SMT JUSTICE T. RAJANI

CRIMINAL APPEAL No.350 of 2010

ORDER:

This appeal is preferred, by the appellant, who is the accused, aggrieved by the Judgment, dated 19.02.2010, passed in C.C.No.15 of 2009 by the Court of Special Judge for SPE & ACB Cases, City Civil Court, Hyderabad, by virtue of which the trial court convicted the accused for the offence punishable under Section 7 and 13(1)(d) r/w Section 13(2) of the Act and sentenced to undergo Rigorous Imprisonment for a period of two years and pay a fine of Rs.1,000/-, in default to undergo Simple Imprisonment for a period of three months.

2. The facts of the case, briefly, as per the charge sheet, are as follows:

The accused is Additional Revenue Inspector in the office of the Mandal Revenue Officer, Hayathnagar Mandal, Ranga Reddy District from 25.06.2001 to 03.07.2002 and he is a public servant within the meaning of Section 2(c) of the Act. The *de facto* complainant is the cousin of one G.R.Karunakar, who purchased the land to an extent of Ac.5-00 in Survey No.251/A and B, at Injapur village of Hayatnagar Mandal, through a registered sale deed. On 02.07.2001, he submitted form VIA at Mandal Revenue Office, Hayathnagar for effecting mutation in the revenue records maintained at MRO Office and for issuance of mutation certificate in his favour, he approached the office of MRO several times, but he could not obtain the mutation certificate. Then he entrusted the said work to the complainant, who is his cousin. The complainant persuaded the matter in the office of the MRO and met the Superintendent by name Sangyam, for several times and requested to effect the mutation of the land in favour of Karunakar. Finally, on 29.06.2002, when the complainant went to the office of MRO and met the SI, he, in turn, asked him to meet the accused. On that, the complainant met the accused, who inspected the land. During the time of inspection, the accused demanded bribe of Rs.4,000/-, for submitting favourable report for effecting mutation in favour of G.Karunakar. Then the complainant informed the same to Karunakar and Karunakar advised him to approach the ACB Authorities. On that, the complainant lodged a complaint with the Joint Director, ACB, Hyderabad, who in turn entrusted the complaint to DSP ACB CIU, Hyderabad, who registered the same as a case in Crime No.2/ACB-CIU-HYD./2002 for the offence under Section 7 of the Prevention of Corruption Act. On 03.07.2003 during the trap, the complainant approached the accused at his office and requested for mutation certificate. Then the accused demanded and accepted currency notes of Rs.4,000/- from PW1 and kept the same in his right side pant pocket, for doing an official work of mutating the land. On the signal given by the complainant, the ACB Officials entered the office of the accused and seized the tainted currency notes from his possession. On his production from his pant pocket, sodium carbonate solution test was conducted over the hand fingers of the accused and the same yielded positive result. Later, witnesses were examined and after investigation, charge sheet was laid for the offence under Sections 7 and 13(1)(d) r/w Section 13(2) of the Act. The case was taken on file for the same offence and after complying with all the legal formalities, charges were framed for the same offences against the accused. The plea of not guilty by the accused was recorded and trial was conducted on his claim, during which PWs.1 to 9 were examined and Exs.P1 to P13 and MOs.1 to 8 were marked. The accused was questioned about the incriminating circumstances appearing against him in the evidence of prosecution witnesses when he was examined under Section 313 Cr.PC.. He denied the truth of his evidence and did not chose to adduce any evidence. However, Ex.D1 was marked on behalf of the accused during the cross-examination of PW3.

3. The lower court, after evaluating the evidence and the material on record, passed the impugned judgment, against which this appeal is preferred on the following grounds:

