

HONOURABLE Dr. JUSTICE SHAMEEM AKTHER

CRIMINAL APPEAL No.2 OF 2007

JUDGMENT:

This Criminal Appeal, under Section 374(2) of the Code of Criminal Procedure, 1973 (for short, 'Cr.P.C.'), is filed by the appellant/Accused Officer (AO) aggrieved by the judgment dated 29.12.2006 in C.C.No.11 of 2002 passed by the Principal Special Judge for SPE and ACB Cases, City Civil Court, Hyderabad, whereby and whereunder, the Court below found the appellant/AO guilty for the offences under Sections 7 and 13(1)(d) r/w 13(2) of the Prevention of Corruption Act, 1988 (for short "PC Act") and accordingly, she was convicted and sentenced to undergo Rigorous Imprisonment for a period of one(1) year and to pay fine of Rs.1,000/-, in default to suffer simple imprisonment for one(1) month for the offence under Section 7 of PC Act and further, she was sentenced to undergo rigorous imprisonment for a period of one(1) year and to pay fine of Rs.1,000/-, in default to suffer simple imprisonment for one(1) month for the offence under Section 13(1)(d) r/w 13(2) of PC Act. Both the substantives sentences were directed to run concurrently.

2) Heard arguments of Sri A.Hari Prasad Reddy, learned counsel for the appellant/AO and Sri N.Ananda Rao, learned Special Public Prosecutor for ACB representing the respondent/ State and perused the record.

3) Learned counsel for the appellant/AO would submit that PW.1 was the decoy and crucial witness to prove the demand and

acceptance of tainted amount of Rs.2,000/- but his evidence is totally improvised version suffering from omissions and contradictions. PW.1 in his evidence categorically stated that he produced records relating to the Returns of 1996-97. The AO called for ACTO concerned and directed him to verify the records and put up the note for assessment. Again on the evening of 24.02.2000, PW.1 met the AO in her office and the AO demanded Rs.3,000/-. PW.1 in his cross-examination admitted that he did not mention in Ex.P.3-report that on 24.02.2000 he met AO in the evening hours after submission of books in the morning and that the AO demanded Rs.3,000/- bribe to issue the Final Assessment Order. PW.1 did not state in his statement recorded under Section 161 Cr.P.C that during evening on 24.02.2000 he met the AO and the AO demanded the bribe. There is no mention in Ex.P.3-report that PW.1 continuously met the AO for three days and the AO reiterated the demand. There is also no mention in Ex.P.3-report that on 29.02.2000, PW.1 approached the AO and the AO demanded bribe of Rs.3,000/-. It is contended that the evidence of PW.1 and other prosecution witnesses is totally improved from stage to stage and hence the same cannot be taken into consideration as they are not truthful witnesses. PW.1 admitted in his cross-examination that he did not state in his 161 or 164 Cr.P.C statements that he collected the general ledger and cash book from the attender after affixing the rubber stamp thereon on 27.03.2000. So the said books were collected on 26.02.2000 only, which is much prior to trap. PW.1 specifically admitted that the tainted amount was in the diary and the diary was in the table

