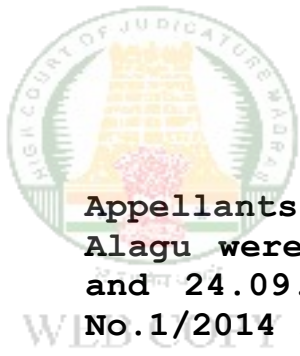




Bail Slip

Appellants viz., P.Mani S/o.Palanivel, and Veerasamy S/o.Chithra Alagu were released on bail vide this Court order dt. 19.09.2014 and 24.09.2014 in MP(MD)1/2014 in Crl.A(MD)269/2014 and MP(MD) No.1/2014 in Crl.A(MD)272/2014 respectively.

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 30.08.2019

PRONOUNCED ON : 11.05.2020

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

CRL.A.(MD).Nos.269 & 272 of 2014

P.Mani,
S/o.Palanivel,
Regional Transport Officer(Retd.),
Sivagangai.

... Appellant/Accused
in Crl.A.(MD)No.269 of 2014

Veerasamy

... Appellant/Accused No.2
in Crl.A.(MD)No.272 of 2014

Vs.

The State of Tamil Nadu,
Represented by the Inspector of Police,
Vigilance and Anti-Corruption,
Sivagangai.
(Crime No.2 of 2008)

... Respondent/Complainant
in both criminal appeals

COMMON PRAYER : Criminal appeals are filed under Section 374 r/w 382 of Cr.P.C., to set aside the order of conviction and sentence dated 2nd September 2014 passed by the learned Special Judge for Prevention of Corruption Act Cases, convicting the appellants for the offences under Section 7 and 13(1)(d) r/w 13(2) of the Prevention of Corruption Act 1988, imposing a sentence of one year Rigorous Imprisonment and two years Rigorous Imprisonment respectively and also imposing a fine of Rs.1,000/- for each offence with default three months Simple Imprisonment and four months Simple Imprisonment for each offence and acquit the appellants.



WEB COPY

(in both Criminal Appeals)

For Appellants

: Mr.V.Karthick,
Senior Advocate,
for Mr.J.Lawrence
in Cr.A.(MD)No.272 of 2014.

Mr.K.Govindarajan,
for M/s.K.Vidya
in Crl.A.(MD)No.269 of 2014.

For Respondent

: Mr.K.K.Ramakrishnan,
Additional Public Prosecutor.

COMMON JUDGMENT

These criminal appeals have been filed by accused Nos.1 and 2 challenging the Judgment of conviction and sentence imposed by the learned Special Judge, Special Court for Prevention of Corruption Act Cases, Sivagangai, in Special C.C.No.45 of 2014 on 02.09.2014.

2. There were totally three accused in this case. While accused No.3 Mrs.Latha was acquitted, accused No.1 Mani and accused No.2 Veerasamy were found guilty. The details of conviction and sentence are as follows:-

Accused	Offence u/s.	Sentence
Accused Nos.1& 2	7 of Prevention of Corruption Act 1988	To undergo 1 year R.I. and to pay a fine of Rs.1,000/-, in default, to undergo 3 months R.I.
Accused Nos.1&2	13(2) r/w. 13(1)(d) of Prevention of Corruption Act 1988	To undergo 2 years R.I. and to pay a fine of Rs.1,000/-, in default, to undergo 4 months R.I.

3. The case of the prosecution:-

Accused No.1 Mani was working as Regional Transport Officer in Sivagangai from 09.05.2007 to 31.07.2008. Accused No.2 Veerasamy was working as temporary Junior Assistant in the office of the Regional Transport, Sivagangai. Accused No.3 Latha was also employed in the very same office in a ministerial capacity. All the three were public servants during the relevant time.