The lower court failed to see that PW8, the DSP, ACB, without verifying the genuineness of the complaint or its contents, mechanically proceeded with the formalities of the trap against the accused. The lower court failed to see that there is no other evidence than the interested evidence of PW1, with regard to any demand for bribe from PW1, prior to or on the date of trap or acceptance of any such amount from him. The lower court failed to see that the accused officer never demanded any bribe from PW1, the complainant, who lodged a false complaint and he is not competent for effecting mutation of the lands situated in Injapur village in the name of his cousin, for which it was alleged that he demanded and accepted bribe from PW1. The lower court failed to see that the specific allegation made by PW1 in the complaint, Ex.P1, is that the appellant told PW1 that whenever he brings Rs.4,000/- he will give report otherwise report will not be submitted and contrary to the said allegation, the appellant submitted his report on 29.06.2002 on the same day on which he was entrusted with the file, Ex.P4. The lower court ought to have seen that if the allegation of demand or threat, not to submit the report until the demanded amount is paid, the appellant would not have submitted his report on 29.06.2002. The lower court ought to have seen that it is not the allegation of PW1 that the appellant herein demanded bribe amount to be paid after he submits his report, as a reward for the said official favour and therefore the allegation made against the appellant in Ex.P1, that he had threatened that he would submit his report only after payment of the demanded bribe amount, is not true and correct. The lower court made out a third case, that the appellant demanded and accepted the said bribe amount as reward for the official work which was already done by the appellant. The lower court failed to see, that except the evidence of PW1, there is no other evidence to corroborate the allegations of demand of bribe amount by the appellant. The lower court failed to see that PW1 himself admitted that when he asked the appellant for the 2nd file, he got irritated and annoyed and he felt offended by seeing the irritated mood of the appellant, which could be drawn as a motive for foisting the false case against the appellant with false and fabricated allegations of demand of bribe amount. The court below failed to see that except the interested and motivated evidence of PW1, there is no other evidence for the demand made prior to or on the date of trap, to corroborate the evidence of PW1. The court below failed to see that PW2, who was sent as an accompanying witness, did not go along with PW1 and he is not a wtiness to either the demand or the acceptance of bribe amount. The lower ocurt failed to see that the contents of Ex.P10, post trap proceedings, were not reflecting the actual evens that took place on the date of trap and that from the position of the transaction (scene of offence) shown in the sketch, Ex.P9, none of the trap party members could have seen the alleged transactions, as projected by the prosecution. The lower court failed to see that the trap party rushed into the office of the appellant only after the pre arranged signal of PW1, i.e. after he tried to start his motor cycle as per Ex.p10, which falsifies the theory that the entire trap party witnessed the transactions. The lower court failed to see that if the appellant has to enter his office after the alleged demand and acceptance of bribe, he must necessarily pass through the motor cycle of PW1 wherefrom he is said to have relayed the pre-arranged signal. The lower court failed to see that on the date of trap also, he neither demanded nor accepted any amount from PW1 and when he came out of his office to urinate, PW1 came behind him and without his noticing, he thrust the said tainted amount into his right side pant pocket and while he was following PW1 after completing urinating, with the amount in his right hand, he was apprehended by the trap party, who caught hold of his hands and immobilized him and contrary to the said events, Ex.P10 was drafted to the dictation of PW8, the DSP, ACB and when he intended to record his objection on it, he was compelled to strike off the said objections as he was writing the same and asked to just acknowledge the receipt of the copy of the said proceedings.

4. Heard the counsel for the appellant and the Public Prosecutor appearing for the State.

5. The counsel for the appellant reiterates the grounds of appeal and contends that there is absolutely no proof of demand in this case. He relies on a judgment of the Supreme Court reported in KRISHAN CHANDER V. STATE OF DELHI[1], wherein the apex court, by considering that the complainant turned hostile on the aspects of demand and acceptance of bribe which is *sina qua non* for constituting the alleged offence under Sections 7 and 13(1)(d) r/w Section 13(2) of the Act, acquitted the accused by finding the approach of both the trial court and high court therein as erroneous. It was observed that those courts have relied upon evidence of prosecution on the aspect of demand of illegal gratification from the complainant by the appellant, though there is no substantive evidence in this regard and erroneously convicted for the charges framed against him.

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[1] AIR 2016 SC 298

6. Unfortunately, the said ruling cannot be applied to the facts of this case, as PW1 very much stuck to his version, which is given in the report given by him. There is no quarrel with the proposition that the demand for the bribe is a *sina qua non,* to convict the accused for the alleged offences.

