in the Office of the respondent has not been denied and only he denied the demand. The evidence of PW1 and PW4 proved the demand, acceptance and also recovery and no reason to discard the evidence of PW1 and PW4. Further, PW3 has clearly stated that he accompanied with the respondent on 15.07.2006 for verification. Even on perusal of Ex.P2 series, there was a signature of the respondent and he has not given any reason for the same. The defence witnesses and also documents produced by him were not helpful to the case of the respondent. The evidence of the defence neither disproved the case of the prosecution nor rebutted the legal presumption in the manner known to law.

15. In this case, the appellant / prosecution has proved the case beyond reasonable doubt with cogent evidence. The trial Judge has failed to consider oral and documentary evidence and also exhibits and gave importance to the immaterial contradiction and the contradictions pointed out by the counsel for the respondent before this Court finds that the said contradictions are only immaterials and will not vitiate the case of the prosecution. The appellant has clearly established its case with cogent evidence. This Court finds that the contradiction pointed out by the counsel for the respondent and also trial Judge are not material contradiction in this case and the same will not go to the root of the case. Therefore, the judgment of acquittal dated 30.10.2012 passed by the trial court is liable to be set aside.

16. In the result, the Criminal Appeal is allowed and the judgment of acquittal passed by the learned Special Court for the cases under Prevention of Corruption Act, Chennai in C.C.No.122 of 2011 dated 30.10.2012 is hereby set aside. However, before recording sentence, the accused has to be heard. Therefore, for question of sentence, the accused is directed to appear before this Court on 10.09.2018.

17. In compliance with the order of this Court dated 06.09.2018, the respondent/accused appeared before this Court and he has been questioned the sentence to be imposed on him. The respondent/accused stated that he is aged about 64years. He has not committed any offence. The respondent/accused is kept under suspension and he was not permitted to retire from service after attaining the age of superannuation. After completion of the appeal proceedings only, the Department will conclude the departmental proceedings, under such circumstances, he prays leniency of the Court to award lessor punishment.

18. Considering the representation made by the respondent/accused and the mitigating circumstances viz., his age, and his family circumstances and in order to meet the ends of justice, the accused/respondent is convicted and sentence to undergo rigorous imprisonment for a period of four years for the offences under Section 7, 13(2) r/w.13(1)(d) of PC Act and fine of Rs.5000/- in default to undergo three months simple imprisonment.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

1. The Special Court for the cases under
Prevention of Corruption Act at Chennai.

2. The Public Prosecutor,
High Court, Madras.

3. The Deputy Superntendent of Police
Chennai City-II ,
Vigilance and Anti-corruption,
Alandur, Chennai-20.

4.The Director, Department of Vigilance and Anti-Corruption,
Alandur, Chennai-16

5.The Supernterdent Central Prison,
Puzhal, Chennai

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

+3cc to Mr.S.Xavier Felix, Advocate, S.R.No.62797(11/09/2018)

Crl.A. No.147 of 2013

KJI(CO)
GSP(10/09/2018)