drawer of AO. There is inconsistency between the evidence of PW.1 and PW.8-Dy.SP, ACB, in this regard. This establishes that the tainted money was planted by PW.1 in the diary without the knowledge of AO, when she went to washroom attached to her room/chambers. So the explanation given by the AO that she neither demanded nor accepted the alleged bribe amount of Rs.2,000/- is proved. PW.1 stated that he had shown Ex.P1(a)-office copy of the served notice to ACB officials during pre-trap proceedings. However, PW.8-Dy.SP, ACB, stated that he was not shown Ex.P.1(a). It establishes that PW.1 is not a trustworthy witness. There is admission of PW.1 that Ex.P5-attendance certificate does not bear the official rubber stamp of office of the AO or ACTO or the signature of AO. Ex.P.5-attendance certificate is fabricated. PW.1 has admitted that the AO verified the books of accounts submitted on 24.02.2000. On verification of books of accounts, the tax payable on the turnover of the dealer was -Nil-. Ex.P.1(a) also disclosed that AO signed on Ex.P.1(a) on 26.02.2000 itself. It is further contended that PW.4 was brought from check post to the office of AO and was issued memos by the AO for completion of Final Assessment Order for the year 1996-97, for which PW.4 bore grudge against the AO and deposed as if the AO signed the books of accounts of the Farmers Service Cooperative Society Limited on 27.03.2000 with antedate as 26.02.2000 and falsely implicated the AO. It is also contended that there is no favour pending with AO to demand any bribe and accept the same. It is also contended that there was no occasion to demand bribe from PW.1 on 24.02.2000 as Ex.P.1(a) notice was

signed on 26.02.2000, wherein it is mentioned that total turnover and tax to be paid as -Nil-. Ex.P.1(a) would not have been issued without receiving the alleged bribe. The whole prosecution case is foisted with the help of PW.4 to eliminate the AO from the office as she was honest and strict officer. The prosecution miserably failed to prove the demand on 24.02.2000 either morning or evening. The tainted amount was also not recovered from the possession of AO. So no reliance can be placed on the evidence of PWs.1 and 4. It is also submitted that settled principle of law is that the AO need not prove his/her defence to the hilt, but it is sufficient that the AO makes out a case on preponderance of probabilities in his/her favour from the evidence on record. It is also contended that PW.8-Dy.S.P, ACB, has not properly investigated the case. PW.8 had not verified the antecedents of the AO before trap. The subject criminal case is foisted for statistical purpose. At the time of trap, the AO gave spontaneous explanation to PW.8 that she never demanded nor accepted any bribe amount from PW.1 and that she does not know how the tainted amount came into her table drawer. PW.8 admitted in his evidence that inspite of his specific instructions to LW.8-mediator to accompany PW.1 to the room of the AO, LW.8 did not enter into the room along with PW.1. The non-examination of LW.8 is also fatal to the case of prosecution. It is also contended that there was no official favour pending with AO, only formal Assessment Order was required to be issued in due course. The chemical analysis test proved negative and nothing was recovered from the physical possession of the AO.

To buttress his argument, learned counsel for the appellant/AO relied upon the following decisions:

- i) *State of Rajasthan v. Mohan Lal*¹
- ii) *Karri Venkata Rama Reddy v. State of Andhra Pradesh*²
- iii) *B. Jaya Raj v. State of Andhra Pradesh*³
- iv) *P.Satyanarayana Murthy v. District Inspector of Police*⁴

4) Learned Special Public Prosecutor would contend that as the Final Assessment Order was not passed by the AO, a favour was pending with her and for issuance of the said Final Assessment Order, she demanded Rs.3,000/- from PW.1 as bribe and later reduced the same to Rs.2,000/-. A trap was laid on 27.03.2000 around 5:00PM and PW.1 offered to pay bribe of Rs.2,000/- (MO.3) to the AO and as per the direction of AO, PW.1 kept the tainted amount of Rs.2,000/- in the diary of AO. The AO closed the diary and kept it in her table drawer, locked the drawer and kept the keys in her handbag, which was hanging to her seat and subscribed her signature on Ex.P.4 with antedate as 26.02.2000 at Ex.P.4(a). There is no inconsistency in the evidence of PWs.1, 4 and 8. PW.4-ACTO, who was working in the office of AO, is a truthful witness. His evidence strengthens the evidence of PW.1. PW.4 specifically stated that AO subscribed her signature on Ex.P.4 with antedate as 26.02.2000. There is no animosity between AO and PW.4. Furthermore, there is no reason for PW.1 to foist a false case against the AO. The contact portion of diary of AO with

¹ AIR 2009 SC 1872

² 2015(1) ALD (Crl.) 833 (AP)