7. The second ruling relied upon by the counsel is reported in B.JAYARAJ V. STATE OF AP[2], which is also on the aspect of proof of demand of bribe, wherein it was held that there was no demand of bribe in the said case. That is also a case where the complainant did not support the prosecution case and he disowned making the complaint and stated in his deposition that the amount of Rs.250/- was paid by him to the accused with a request that the same may be deposited with the bank as fee for the for the renewal of his licence. The Supreme Court reiterated the settled position of law that demand of illegal gratification is *sin qua non* and mere recovery of currency notes cannot constitute the offence under section 7, unless it is proved beyond all reasonable doubt, that the accused voluntarily accepted the money, knowing it to be a bribe. It was also held that mere possession and recovery of currency notes from the accused, without proof of demand will not bring home the offence under Section 7. It was further observed that, in any event, it is only on proof of acceptance of illegal gratification that presumption can be drawn under Section 20 of the Act, that such gratification was received for doing or forbearing to do any official act.

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2 2014 AIR SCW 2080

8. The third ruling relied upon by the counsel for the appellant in P.SATYANARAYANA MURTHY VS. THE DISTRICT INSPECTOR OF POLICE[3] is also on the same aspect, wherein it was held that when two pleas are plausible, benefit of doubt must be given to the accused. It also shows that the complainant in that case was no more and PW1, who spoke about the demand, is not the victim. The same can be understood from the observations made at paragraph 23 of the judgment, which reads as under:

> "True it is, that on the demise of the complainant, primary evidence, if any, of the demand is not forthcoming."

9. In this case, as already stated, the complainant was examined as PW1 and he spoke about the demand. Hence, now the points that come up for consideration are:

1) Whether the demand by the accused is proved by the prosecution.
2) Whether there is any official favour pending as on the date of the offence.
3) Whether the judgment of the lower court needs any interference.
4) To what result.

POINT Nos.1 to 3: -

10. PW1, speaking about the facts pertaining to this case, states that on 20.05.2002, Karunakar (hereinafter would be referred to as PW5), authorised him to approach the MRO,

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[3] 2015 AIR (SC) 3549

Hayathnagar, in order to attend his personal work, relating to mutation of land. PW5 purchased lands in Survey No.251/A & B, Injapur village of Hayathnagar Mandal. He also purchased land in Survey No.251 through different registered sale deeds. Based on those sale deeds, PW5 sought for mutation and he also purchased a land in Survey No.251/6 through a registered sale deed and applied for mutation in the year 2001. The said application was pending in the office of MRO. Since PW5 could not attend the said work personally he authorised him to attend the said work. As such, he authorised PW1 to attend the work. Immediately after the said authorisation, he met the MRO, by name Suryarao. He instructed him to meet the superintendent in the office and the superintendent promised him that he will look after the mutation work and he approached the MRO repeatedly, for a month. Finally , on 29.06.2002, he went to the office of the MRO and met the Superintendent, who instructed him to meet the AO, who is the AMRI. Sangyam took him into B Sec., where he collected the file from one Anand Rao, the clerk and file was handed over to AO, who was instructed by Sangyam to inspect the land and prepare a report. Then himself and AO went to the land situated in Injapur village. AO inspected the land and after inspection, AO told him that he will prepare the report and for that he has to meet some formalities. Then he questioned him as to what are those formalities. Then he asked him to pay Rs.4,000/- towards bribe, to prepare the report for mutation. Then he questioned him as to why he has to pay Rs.4,000/- to do his legitimate duty. He replied that without paying the bribe, the work cannot be attended. He further stated that the amount is to be distributed among everybody in the office. PW1 agreed to arrange the amount, as there was no other go for him. Since PW5 was not in the town and he came on 02.07.2002, he informed him about the demand made by AO. PW5 was not willing to pay any amount towards bribe. PW1 was also not willing to pay the amount. Hence he approached the Joint Director, ACB with a written complaint, who in turn instructed him to meet DSP, ACB who is in the same office. The Assistant Director sent the report to DSP, ACB. He met the DSP, ACB who verified the contents of the report and he told him to be in touch with him and he informed him. Later, on the same day, he received a message in his mobile from DSP, ACB asking him to come to office on the next day morning, along with Rs.4,000/-, which is the proposed bribe amount. On 03.07.20092, he went to the office of DSP, ACB after collecting the amount of Rs.4,000/- from PW5. The DSP called him aside and introduced two mediators. He narrated the facts to the mediators. The mediators verified the contents of the complaint. The DSP asked him to produce the proposed bribe amount of Rs.4,000/-, which are of Rs.500/- and Rs.100/- denominations. Mediators noted the currency note numbers in the mediators report. The DSP instructed one constable to apply phenolphthalein powder to the currency notes and the said currency notes were kept in his left pant pocket, by the constable, after ensuring that the pocket was empty. DSP instructed him to proceed to the MRO office and pay the amount only on the demand of AO and asked him not to meddle with those notes. After the demand and acceptance of the currency notes by the AO, he asked him to give a signal, by way of pretending to start his motor cycle. DSP explained about the significance of Phenolphthalein and the SC test. He asked one of the mediators, Indrasen Reddy, to accompany him on his motor cycle and observe the entire transaction that may take place between himself and the AO. Around 01:30 PM, drafting of the mediator's report was over. Then himself and Indrasen Reddy started from the office of DSP, while the DSP and other officials have followed them. While himself and Indrasen reddy went inside the office of AO, they met AO the in the office. AO asked him to wait, as he was busy with others. Indrasen Reddy was watching everything by standing outside the room of AO. After visitors left the room of AO, he questioned them whether he brought the amount. He took him to the room of the MRO, who was not present in his room, then AO took and showed the same to him. He also told him that he prepared the report, immediately after the date of inspection of the land and it is awaiting for the signature of the MRO. Since one of the files was not there, he questioned him about the same. He assured that he will look after the said file also. Then they both came out of the office towards his motor cycle. There he asked him how much amount he brought. He told him that he brought Rs.4,000/-. He took him aside of the building where none was present and asked him to pay the amount. Then he took the amount from his pant pocket and handed over the same to the

