BAIL SLIP

CRL.A.No.823/2011:

The Appellant/ Accused namely B.A.Sampath Kumar, S/o.Bargur Alagu Chetty was directed to be released on bail as per order dt.20.12.2011 in MP.No.1/2011 in Crl.A.No.823/2011 on the file of this Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 20.11.2019
Pronounced on : 05.06.2020

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CRL.A.No.823 of 2011

B.A.Sampath Kumar ... Appellant/Accused

Vs.

State rep. by,
Inspector of Police,
SPE/CBI/ACB, Chennai.
R.C.No.39(A)/2008. ... Respondent/Complainant

PRAYER: Criminal Appeal filed under Section 374(2) of the Code of Criminal Procedure, to admit the appeal and call for the records from the trial Court in C.C.No.5 of 2008 on the file of the II Additional District Court for CBI Cases, Coimbatore, hear the counsel for the appellant/accused and set aside the conviction and sentence passed in C.C.No.5 of 2008 dated 10.12.2011 by the learned II Additional District Court for CBI Cases, Coimbtore.

For Appellant : Mr.A.V.Somasundaram for M/s.Lakshmipriya Associates
For Respondent : Mr.K.Srinivasan Special Public Prosecutor for CBI Cases

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JUDGMENT

The appellant preferred this Criminal Appeal aggrieved by Judgment and Conviction passed by the learned II Additional District Judge / Special Judge (CBI Cases), Coimbatore in C.C.No.5 of 2008, dated 10.12.2011, convicting and sentencing the appellant / accused as follows:-

Sl. No.	Offence for which convicted	Sentence of imprisonment	Fine amount
1.	Under Section 7 of Prevention of Corruption Act, 1988.	1 year Rigorous Imprisonment.	Rs.1000/-, in default, to undergo three months Rigorous Imprisonment.
2.	Under Section 13 (2) r/w 13(1)(d) of Prevention of Corruption Act, 1988.	1 year Rigorous Imprisonment.	Rs.1000/-, in default, to undergo three months Rigorous Imprisonment.

The sentences were ordered to run concurrently. The total fine amount is Rs.2,000/-.

2.In nutshell, prosecution case, as described and established before the trial Court, is like thus:-

(i)The Appellant/accused was working as Special Assistant and functioning as Cash Officer in State Bank of India, Elathagiti Branch in Krishnagiri District since March 2004 and he is a public servant. He was responsible for processing the agricultural loans including jewel loans for agricultural purposes under the Agriculture Debt Waiver and Debt Relief Scheme 2008 of the Government of India. One K.V.Narayanan/defacto complainant/P.W.4, a farmer of Kandhi Kuppam, Kamaraj Nagar, Krishnagiri District, who availed jewel loan for Rs.51,000/- from the said branch closed his account with interest on 05.05.2008. He was eligible for relief amount under the Agriculture Debt Waiver and Debt Relief Scheme 2008. He approached the appellant on 28.07.2008 to avail such relief and sought release of eligible relief amount, for which, the appellant sought certain documents to be produced on 29.07.2008; when the defacto complainant produced the said documents on 29.07.2008, the appellant/accused by abusing his official position as public servant, demanded an illegal gratification of Rs.3,000/- from the defacto complainant and asked him to pay bribe amount on 30.07.2008. Since the defacto complainant was not willing to give bribe amount, he contacted the Superintendent of Police/CBI, Chennai over phone on 29.07.2008 and explained the matter and on the direction of Superintendent of Police, CBI., P.W.4 gave a written complaint to one Shri Prabakaran, Inspector of Police/P.W.9, who was deputed to Krishnagiri on 30.07.2008.

(ii)Accordingly, on 30.07.2008, P.W.4 met P.W.9 and gave a written complaint Ex.P30. On receipt of the same, P.W.9 on instructions from the Superintendent of Police, went to Elathagiri village, conducted a discreet verification and found that the contents of complaint are genuine and also came to know that the appellant/accused was not enjoying good reputation, he gave verification report Ex.P33 and forwarded it to higher officials. On receipt of the same, the Superintendent of Police directed P.W.10 Palaniyappan Inspector of Police to register a case against the appellant/accused and directed P.W.9/TLO to lay a trap. Accordingly, P.W.10 registered a case in RC No.39(A)/2008 against the accused under Section 7 of PC Act, 1988 and prepared Ex.P36 FIR.