³ 2014(2) ALD (Crl.) 73 (SC)

⁴ 2015(2) ALD (Crl.) 883 (SC)

cotton swab yielded positive result. MO.3-tainted amount of Rs.2,000/- was recovered at the instance of AO in the presence of mediators under the cover of panchanama. All post-trap proceedings were recorded in Ex.P.8-panchanama. There is ample oral and documentary evidence to substantiate the accusation against the AO for the offences under Sections 7 and 13(1)(d) r/w 13(2) of P.C.Act. There are no omissions and material contradictions in the evidence of prosecution witnesses and ultimately prayed to dismiss the appeal.

5) In view of the submissions made by both sides, the following points have come up for determination:

- “1. Whether there was any favour pending with AO with regard to the issuance of Final Assessment Order of the year 1996-97 in favour of Farmers Service Cooperative Society Limited?”*
- 2. Whether the Accused Officer(AO) demanded bribe of Rs.3,000/- to issue Final Assessment Order in favour of Farmers Service Cooperative Society Limited and finally settled it to Rs.2,000/-?”*
- 3. Whether the bribe of Rs.2,000/- was paid to AO on 27.03.2000 during evening hours?”*
- 4. Whether PWs.1 to 5, 7 and 8 are truthful witnesses?”*
- 5. Whether the prosecution proved the guilt of AO beyond all reasonable doubt for the offences under Sections 7 and 13(1)(d) r/w 13(2) of PC Act?”*

POINT Nos.1 to 5:

6) The specific case of the prosecution is that the AO in her official capacity as Commercial Tax Officer, Malkajgiri Circle, demanded an amount of Rs.3,000/- on 24.02.2000 as bribe from PW.1 for issuing Final Assessment Order pertaining to the year 1996-97 in favour of Farmers Service Cooperative Society Limited,

situated at Kakatiyanagar, Neredmet, Secunderabad. On receipt of notice dated 14.02.2000, PW.1 produced the relevant records including books of accounts of the society for verification in connection with payment of tax on total turnover. AO verified the records and issued a show cause notice dated 26.02.2000, which was received by the society on 15.03.2000. On that PW.1 approached AO on 23.03.2000 requesting to issue Final Assessment Order but the AO reiterated her earlier demand and on request of PW.1, AO reduced the bribe amount to Rs.2,000/- and instructed PW.1 to pay the same on 27.03.2000 at her office. Unwilling to pay the bribe amount to AO, PW.1 lodged Ex.P.3-report to PW.8-Dy.S.P, ACB, on 27.03.2000 afternoon. Basing on Ex.P.3-report, PW.8 registered the case and after conducting pre-trap proceedings vide Ex.P.7, laid trap against the AO on 27.03.2000 around 5:30PM and as per the direction of AO, PW.1 kept the tainted amount of Rs.2,000/- in the diary of AO. The AO closed the diary and kept it in her table drawer, locked the drawer and kept the keys in her hand bag, which was hanging to her seat. The chemical test conducted on the pages of the diary which came into contact with the tainted currency notes with the help of cotton swab yielded positive result. M.O.3-tainted amount of Rs.2,000/- was recovered at the instance of AO in the presence of mediators under the cover of panchanama. All post-trap proceedings were recorded in Ex.P.8-panchanama. After completion of investigation and after obtaining Ex.P.6-prosecution sanction order, PW.9-the Inspector, ACB, filed charge sheet against AO for the offences under Sections 7 and 13(1)(d) r/w 13(2) of P.C.Act.