AO and he received it with his right hand and kept it in his right pant pocket. Indrasen reddy stood at a distance and was watching what was going on between him and the AO. Then himself and the AO returned to the place where he parked his motor cycle. Again he alerted the AO about the pending file, which is not shown to him by the AO. After AO left into his office, he gave a pre arranged signal to the trap party. By receiving his signal the trap party rushed into the office of AO. He stood outside the office, while Indrasena reddy went inside the office of AO along with DSP and others. Sometime thereafter, he was called inside. DSP questioned him as to what happened from the time he left the trap party, till he gave the signal. He narrated everything and the same was incorporated in the post trap proceedings. In the cross-examination, PW1 stated that he was introduced to the AO by Sangyam on 29.06.2002. He admitted that Anand Rao is a clerk, working in B Section, in the same office, and he was supposed to look after the files relating to PW5. Till 29.06.2002, the file relating to PW5 was pending with Anand Rao in B-Section. AO informed him that he was inspecting the land at the instructions of Dy.MRO. He does not remember whether he told him that Injapuram village is not within his limits and he was under the orders of transfer and he instructed him to get prepared the report. When he asked for the second file, AO got irritated and annoyed. Thereby, PW1 felt offended by seeing the irritated mood of AO. He admitted that as soon as the report was despatched by the AO, the work entrusted to him was over.

None was present when he went inside the room of AO, on the date of trap. The AO did not receive the amount in his room. When he questioned about the file of PW5, AO stated to him that the inspection report was already dispatched and the same was pending with MRO. He further deposed that he does not remember whether the AO told him that he is no way concerned with the second file, since the same is not entrusted to him and he cannot attend to his work. He admitted that the person, who stands before the office cannot observe the things that are happening at the place marked as in Ex.P9. The suggestion that was given to him is that he thrusted the amount in the pant pocket of the AO, by going behind him, while he was passing urine and after completing the urination, the AO tried to return the amount by picking from the pant pocket and that the ACB officials, by seeing the same, rushed to that place and caught hold of the AO. He admitted that he deposed in his chief examination for the first time, that he collected Rs.4,000/- from PW5. He also admitted that he did not state to the DSP in his 161 statement, that Indrasen Reddy witnessed all the events that took place between himself and the AO. It is based on these facts that are elicited in the cross-examination, that the counsel contends that the no official favour was pending as on the date of the trap. He also contends that Indrasen Reddy could not have witnessed the happenings by standing at the place where he was stated to be standing.