<https://hcservices.ecourts.gov.in/hcservices/>



4. Abbas, S/o.Mohammed Hussain was owning five autos and had let them out on hire. One of the autos bearing Registration No.TN 63-A-9523 was being plied by one Shahul Hameed for hire. It was seized by the Motor Vehicle Inspector, Madurai on the ground that the auto was being driven by an unlicensed driver. In this regard, notice was sent to the vehicle owner also. On 24.07.2008, Abbas, the vehicle owner remitted a sum of Rs.300/- in the office of the Motor Vehicle Inspector, Karaikudi, as penalty. In order to secure the release of the vehicle, Shahul Hameed and Abbas approached the office of the Regional Transport Officer, Sivagangai. When they met accused No.2 Veerasamy, he demanded a sum of Rs.800/- as bribe. Accused No.2 had allegedly stated that a sum of Rs.500/- has to be paid to accused No.1 Mani and the balance amount of Rs.300/- was for himself. Accused No.2 had stated that unless this bribe amount is paid, release order will not be issued. The vehicle was detained in the premises of Karaikudi North police station.

5. Accused No.1 is said to have threatened Abbas that unless the amount demanded by accused No.2 is paid, even the auto permit will be cancelled. Since Abbas did not want to pay any bribe, he approached the Vigilance and Anti Corruption police, Sivagangai and lodged a written complaint on 31.07.2008. The Inspector of Police, Vigilance and Anti Corruption, Sivagangai, arranged a trap. At around 4.00 p.m., the raiding party including Abbas left the Vigilance and Anti Corruption office and reached the office of the Regional Transport Officer, Sivagangai at about 4.15 p.m. Abbas was accompanied by a shadow witness Athimoolam. Accused No.2 Veerasamy is said to have asked that whether he has brought a sum of Rs.800/-. When Abbas handed over the amount, Veerasamy counted the same. Veerasamy then went to the room of accused No.1 and gave him Rs.500/- and a sum of Rs.100/- to accused No.3 and retained a sum of Rs.200/- for himself. At around 4.45 p.m, Athimoolam and Abbas gave a pre-arranged signal. Thereupon the other members of the raiding party entered the office and subjected accused No.1 Mani as well as accused No.2 Veerasamy to Phenolphthalein test. When the hands of Veerasamy and Mani were dipped in the Sodium Carbonate solution, it turned pink. The trap turned out to be successful. However, the hands of accused No.3 Latha did not turn pink. Notes recovered from the accused were tallied with the currency numbers mentioned in the pre-trap mahazar. After completing the other formalities, all the three accused were arrested at around 10.45 p.m. After completing the investigation, final report was filed. The learned Special Judge took cognizance of the offences under Sections 7 and 13(2) r/w. 13 (1) (d) of Prevention of Corruption Act.

<https://hcservices.courts.gov.in/hcservices/> were framed against all the three accused for the



aforesaid offences. The accused denied the charges and claimed to be tried. The prosecution examined as many as 24 witnesses (P.W.1 to P.W.24) and marked Ex.P1. to Ex.P.39. M.O.1 to M.O.13 were also marked. On the side of the accused, no witness was examined. On the side of the first accused, Ex.D.1 to Ex.D.9 were marked. The learned trial Judge acquitted accused No.3 Latha, but found accused Nos.1 and 2 guilty of the offences with which they were charged and sentenced them as mentioned above. Questioning the same, these appeals have been filed.

7. Contentions urged by the appellants/accused:

The learned senior counsel appearing for the accused contended that the impugned Judgment is liable to be set aside and that the accused are entitled to acquittal for more than one reason. His core contention is that the prosecution is obliged to establish that demand was made by the accused for payment of illegal gratification. In this case, the defacto complainant/ P.W.2 turned hostile. He did not support the case of the prosecution at all. This solitary ground is sufficient to acquit the accused herein. In this regard, the learned senior counsel relied on the decisions reported in (2015) 10 SCC 152 (P.Satyanarayana Murthy V. State of A.P.) and (2016) 12 SCC 150 (V.Sejappa V. State). His further contention is that a careful analysis of the materials on record would clearly show that the entire case projected by the prosecution is inherently improbable. He strongly contended that Abbas/P.W.2 was obviously plying an auto without certain vital documents and it was legally impossible for him to get it back. That is why, he had conceived a diabolical plan as if there was demand or bribe by the appellants herein. The learned senior counsel took me through the entire evidence on record in order to convince me that the appellants were actually coerced by the Vigilance and Anti Corruption police. This is evident from the fact that the release order was typed only at 10.00 p.m.