(iii)As directed, P.W.9 contacted the Branch Manager, National Insurance Company Limited, Krishnagiri and Branch Manager, United India Insurance Company Limited, Hosur over phone and asked to depute one independent witness each to be witness for the trap proceedings to be at held at Room No.208, Hotel Velan International, Krishnagiri. Accordingly, P.W.6 Ravi Administrative Officer and one Shri Ramprasad, Administrative Officer from both offices came to the hotel. P.W.9 introduced P.W.4 to them and explained about the complaint given by P.W.4 and thereafter demonstrated the phenolphthalein test and explained the significance of the sodium carbonate-phenolphthalein test to all the team members. P.W.9 further instructed P.W.4 to give the bribe amount after the demand was made by the accused and after the accused received the money he has to give the signal by wiping his face with his hand. Further, P.W.6 was directed to accompany the defacto complainant. The said proceedings were recorded under the mahazar Ex.P31.

(iv)After reaching the trap spot, viz., SBI, Elathagiri on 30.07.2008 at about 1.15 p.m., P.W.4 and 6 went inside State Bank of India and P.W.4 went to the cabin of the appellant and met him. P.W.4 was asked to wait for 10 minutes. The raiding party was waiting nearby there for the signal of P.W.4.

(v)Few minutes later, the appellant called P.W.4 to his room and P.W.4 went along with P.W.6, the appellant asked P.W.4 whether he brought the bribe money. At that time, P.W.4 requested the appellant to reduce Rs.500/- and to receive Rs.2,500/-, for which, the appellant refused and insisted to pay Rs.3,000/-, then only, PW4 would get the waiver relief and refund amount. Therefore, P.W.4 took out the tainted money and handed over to the accused. On receiving the said currency notes by his left hand, the appellant/accused counted the same with both hands and kept it inside his left side pant pocket and informed P.W.4 to collect the waiver relief amount of Rs.20,000/- by evening or the next day morning. Then P.W.4 and P.W.6 came out, gave the prearranged signal by wiping his face with hands.

(vi)Immediately, P.W.9 along with his team entered into the bank, rushed to the cabin of Branch Manager and introduced himself and other members to the appellant and asked his identity. Further he asked whether he had accepted the bribe amount from P.W.4 K.V.Narayanan. At that time, the appellant became perplexed and trembling. Initially he denied the acceptance of the bribe, but later he admitted the receipt of bribe amount. Thereafter, in the presence of Branch Manager of the bank, one Head Constable Jeyaraj prepared two separate sodium carbonate powder solutions and requested the accused to dip both his right and left hand fingers separately and the solution turned pink in colour, which was marked as M.Os.1 and 2. P.W.9 enquired about the bribe amount and the accused took out a bunch of currency notes from his left side pant pocket and kept it on the table. One Ramprasad, independent witness was directed to count the currency notes and after verifying the same, they found it tallied with Entrustment mahazar Ex.P31. Further there was additional amount of Rs.18,800/-, for which, the appellant could not give satisfactory explanation. This amount was also seized under mahazer Ex.P22 vide M.Os.5 and 6. Thereafter, the accused was arrested and arrest memo Ex.P34 was prepared in the presence of the witnesses. The accused was provided with a dhothi and his pant was taken and left side pocket was subjected to phenolphthalein test, which turned pink colour and the same is marked as M.O.3 and the pant was marked as M.O.4. P.W.9 seized documents related to this case from Branch Manager and they were marked as Ex.P15, 16 and 25 to 29. The post trap proceedings were concluded at about 16.30 hours. During the trap proceedings, rough sketch was prepared. P.W.2, Branch Manager, SBI, Elanthangiti Branch was informed that the appellant was caught red handed while receiving bribe. P.W.9 produced the appellant before the Court for remand.