11. PW2-K.Indrasena Reddy, corroborates the evidence of PW1. But according to him, the tainted notes were kept in a

cover and the same was kept in the left side pant pocket of PW1 after ensuring that it was empty. He proceeded to the office along with PW1. He also supported the evidence of PW1 that PW1 went inside the office of the AO and he stood outside and was watching them. He further deposed that he saw the AO with some others and after those persons left the room of AO, PW1 approached the AO, who was waiting in his room till then. Two or three minutes thereafter, AO and PW1 came out of the room of the AO and went into the room of MRO, where they both verified some files. He could witness what was going between the AO and PW1 since the room of AO and MRO are located in triangle shape. After that, both AO and PW1 went to the motor cycle of PW1, they discussed something by standing at the motor cycle, at that time he was at a distance and watching them and afterwards they went aside towards a corner, outside the building. He witnessed PW1 taking out the amount and handing over the same to AO. But he received the same with his right hand and kept in his right side pant pocket. After that AO went inside his room and PW1 went towards his motor cycle and from there he gave a pre arranged signal to the trap party. In the cross-examination he admitted that it is mentioned in Ex.P3 that he was instructed to witness the transaction if possible and this is the first case he stood as a mediator. He also admitted that AO informed to DSP, ACB during the time of trap, that no file relating to Karunakar is pending with him and he had already despatched the report on the date of inspection itself and the same is pending with MRO. He also informed that he was under orders of transfer. With regard to the mediators report, a suggestion was made and it was admitted by PW2 that some portion in Ex.P10 at page 11, was struck off by the AO at his signature. It was suggested that he is not aware whether AO tried to write above his signature that he received the copy of Ex.P10 under protest and that it was got struck off by him. The said suggestion was denied by PW2. He adds that his intention in stricking off that portion is not known to him. It was again suggested to him that AO opposed the contents of Ex.P10 and that he attempted to write his objection but he was prevented from writing the same.

12. PW3 is the Deputy MRO. His evidence shows that one Srinivasrao was the ASO in the office by the date of offence and K.Anand Rao was working as Senior Assistant during that period. He used to look after Jamabandi ROR and non-agricultural assessment. On 03.07.2002, Anandrao telephoned to him and informed him that he is taking his mother to hospital and he is also undergoing some check up and therefore he sought for casual leave on 03.07.2002. The accused was placed in charge to look after the section of Rajasekhar from 01.05.2002, as he was on leave. On 29.06.2002, PW1 came to him and represented that the mutation file relating to PW5 was pending with their office since long time and then he tok him to Anandrao who was the incharge of B Section, looking after ROR and instructed him to hand over the papers relating to PW5, to Kasiram i.e., the accused, for enquiry. Accordingly, Anandrao handed over the file relating to PW2 to the accused. He was told

by the accused that he is inspecting the land situated at Injapur on 29.06.2002. The report given by the accused to Anandrao was endorsed to him on 01.07.2002 and he despatched the same to MRO with endorsement, on the same day. With regard to Ex.P5 file he stated that no report was given by the accused. The effort of the defence counsel in the trial court seems to be to prove, that the accused was not incharge of Injapur as on the date of offence. In the cross-examination of PW3, the said effort can be seen from the fact elicited, that as per the office order, Village Injapur is under the jurisdiction of the MRI and the said village is not allotted to the accused and that PW3 did not file any office order to show that accused was placed in charge for Rajasekhar, to look after the villages allotted to him. But the fact remains that the accused was placed in charge of Rajasekhar to look after the villages pertaining to PW5 and the evidence of PW3 shows that he entrusted the File to Anandrao, who in turn entrusted the same to the accused and the Accused himself told PW3 that he was inspecting the land at Inajpur. Hence, it stands proved, without any doubt, that the accused was entrusted with the job of inspecting the land of PW5 and submitting a report. The cross-examination of PW3 also shows that the accused completed the inspection and he submitted a report. It was admitted by him that the work of the accused was completed as soon as he completed the inspection report under Ex.P4 file. PW4 is the Deputy Collector and the MRO, Hayatnagar MRO Office, during the relevant period. He testified about the accused working as additional MRI in their office.

According to him, the revenue inspectors will look after the Mandal. But since one of the MRIs was transferred, the accused was kept incharge of the entire Hayatnagar Mandal. As MRI, the accused has to look after the record of rights, Jamabandi, caste certificate enquiries and any enquiry entrusted to him. He stated that after receiving the file, the MRI submits his report after inspecting the land. However, he admits in the cross-examination that Ex.D1 does not show that the Village Injapur comes under the jurisdiction of the MRI and it was not allotted to the accused and that no office order was passed keeping the accused incharge of the Hayatnagar Mandal due to transfer of the 2nd MRI. But PW4 states that he gave oral instructions. He also admitted that the accused was not responsible for the delay caused in disposal of Exs.P4 and P5 files and that the role of the 1st respondent will be completed in ROR as soon as he inspects and submits the report. Based on these facts, the counsel contends that there was no official favour pending as on the date of the inspection. Defering the finding on the said aspect, the evidence of PW5 and other witnesses can be looked into. PW5 testifies that he entrusted the work of getting the mutation proceedings done on his behalf, to PW1. he also speaks about the information given by PW1 that the accused demanded Rs.4,000/- to complete the mutation work. Nothing material was elicited in his cross-examination. PW5 also speaks about his advising PW1 to report the matter to the ACB Officials.