7) There is no dispute that the Accused Officer(AO) is a public servant within the meaning of Section 2(c) of P.C. Act, 1988. There is also no dispute that there is valid sanction to prosecute the AO. However, as per the evidence and material placed on record, the AO was working as Commercial Tax Officer at Malkajgiri Circle, Secunderabad, on the date of alleged trap. Ex.P.6 is order to sanction prosecution vide G.O.Ms.No.641 Revenue (Vig.I), Department dated 29.09.2001. There is evidence of PW.6-Sri G.Rama Swamy, Section Officer, who identified the signature of the Special Chief Secretary, who issued Ex.P.6. All these establish that AO was a public servant within the meaning of Section 2(c) of P.C.Act and there was valid sanction to prosecute the AO. To prove the guilt of AO, the prosecution examined PWs.1 to 9 and got marked Exs.P.1 to P.14 and MOs.1 to 6. On behalf of AO, Exs.D.1 to D.3 were marked.

8) The main contention advanced on behalf of AO is that there is improved version of prosecution witnesses, no favour was pending, fingers of the AO did not yield positive to the chemical analysis test. In Ex.P1(a)-notice, there is mention that the total turnover of the Farmers Service Cooperative Society Limited, was shown as exempted turnover and net turnover was shown as -Nil-. PWs.4 and 5, who are also working in the Commercial Tax Department are inimical to the AO and hence they deposed in favour of prosecution. It is also the case of AO that on 27.03.2000 around 5:30PM when she was in the washroom, PW.1 kept MO3-tainted amount of Rs.2,000/- in her diary and the entire prosecution case is false. To establish the strained relation in

between the AO and PW.1, Ex.D1-memo was marked. The evidence of PW.4-Ahmed Mohuddin(ACTO), reveals that Ex.P.1(b)-show cause notice dated 14.02.2000 was served on the Farmers Service Cooperative Society Limited, directing it to pay 3% on the turnover of Rs.69,97,800/- for the Assessment Year 1996-97. Pursuant to the said notice, PW.1 produced books of accounts of the said society. There is also specific evidence of PW.4 that AO subscribed her signature in Ex.P.4-general ledger antedating as 26.02.2000 instead of 27.03.2000. It is also an admitted fact that no Final Assessment Order for the year 1996-97 was issued in favour of subject society. Ex.D.1-memo reveals PW.4 was directed to clear arrears of work and it is only small laches on the part of PW.4. No further action was taken pursuant to the Ex.D.1-memo. Issuing of such memos are common in the offices. Those will not have so much of ramifications to foist a false case against the AO. PW.5-T.Sakku Bai, who was working an Attender in the AO's office, corroborated her evidence with PW.4 with regard to AO subscribing her signature on Ex.P.4-general ledger at Ex.P.4(a) on the date of trap. There is admission of the AO in her written statement filed before the Trial Court with regard to issuance of Ex.P.1(b)-notice dated 14.02.2000 mentioning that annual net turnover of the society as Rs.69,97,800/- during the year 1996-97 and that why 3% tax thereon should not be levied and collected and the exemption claimed by the society was disallowed for want of documentary evidence and on production of books of accounts by the society, she perused and inspected them on 26.02.2000. It is evident that those books of accounts were not returned by the

date of trap i.e, 27.03.2000 and the Final Assessment Order of the subject society was issued only after the date of trap. Coupled with this, there is specific evidence of PWs.1 to 3, who are the employees of the subject society with regard to the demand of bribe amount of Rs.3,000/- and thereafter, reducing it to Rs.2,000/- to issue the Final Assessment Order. Therefore, it cannot be said that there was no favour pending with AO to demand and accept bribe by the date of trap i.e, 27.03.2000.