(vii)Thereafter P.W.10, Inspector of Police, took up the case for investigation. He examined witnesses, recorded statements, forwarded all the seized documents and material objects to the court along with a requisition to send the same for chemical analysis. P.W.1 Assistant General Manager (Administration), State Bank of India accorded sanction to prosecute the appellant/accused. The sanction order is Ex.P1. After examining the remaining witnesses and after completion of investigation, P.W.10 filed the charge sheet in this case against the accused for the offence under Sections 7, (13)(1)(d) r/w. 13(2) of the Prevention of Corruption Act, 1988.

3.To prove the guilt of the accused, on the side of the prosecution, as many as 10 witnesses were examined as P.Ws.1 to 10 and 37 documents were marked as Exs.P.1 to P.37. On the side of the accused, no witness was examined, however, Exs.D1 to 5 were marked as defence exhibits.

4.When the appellants was questioned under Section 313 Cr.P.C., about the incriminating circumstances appearing against him, he denied the same.

5.The trial Court, on the basis of the oral and documentary evidence, convicted and sentenced the accused as aforesaid and challenging the legality of the said conviction and sentence, the present appeal has been filed by the appellant.

6.The learned counsel appearing for the Appellant would submit that the trial Court erred in convicting the appellant without proper appreciation of the evidence on record. The trial Court failed to look into the admission made by various witnesses particularly the bank officials to one aspect namely the appellant was not having any power to sanction or release debt relief andthe appellant did not demand any money when P.W.4 first approached him on 28.07.2008 with a request for getting the debt relief. Further, nobody deposed about the earlier demand of bribe alleged to have been made by the accused on 29.07.2008. The learned Judge though accepted that the prosecution did not examine the Superintendent of Police, whom P.W.4 contacted on 29.07.2008, has failed to come to a conclusion that the first demand was not corroborated by the Superintendent of Police and he was also not been examined as witness. CBI did not produce any general diary of CBI to show the recording of conversation between P.W.4 and the Superintendent of Police. The learned Judge without looking into the endorsement made by the counsel for the accused in the petition under Section 19 of the Prevention of Corruption Act, was carried away by the contention of the prosecution that the said petition was dismissed. The accused brought to the notice of the trial Court at the earliest point of time about the invalidity of the sanction order. The trial Court has not properly appreciated the question of law involved in the cases relied on by him.

7.He further submitted that P.W.4 was admittedly a chronic defaulter who failed to make repayment to the Bank towards loan obtained by him. He has to pay lot of amount towards interest and principal to SBI. There are lapses in the investigation carried out by P.W.9 and P.W.10. The reasons of the trial Court for not accepting the defence version in paragraph No.38 of the lower Court Judgment are contrary to facts and it is flagrant violation of the right of the accused, who raised preponderance of probabilities in his defence. Thus, he prayed for setting aside the judgment and conviction by allowing this appeal. In support of his contention, the learned counsel relied upon the following decisions of the Hon'ble Apex Court:-

1.The Apex Court in the case of Abdul Rehman Antulay Versus R.S.Nayak and another reported in AIR 1992 SC 1701(1), had given 11 guidelines to the consequence following from infringement of right to speedy trial. The same is extracted as follows:-

"Right to Speedy Trial flowing from Article 21 encompasses all the stages, namely the stage of investigation, inquiry, trial, appeal, revision and re-trial. That is how this Court has understood this right and there is no reason to take a restricted view."

2.Dhananjoy Chaterjee Versus State of West Bengal reported in 1994 SCR (1) 37, wherein, the Hon'ble Apex Court in para 5 and 9 held as follows:

"5.Search was made for the appellant by the police at different places during the night intervening 5th and 6th March 1990 but in vain. The appellant did not even visit his employers to collect his wages for the past 5 days. He did not report at 'Paras Apartment' either. Though he was also doing night duty at another place, he did not report for duty there and did not collect his wages for four days service rendered with the other employer either. He was not traceable. Some raids were conducted in the village of the appellant at Kuludihi, within the jurisdiction of Chatna Police Station on different dates but ultimately it was only on May 12, 1990 that the appellant came to be arrested. Pursuant to a disclosure statement made by him under Section 27 of the Evidence Act, a 'Richo' wrist-watch was recovered. Appellant also led to the recovery of his shirt and trousers wrapped in a newspaper from his house pursuant to a disclosure statement. At the trial the appellant pleaded innocence and alleged false implication "due to quarrel with PW 4 over his transfer". In his statement made at the trial under Section 313 CrPC, the appellant stated that after his duty hours as the security guard at Anand Apartment on the date of the occurrence he had gone to a cinema and then purchased some fruits in connection with the sacred thread ceremony of his younger brother and left for his native place with the fruits to participate in the said ceremony. He denied the recoveries allegedly made from him. He, however, led no defence evidence.