13. PW6 is the senior assistant in the MRO Office, Hayatnagar Mandal during the relevant period. He speaks about PW3

coming to his office on 29.06.2002 along with the accused and requesting him to handover Ex.P4 application to the accused and he handing over the same to the accused. He further states that the accused conducted enquiry and submitted report on 29.06.2002 and he put up the file on 01.07.2002 and dispatched the file to MRO for necessary order. In the cross-examination he reiterated the said facts and he admitted that since he entrusted only one file to the accused, he inspected and submitted the status report in respect of the said file only, on 29.06.2002 and the same was put up before the Deputy MRO for further orders and the accused does not have any knowledge about the pendency of Ex.P5. He also admitted that there was no delay in attending Ex.P4 file. PW7 is a witness working in the A.P.Secretariat and he is the person, who issued sanction orders to prosecute the accused. He testified about the same. PW8 is the DSP, ACB, CIU, Hyderabad during the relevant period, who received the report of PW1. He caused enquiries, by deputing his staff, about the official conduct of the accused and antecedents of PW1. On 03.07.2002 he sent a word to PW1 and he registered the case on the basis of the report given by PW1 and thereafter he prepared the trap proceedings by giving due instructions to PW1. He also spoke about giving instructions to PW2 to accompany PW1 and follow him. He also spoke about their people and himself taking vantage position within the compound of the office of the accused. They were also observing as to what was going on between PW1 and the accused. He stated that after getting down from the vehicle, PWs.1 and 2 went inside the office of MRO at 03:15 PM. PW1 and the accused came out of the office and they came up to the motor cycle of PW1 from there, proceeding towards the north of the building. There were some motor cycles at that place, and PW1 and the accused started discussing. Meanwhile, PW2 also came and kept witnessing PW1 and the accused. The accused and PW1 made some gestures. After some time, PW1 took out the tainted amount from his pant pocket and handedover the same to the accused. The accused received the same with the right hand and kept it in the right side pant pocket. Then PW1 came and gave the pre arranged signal to them. Then they rushed into the office while PW2 guided them to the room of the accused, which was situated in the north east corner of the building. The accused was found sitting in his seat, facing towards east. After entering into the room of the accused he questioned him about his name and identity. After that, he disclosed his identity to the accused and also introduced his staff and mediators. The accused got down from his seat and tried to touch his feet. After that he got prepared Sodium Carbonate Solution and instructed the accused to rinse his both hand fingers in separate tumblers. The solution in which the accused dipped his right hand fingers turned into pink, whereas the solution in which the accused dipped in his left hand fingers remained colourless. Then he asked the accused about the tainted amount and he picked out the amount from his right side pant pocket. He verified the same with the mediators with regard to the particulars mentioned in the pre trap proceedings and the mediators found the number tallying. PW9 is the Inspector, CIU, ACB, Hyderabad during the relevant period, who assisted PW8.

14. The main contentions of the counsel for the appellant are that there is no proof of demand made by the accused. There was no official favour pending as on the date of the trap proceedings. There is no proof that the accused was placed in charge of Injapur. The evidence of PWs.2 and 8 is unbelievable, as it would be difficult for PW2 to observe the proceedings from the place where he was standing. With regard to PW8, his evidence shows that he was also observing the happenings between PW1 and the accused in which circumstance he need not wait for the signal to be given by PW1 and he could have apprehended the accused as soon as he accepted the currency notes. With regard to the proof of demand, the evidence of PW1 is very much available. There are absolutely no motives made out against PW1 to depose falsely against the accused. The aspect of delay in preparing the file would not be relevant as, as soon as the work was entrusted to the accused, he made the demand. He might not have delayed the file till his demand was met, but the evidence of PW1 shows that the demand was very much made and that the accused made it very clear that unless he meets the demand, his work would not be done.