9) The specific defence setup by the AO is that on 27.03.2000 at about 5:30PM, after completion of her work, she went to toilet attached to her Chambers and within 10 minutes thereafter, she returned from the toilet and found PW.1 sitting in her room. When she questioned PW.1 about the purpose of his visit, he informed her that he belongs to subject society and came to take back the account books. Then she informed him that the account books were inspected by her before 26.02.2000 and called PW.4-ACTO through attender and directed him to return the books of accounts to PW.4. Thereafter, PW.1 went outside and immediately, ACB officials came to her room and PW.8 questioned her etc. PW.4-ACTO and PW.5-Attender, who were present there, had corroborated the prosecution case. There is specific evidence of PW.1-R.Seetharamulu @ Sharma, that after receipt of Ex.P.1(a)-notice dated 14.02.2000, which reveals the demand of 3% of tax on turnover, he met the AO and AO demanded Rs.3,000/- from him on 24.02.2000 and finally settled it to Rs.2,000/- on 23.03.2000 to issue the Final Assessment Order in favour of subject society for the year 1996-97. There is also evidence of

PW.2-Managing Director of the society sending PW.3 to the office of AO. They have also corroborated with regard to the demand and settlement made by the AO on 23.03.2000 also. There is also Ex.P.2-voucher to establish how the tainted bribe amount payable was procured from the society by PW.1. AO had given advice to the PW.1 to adjust the bribe amount payable as 'miscellaneous expenditure' in the accounts. Unwilling to pay the bribe amount to AO, PW.1 lodged Ex.P.3-report with PW.8-DSP, ACB, on 27.03.2000 afternoon and PW.8 conducted pre-trap proceedings in the presence of PW.7 and another mediator, after conducting preliminary enquiry with regard to the antecedents of AO. There is corroboration on this aspect between the evidence of PW.1 and PW.8-DSP, ACB. AO issued Ex.D.1-memo to PW.4-ACTO to complete the arrears of work. Merely because PW.4 was issued Ex.D.1-memo, it cannot be said that he deposed falsely against AO on antedating Ex.P.4(a) as 26.02.2000 instead of 27.03.2000. The defence setup by the AO is that on 27.03.2000, in her absence PW.1 entered into her chambers and planted the tainted amount of Rs.2,000/- in her diary while she was in bathroom for about 10 minutes. PW.4-ACTO and PW.5-chamber attender did not depose about PW.1 entering into the chamber of AO in her absence. It is also pertinent to state that as per the entire oral and documentary evidence on record, after keeping the bribe amount of Rs.2,000/- in the diary of AO on 27.03.2000 around 5:30pm and after instructions being given to PW.4 by AO, PW.1 came outside from the office room of AO and was waiting outside. On his signalling, PW.8 and other trap party members entered into the chambers of

AO. When the AO was examined in her chambers, PW.1 was outside of her chambers. When PW.8 questioned the AO with regard to the bribe amount, she voluntarily pointed out her hand towards the right side table drawer and she opened the locker of the said table drawer with the Key, which was in her hand bag and the said bag was hanging to the chair, in which she was sitting. AO had taken out a brown colour Diary (MO4) from the said table drawer and produced it before PW.8, PW.7 and other mediator. The tainted currency notes numbering 20, each one of hundred rupees denomination were found at Pages 9 and 10 of MO4-diary belonging to AO. On verification of the currency notes and subjecting them to chemical test, they turned into pink colour. Further, contact portion of the tainted currency notes on the diary was tested with a cotton swab in a freshly prepared sodium carbonate solution, which also turned into pink colour. There is detailed evidence of PW.8-DSP, ACB and also one of the mediators-PW.7 on these aspects. There is also evidence on record that along with tainted amount of Rs.2,000/-, some more amount i.e, Rs.5,700/- of various denominations were also seized from the handbag of AO. AO claimed it to be her personal money. As far as post-trap proceedings are concerned, there are no material omissions or contradictions in the evidence of PWs.1, 7 and 8. The file pertaining to subject society was seized from the office table of AO during the post-trap proceedings and marked as Ex.P.1. The statements of PW.4-ACTO and PW.5-Attender, were also recorded in the post-trap proceedings under Ex.P.8. Ex.P.7 is the pre-trap proceedings marked through PW.8. There are no inconsistencies in

it. Had the defence of AO that in her absence the tainted amount was planted in MO4-diary belonging to her is correct, she would not have any knowledge about planting of the said amount. Further, the tainted amount would not have been recovered at her instance as indicated above. Admittedly, when the fingers of AO were subjected to sodium carbonate chemical analysis test, they did not yield any positive result. As per the prosecution case, she did not touch the amount. She directed PW.1 to keep the amount in her diary. Therefore, there is no possibility of AO getting in contact with the tainted amount. On this ground the prosecution case cannot be disbelieved. PW.9-Inspector of Police deposed about the issuance of FIR in Crime No.7/ACB-CR/2000 dated 27.03.2000.