9.We are unable to agree with the opinion of the High Court. The cryptic telephonic message received at the police station from Nagardas PW 4 had only made the police agency to rush to the place of occurrence and record the statement of Yashmoti PW 3 and thereafter commence the investigation as was admitted by the investigating officer in his testimony which testimony was not challenged during the cross-examination of the investigating officer. The High Court failed to notice that the vague and indefinite information given on the telephone which made the investigating agency only to rush to the scene of occurrence could not be treated as a first information report under Section 154 of the CRPC. The unchallenged statement of the investigating officer that he commenced the investigation only after recording the statement of PW 3 Yashmoti unmistakably show, that it was that statement which alone could be treated as the first information report. The High Court fell in error in observing that the statement of PW 3 Yashmoti was recorded "after the investigation had already commenced". There is no material on the record for the above opinion of the High Court. The cryptic telephonic message given to the police by Nagardas PW 4 was only with the object of informing the police so that it could reach the spot. The investigation in the case only started after the statement of PW 3 Yashmoti was recorded. Though initially Mr Ganguli did try to support the finding of the High Court but in the face of the evidence on the record and more particularly in the absence of any challenge to the testimony of the investigating officer, in fairness to Mr Ganguli, we must record that he rightly did not pursue that argument any further. We, therefore, find ourselves unable to agree with the opinion of the High Court and hold that the statement of Yashmoti PW 3, recorded by the investigating officer PW 28, was rightly treated as FIR in this case by the prosecution and the trial court."

3.Rampal Pithwa Rahidas Versus State of Maharashtra reported in 1994 SCC (2) 685, wherein, it is held as follows:-

"37.The quality of a nation's civilization," it is said, "can be largely measured by the methods it uses in the enforcement of criminal law" and going by the manner in which the investigating agency acted in this case causes concern to us. In every civilized society the police force is invested with the powers of investigation of the crime to secure punishment for the criminal and it is in the interest of the society that the investigating agency must act honestly and fairly and not resort to fabricating false evidence or creating false clues only with a view to secure conviction because such acts shake the confidence of the common man not only in the investigating agency but in the ultimate analysis in the system of dispensation of criminal justice. Let no guilty man go unpunished but let the end not justify the means! The courts must remain ever alive to this truism. Proper results must be obtained by recourse to proper means otherwise it would be an invitation to anarchy."

4.V.Venkata Subbarao Versus State represented by Inspector of Police, Andhra Pradesh reported in AIR 2007 Supreme Court 489, wherein, the Hon'ble Apex Court has held as follows:

> "25.Furthermore, even in such a case, the burden on an accused does not have to meet the same standard of proof, as is required to be made by the prosecution.
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> 26.In M.S.Narayana Menon @ Mani V. State of Kerala & Anr. {(2006) 6 SCC 39)}, this Court held:
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> > "Moreover, the onus on an accused is not as heavy as that of the prosecution. It may be compared with a defendant in a civil proceeding."

5.Nanjappa Versus State of Karnataka reported in AIR 2015 Supreme Court 3060, wherein, it is held as follows:-

> "17.In the case at hand, the Special Court not only entertained the contention urged on behalf of the accused about the invalidity of the order of sanction but found that the authority issuing the said order was incompetent to grant sanction. The trial Court held that the authority who had issued the sanction was not competent to do so, a fact which has not been disputed before the High Court or before us. The only error which the trial Court, in our opinion, committed was that, having held the sanction to be invalid, it should have discharged the accused rather than recording an order of acquittal on the merit of the case. As observed by this Court in Baij Nath Prasad Tripathi's case (supra), the absence of a sanction order implied that the court was not competent to take cognizance or try the accused. Resultantly, the trial by an incompetent Court was bound to be invalid and non-est in law.
>
> 20.The High Court has not, in our opinion, correctly appreciated the legal position regarding the need for sanction or the effect of its invalidity. It has simply glossed over the subject, by holding that the question should have been raised at an earlier stage. The High Court did not, it appears, realize that the issue was not being raised before it for the first time but had been successfully urged before the trial Court."