15. As already observed, the rulings relied upon by the counsel dealt with the cases in which the complainant turned hostile. The above rulings did not lay down any law that the evidence of

the complainant cannot be believed without corroboration. When there are absolutely no motives made out against PW1 to fix the accused in the alleged offences, there need not be any reason to believe his evidence, that the accused made a demand. The evidence of PW3 to 4 would show that the matter was entrusted to the accused, though not by virtue of a written order and the evidence is consistent with regard to the accused inspecting the lands pertaining to PW5 and preparing a report. Hence, there need not be any doubt in believing that the accused was dealing with the mutation proceedings with the work relating to the inspection of the land and preparation of the report. As regards the favour being pending, by the date of demand, the official favour was undisputedly pending. The official favour is not defined under the Act. Till the mutation proceedings are affected and till the documents evidencing the mutation proceedings are handed over to PW1, the official favour still stands to be with the concerned officials, which include the accused. It might be true that the job of the accused was completed by the date of trap, but the benefit of the said report has not yet come into the hands of PW1. The issue relating to the other file is not relevant to this case as the demand is in respect of one file, the inspection pertaining to which was entrusted to the accused. In TRILOK CHANDRA MOURYA (T.C. MAURYA) V. STATE[4], this court did not believe that the accused was reiterating his illegal demand of bribe in respect of second contract, finding that there was no official favour pending

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[4] (2011) 2 ALD (Crl.) 672 (AP)

as on the date of demand or by the date of trap. What flows from it is that, it would suffice for the prosecution to prove that there was official favour pending as on the demand and not necessarily on the date of trap. In this case, the official favour was very much pending by the time of the demand made by the accused.

16. As regards, the possibility of PW2 evidencing the proceedings, Ex.P9, which is the rough sketch of the scene of offence, does not project any difficulty. Visitors room numbered as 2 is the room in which PW2 signed, as per the evidence of PW2 and he was standing outside that room. MRO's chambers, which is numbered as 3, is the room into which PW1 and the accused came out and went into. It is true that there is no separate entrance for the said room and the entrance is from inside the visitors room. But it cannot be impossible for a person standing at the door of the visitors room, to witness the proceedings happening in the MROs chambers. Hence, there need not be any doubt that PW2 could witness the happenings in the MRO's chamber, as the door is diagonally opposite to the door of the visitors' room. Hence, the evidence of PW2, which can be believed, comes in support of the evidence of PW1.

17. PW8 also spoke about his witnessing the proceedings. It is stated by them that they took vantage position. They being adept in fixing the positions would fix the positions in such a manner as would provide them clear view. The contention that they did not apprehend the accused immediately after he

received the amount, need not be given much weight. As there was a prearranged plan as to how they should go about with the case, they might have waited till PW1 gave the signal, without being hasty. Irrespective of the evidence of PW8, the credible evidence of PW1 itself would suffice to prove the case. The defence of the accused that PW1 thrusted the amount into the pocket of the accused while he was urinating and that after he completed his urination he wanted he return the money to PW1 is totally bereft of any truth and supporting circumstances. If that was the case, he would have followed PW1 and accomplished his thought of returning the money to PW1. The evidence of PW8 shows that he was very much present in the office by the time they went to trap him. The conduct of the accused in touching the feet of PW8 also can be taken into account, to believe his guilt.

18. There is another contention made by the appellant's counsel, that there is a discrepancy between the evidence of PWs.1 and 2 with regard to the currency notes being kept in a cover. The evidence of PW1 does not speak about removing currency notes form the cover, before handing over to the accused. The evidence of PW2 also does not speak about the same. But in the chief examination of PW2, he states that the tainted notes were kept in a cover and the same was kept in pant pocket of PW1. In the considered opinion of this court, this is a minor discrepancy, which does not affect the credibility of the witnesses. Being an unimportant act, PWs.1 and 2 might not have spoken about the same. Allowing that one minor

discrepancy to topple down the entire case of the prosecution, which stands on a consistent and credible evidence of PWs.1 to 9, would not be in the interest of justice.

19. Hence, in view of the above, this court opines that the judgment of the court below needs no interference.

Points 1 to 3 are answered accordingly.

POINT No.4: -

20. Accordingly, the Criminal Appeal is dismissed.

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T. RAJANI, J

September , 2018
LMV