10) In Mohan Lal's case (1 supra), the Apex Court held that the tainted amount was recovered from open almirah of accused. There was no evidence to show how currency notes smeared with powder reached in almirah. The Trial Court acquitted the accused and the Hon'ble High Court upheld the same. The Hon'ble Apex Court also declined to interfere with. In the instant case, it is pertinent to state that there is specific evidence of PW.1 that on instructions of AO, the tainted money was kept in Ex.P.4-diary belonging to AO. In the absence of PW.1, at the instance of AO only the tainted money was recovered from Ex.P.4-diary. Ex.P.4-diary was kept in the table drawer of the AO. It is the AO, who opened the table drawer with a key kept in her handbag, which was hanging to her chair. There is incriminating evidence to substantiate the demand, acceptance and recovery of the tainted

money as urged by the Special Public Prosecutor. There are no inconsistencies or material omissions in the evidence of prosecution witnesses in this regard. Therefore, the above mentioned decision has no application to the instant case.

11) In Karri Venkata Rama Reddy's case (2 supra), it was held that no witness had accompanied PW.1 to find out what exactly transpired between the AO and PW.1. When AO was questioned, AO gave spontaneous explanation that he did not demand and receive bribe and hence the AO was given benefit of doubt. In the instant case, there is demand of bribe by AO on 24.02.2000. Thereafter, there was a settlement with regard to the bribe amount payable. There are inconsistencies in the defence setup by the AO. Furthermore, the tainted amount was recovered at her instance only from the table drawer as indicated above. The facts of the instant case are different from the aforementioned case.

12) In B.Jayaraj's case (3 supra), the Apex Court held as follows:

"7. In so far as the offence under Section 7 is concerned, it is a settled position in law that demand of illegal gratification is sine qua non to constitute the said offence 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. The above position has been succinctly laid down in several judgments of this Court. By way of illustration reference may be made to the decision in C.M. Sharma Vs. State of A.P. (AIR 2011 SC 608) and C.M. Girish Babu Vs. C.B.I. (AIR 2009 SC 2022).

8. xxxx xxxx ...

9. In so far as the presumption permissible to be drawn under Section 20 of the Act is concerned, such presumption can only be in respect of the offence under Section 7 and not the offences under Section 13(1)(d)(i)(ii) of the Act. 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. Proof of acceptance of illegal gratification can follow only if there is proof of demand. As the same is lacking in the present case the primary facts on the basis of which the legal presumption under Section 20 can be drawn are wholly absent".

There is overwhelming evidence in the case on hand to establish that there was pendency of favour, demand of bribe and settlement of amount from Rs.3,000/- to Rs.2,000/- by the AO to issue Final Assessment Order for the year 1996-97 in respect of subject society. Therefore, the facts of the instant case are distinct from the aforementioned decision.