8.The learned Special Public Prosecutor appearing for the respondent submitted that in this case the Government of India introduced a scheme called Agriculture Debt Waiver and Debt Relief Scheme 2008 for the need of agriculturists. PW4, a beneficiary under the scheme had approached the appellant/accused on 28.07.2008. PW4 asked to submit the Photostat copies of the ration card, patta passbook, bank passbook, two photos and voter ID etc. On 29.07.2008 PW4 submitted all these documents to the appellant who after scrutinizing the same, demanded bribe of Rs.3,000/- for issuing cheque of Rs.20,000/- as per the scheme. The said bribe amount was to be paid to the appellant on the next day i.e., on 30.07.2008. Not willing to pay the bribe, PW4 contacted the Superintendent of Police/CBI, Chennai through phone and made a complaint about the appellant demanding bribe. The Superintendent of Police/CBI had asked for certain particulars which PW4 was unable to immediately provide and informed that he will give the particulars on perusal of the documents which are available at his home. The Superintendent of Police/CBI informed PW4 that PW9/the Inspector of Police Prabakaran would be deputed to Krishnagiri on 30.07.2008. PW4 was directed to give a complaint. PW9 along with the trap team reached the Krishnagiri and stayed at Velan International Hotel. PW9 contacted PW4, who met PW9 lodged a complaint [Ex.P30]. Thereafter PW4 was asked to wait. In the meanwhile PW9 made request from National Insurance Company, Krishnagiri and United Insurance Company, Hosur to depute one of its officers to be witness for trap proceedings. PW6 Ravi, Administrative Officer and one Ramprasad, Administrative Officer from both offices came to the hotel. PW9 introduced PW4 to them and explained about the complaint and their doubts were clarified with PW4. In the meanwhile PW9 had made discrete enquiry, found that the reputation of the appellant was also doubtful. Thereafter he forwarded the complaint with his report to the Superintendent of Police/CBI by Fax. The Superintendent of Police directed PW10/Palaniyappan to register an FIR [Ex.P36] and directed PW9 to proceed with the trap.

9.The Special Public Prosecutor further submitted that PW9 had conducted the trap proceedings, explained its importance to PW4, PW6 and Ramprasad in presence of other trap team members. Thereafter the trap money was kept in the left shirt pocket of PW4. PW4 and PW6 proceeded in the motor bike of PW4 followed by PW9 and the trap team. PW4 and PW6 entered State Bank of India, Elathagiti Branch, Krishnagiri, the trap team positioned themselves in and around the bank. When PW4 approached the appellant, he asked him to wait. After some time when PW4 was called, PW4 and PW6 went to the cabin of the appellant. The appellant demanded the bribe amount from PW4, who requested to reduce the bribe by Rs.500/- which was not accepted. The appellant stated that unless the bribe amount of Rs.3,000/- is paid, the amount of Rs.20,000/- would not be paid to him. PW4 handed over Rs.3,000/- and asked for the subsidy amount. The appellant informed that the cheque for subsidy amount would be made ready either on the same day evening or the next day morning. Thereafter PW4 and PW6 came out and gave the pre-arranged signal. PW9 along with trap team entered into the bank, enquired the appellant about the receipt of bribe amount. Initially the appellant refused and later, he admitted the receipt of bribe amount, phenolphthalein test was conducted which turned positive. Thereafter, the appellant was arrested, amount was recovered and he was remanded to judicial custody. The case was handed over to PW10, who took up further investigation, recorded the statement of witnesses, forwarded the seized articles to forensic department for chemical analysis, received the report and after obtaining sanction for prosecution, the charge sheet was filed before the trial Court. On completion of the trial, the appellant was convicted and sentenced as stated above.

10.This Court considered the rival submissions and perused the materials available on record.

11.The main thrust of the arguments made by the learned counsel for the appellant is that PW4 who had availed several loans from the State Bank of India, Elathagiti Branch, Krishnagiri, is a chronic defaulter. On 03.11.2006, PW4 had applied a loan for Rs.51,000/- (Rupees fifty one thousand only) in gold jewel account No.11426780439 and Ex.P20 is the Ledger Sheet. The first repayment of Rs.35,000/- was made on 27.02.2008, the payment voucher is Ex.P12. In the meanwhile, the Agricultural Debt Waiver and Debt Relief Scheme beneficiaries list/Ex.P15, was released as on 29.02.2008, the total due with principal and interest are Rs.51,000/- + Rs.4,940/- = Rs.55,940/-. The second repayment of Rs.18,000/- (Rupees eighteen thousand only) was made on 23.04.2008, the payment voucher is Ex.P13. Hence the total amount of Rs.53,000/- (Rupees fifty three thousand only) had been paid against the total debt of Rs.55,940/- and the balance amount of Rs.3,100/- (Rupees three thousand one hundred only) was paid on 05.05.2008 as could be seen from Ex.P19. During the year 2008, Internal Circular (Agricultural Debt Waiver and Debt Relief Scheme, 2008)/Ex.P14 was issued whereby the PW4 was eligible for Rs.20,000/- of waiver which were to be refunded to him. The appellant on 28.07.2008 was directed to produce the Photostate copies of ration card, patta passbook, bank passbook, voter ID and two photos of PW4. On 29.07.2008, PW4 met the appellant with the request documents, at that time the appellant had demanded him to pay Rs.3,000/- to avail the debt relief of Rs.20,000/-. The said amount was the due amount to be paid in respect of account No.11426780439. PW4 being a chronic defaulter, was reluctant to pay the due, adopted a ploy with conning mind set in terms that Rs.3,000/- was demanded as bribe and lodged a false complaint. The respondent failed to ascertain the true facts, registered a false case against the appellant. Thereafter, the respondent collected and produced the documents to propound the case, not conducted fair and impartial investigation was conducted and failed to bring the true facts before the Court.

12.PW2 the Branch Manager, State Bank of India, Elathagiti Branch, Krishnagiri admitted that PW4 has availed five loans in his branch. This fact has not been looked into by PW9 and PW10/TLO. When PW4 was questioned about the same, he feigns ignorance and loss of memory. PW6 except for the trap, he has not aware of the motivated complaint and the implication of the appellant in this case.

13.This Court on careful perusal of the evidence and materials finds that PW2/the Branch Manager in his evidence though admitted that PW4 had availed five loans from his branch, except for the jewel loan which was availed on 03.11.2006 through Ex.P4, all the other four loans were not covered under the scheme [Ex.P14]. Further PW2 in his evidence has stated about the appraiser report [Ex.P5] and the sanction of loan on 03.11.2006 by him through Ex.P5, arrangement letter [Ex.P8] and the demand promissory notes executed by PW4 [Exs.P10 & P11]. Further the first repayment of Rs.35,000/- was made on 27.02.2008 through Ex.P12 and second repayment of Rs.18,000/- was made on 23.04.2008 through Ex.P13. As per Ex.P15, the name of PW4 is found in the beneficiary list which was displayed in the notice board of the bank. PW5, the Assistant Manager/the Joint Custodian Jewel confirms the same.

14.PW2 and PW5 has stated that on 05.08.2008 by way of cheque No.154443 [Ex.P18], the waiver amount was repaid and the endorsement is found in Ex.P20. Ex.P19 is the pay-in slip, in which the differential amount of Rs.3,100/- has been paid by PW4 on 05.05.2008. Ex.P19 is not disputed and confronted with PW4. Thus on 05.05.2008 the entire due amount for the loan had been paid and as per Exs.P14 & P15 PW4's eligibility of waiver amount has been published and displayed in the public notice board of the bank.