13) In P. Satyanarayana Murthy's case (4 supra), the Apex Court held as under:

"20. In a recent enunciation by this Court to discern the imperative prerequisites of Sections 7 and 13 of the Act, it has been underlined in B. Jayaraj's case (supra) in unequivocal terms, that mere possession and recovery of currency notes from an accused without proof of demand would not establish an offence under Section 7 as well as Sections 13(1)(d)(i) and (ii) of the Act. It has been propounded that in the absence of any proof of demand for illegal gratification, the use of corrupt or illegal means or abuse of position as a public servant to obtain any valuable thing or pecuniary advantage cannot be held to be proved. The proof of demand, thus, has been held to be an indispensable essentiality and of permeating mandate for an offence under Sections 7 and 13 of the Act. Qua Section 20 of the Act, which permits a presumption as envisaged therein, it has been held that while it is extendable only to an offence under Section 7 and not to those under Sections 13(1)(d)(i) and (ii) of the Act, it is contingent as well on the proof of acceptance of illegal gratification for doing or forbearing to do any official act. Such

proof of acceptance of illegal gratification, it was emphasised, could follow only if there was proof of demand. Axiomatically, it was held that in absence of proof of demand, such legal presumption under Section 20 of the Act would also not arise.

21. The proof of demand of illegal gratification, thus, is the gravamen of the offence under Sections 7 and 13(1)(d)(i) and (ii) of the Act and in absence thereof, unmistakably the charge therefor, would fail. Mere acceptance of any amount allegedly by way of illegal gratification or recovery thereof, de hors the proof of demand, ipso facto, would thus not be sufficient to bring home the charge under these two sections of the Act.

22. As a corollary, failure of the prosecution to prove the demand for illegal gratification would be fatal and mere recovery of the amount from the person accused of the offence under Section 7 or 13 of the Act would not entail his conviction thereunder.

25. In reiteration of the golden principle which runs through the web of administration of justice in criminal cases, this Court in Sujit Biswas vs. State of Assam [2013(2) ALD (Crl.)618 (SC)= (2013) 12 SCC 406], had held that suspicion, however grave, cannot take the place of proof and the prosecution cannot afford to rest its case in the realm of "may be" true but has to upgrade it in the domain of "must be" true in order to steer clear of any possible surmise or conjecture. It was held, that the Court must ensure that miscarriage of justice is avoided and if in the facts and circumstances, two views are plausible, then the benefit of doubt must be given to the accused."

There is specific evidence of PW.1 that AO demanded Rs.3,000/- as bribe and thereafter, reduced it to Rs.2,000/-. There is also corroboration of PWs.2 and 3, who are colleagues of PW.1. In addition, there is ample evidence to hold bribe amount of Rs.2,000/- was paid on 27.03.2000 and was recovered as deposed by PW.7 and PW.8 and as mentioned under Ex.P.8-panchanama. Further, the prosecution case is not based on suspicion.

14) The prosecution proved the guilt of AO beyond all reasonable doubt that she demanded Rs.3,000/- and finally settled it to Rs.2,000/- and accepted the same on 27.03.2000 at 5:30pm from PW.1 and the same was recovered, as deposed by PWs.7 and 8 and mentioned in Ex.P.8-post trap proceedings. There are no material omissions and contradictions in the evidence of prosecution witnesses i.e, PWs.1 to 9. It is also relevant to state that the Trial Court had meticulously dealt with all the contentions raised on behalf of the AO and negated the same. The Trial Court had rightly convicted and sentenced the AO for the offences under Sections 7 and 13(1)(d) r/w 13(2) of P.C.Act to suffer Rigorous Imprisonment for a period of one(1) year and to pay a fine of Rs.1,000/-, on each count, in default to suffer Simple Imprisonment for one(1) month. The Criminal Appeal is devoid of merit and is liable to be dismissed.

15) In the result, the Criminal Appeal is dismissed, confirming the judgment dated 29.12.2006 passed in C.C.No.11 of 2002 by the learned Principal Special Judge for SPE & ACB Cases, City Civil Court, Hyderabad. Consequently, the appellant/Accused Officer is directed to surrender before the Trial Court forthwith to undergo the sentences of imprisonment imposed against her, failing which, the Trial Court is directed to take required measures against AO in terms of impugned judgment.

Pending Miscellaneous petitions if any, shall stand closed.

Dr. JUSTICE SHAMEEM AKTHER

Date: 04.06.2019
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