15.PW7 the Chief Manager, State Bank of India Regional Office, Salem has stated that the list was forwarded by the Branch Manager which was verified and approved. PW8 is the Circle Auditor who inspected the State Bank of India, Elathagiti Branch, Krishnagiri for waiver of loan and gave a Audit/Verification Certificate [Ex.P16]. Further PW2 had been a witness to the recovery proceedings and signed in Ex.P22/the recovery mahazar. Thus the contention of the learned counsel for the appellant that he had received Rs.3,000/- for payment of interest for the jewel loan [Ex.P4] is not true and it is only an attempt to give an explanation for receipt of bribe amount. The appellant admits the receipt of Rs.3,000/- towards payment of interest, it is to be presumed under Section 20 of the Prevention of Corruption Act, 1988, that the appellant accepted the gratification, failed to prove the contrary.

16.In this case PW4 is the decoy witness and PW6 is the accompanying witness. PW4 has clearly stated about the enquiry made on 28.07.2008, meeting the appellant with regard to waiver amount on 29.07.2008, submission of the requested documents and bribe amount of Rs.3,000/- demanded by the appellant and he not willing to pay the same contacted the Superintendent of Police/CBI, Chennai who directed PW9 to proceed to Krishnagiri, receive the complaint from PW4, make discrete enquiry and thereafter, to lay trap. On 30.07.2008, PW9 reached Krishnagiri, met PW4, received the complaint [Ex.P30], conducted discrete enquiry, recorded in Ex.P33, forwarded discrete enquiry report/Ex.P33 and the complaint/Ex.P30 to the Superintendent of Police/CBI, Chennai through fax, who directed PW10 to register an FIR [Ex.P36]. Then, PW9 enlisted the service of PW6 and one Ramprasad to be witness for the trap. Thereafter, entrustment proceedings conducted and recorded in Ex.P31/Entrustment Mahazar. The receipt of bribe amount by the appellant is proved by the evidence of PW4 and PW6. PW9 and PW3, the Scientific Officer from Forensic Department and his Chemical Analysis reports [Exs.P23 & P24] confirms the same. There is no discrepancy in the Entrustment Mahazar/Ex.P31, Recovery Mahazar/Ex.P32 and MO1 to MO6.

17.The contention of the appellant that PW1 is not the sanctioning authority through Ex.D1 cannot be accepted. Ex.P1 is the Sanctioning Order issued by PW1, the Assistant General Manager (Administration). The Internal Circular [Ex.P2] clarified the position and authority of Assistant General Manager (Administration) to accord sanction. Hence there is no irregularity of PW1 in the issuance of Sanction Order [Ex.P1]. Ex.D2 is the copy of Ex.P33/the discrete enquiry report forwarded to the Superintendent of Police/CBI, Chennai, by PW9 through fax, from which, it is seen that the fax is originated from Krishnagiri in code No.043 and phone No.233191 on 30.07.2008 at about 12.08 p.m. In the said communication the Superintendent of Police/CBI, Chennai made an endorsement referring to PW10 which is marked as Ex.D3. These Ex.D2 and D3 would go to show that the complaint as well the endorsement of Superintendent of Police has been made at the relevant point of time followed by the Registration of FIR/Ex.P36 which is at 12.20 p.m., on 30.07.2008 by PW10. Ex.D5 is the House Search List conducted at the residence of the appellant on 30.07.2008 at about 07.40 p.m. These documents are of no consequence.

18.Thus marking of Exs.D1 to D5 does not improve the case of the appellant, on the other hand it fortifies the case of the prosecution. From the facts and materials the prosecution has proved its case beyond all reasonable doubt. The trial Court on a detailed analysis of both the oral and documentary evidence, had rendered a well reasoned Judgment which this Court is not inclined to interfere with.

19.In the result, the appeal is dismissed. The trial Court is directed to secure the appellant to undergo his remaining period of sentence.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

1.The II Additional District Judge for CBI Cases,
Coimbtore.

2.The Inspector of Police,
SPE/CBI/ACB, Chennai.

3.The Public Prosecutor,
High Court, Madras.

4.The Special Public Prosecutor for
CBI Cases,
High Court, Madras.

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