8. Arguments advanced by the learned Additional Public Prosecutor:-

The contentions of the learned senior counsel appearing for the appellants were sought to be controverted by the learned Additional Public Prosecutor by invoking Section 20 of Prevention of Corruption Act 1988. His submission is that the receipt of the bribe amount had been clearly established by the prosecution. Therefore, the statutory presumption will arise. The accused have not discharged the burden cast on them, after the onus is shifted. When the accused were examined under Section 313 of Cr.P.C., they did not come out with any explanation in response to questioning by the Court. Mere submission of a written statement is not sufficient for rebutting the presumption raised against them under the Act. What is required is that they must prove



that the amount received by them did not represent illegal gratification. In as much as they have failed to rebut the presumption, the Court below was justified in holding that the case of the prosecution stood established beyond reasonable doubt. The learned Additional Public Prosecutor placed reliance on the decisions reported in AIR 1960 SC 548 (C.I. Emden V. State of U.P.), AIR 1964 SC 575 (Dhanvantrai V. State of Maharashtra), (2001) 1 SCC 691 (M. Narsinga Rao V. State of A.P.), (2018) 9 SCC 242 (State of Gujarat V. Navinbhai Chandrakant Joshi), (2010) 11 SCC 575 (Billa Nagul Sharief V. State of A.P.) and (1974) 4 SCC 560 (Raghubir Singh V. State of Haryana). He wanted this Court to sustain the impugned Judgment and dismiss the appeals.

9. Issues arising for consideration of this Court:-

a) Whether the Court below was justified in holding the prosecution had proved its case beyond reasonable doubt, even though the defacto complainant turned hostile and did not support the case of the prosecution.

b) Whether the sequence of events go to show that the prosecution case is inherently improbable and that the defacto complainant had a motive and falsely implicated the accused for getting back his seized vehicle?

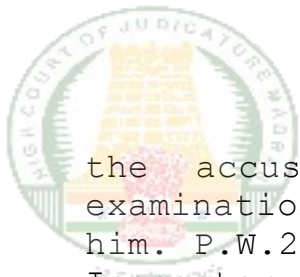
10. Analysis of the evidence:-

As already pointed out, the prosecution had examined as many as 24 witnesses and marked exhibits P.1 to P.39. P.W.1 is the authority to grant sanction for the prosecution of accused No.3. Ex.P.1 is the sanction order and was marked through him. P.W.2 is the defacto complainant. Ex.P.5 complaint, Ex.P.2 file relating to the auto, Ex.P.3 notice and Ex.P.4 penalty receipt were marked through him. He turned hostile and totally let down the prosecution. P.W.3 Sahul Hameed was the driver of the auto in question. He also turned hostile. P.W.4 Athimoolam was employed in the District Industries Centre, Sivagangai. He is an independent witness who accompanied the defacto complainant. Ex.P.6 Entrustment Mahazar, Ex.P.7 Auto Release Order, Ex.P.8 Attendance Register, Ex.P.11 Observation Mahazar, Ex.P.12 Mahazar and Ex.P.13 and Ex.P.14 House Search Slips for accused Nos.1 and 2 were marked through him. He strongly supported the prosecution case. P.W.5 Alagar is another official witness who was examined to corroborate the testimony of P.W.4. P.W.6 Karuppaiya was the Motor Vehicle Inspector, Madurai, who seized the auto in question on 23.07.2008. P.W.7 Ganesan was working as Junior Assistant in the office of Motor Vehicle Inspector, Karaikudi and Ex.P.16 Personal Register, Ex.P.17 Punishment Register, Ex.P.18 Inspection Report of Auto, Ex.P.19 Auto Entry in Register Serial No.457, Ex.P.20 Tapal Dispatch Register and Ex.P.21 Inspection Report were marked through him. P.W.8



Rajmohan was the Motor Vehicle Inspector, Karaikudi who deposed that he collected the penalty amount of Rs.300/- from P.W.2 on 24.07.2008 and forwarded the relevant files for despatch on 28.07.2008 to the Regional Transport Officer, Sivagangai. P.W.9 Ravichandran was also the Motor Vehicle Inspector of Karaikudi office and he corroborated the evidence of P.W.7 and P.W.8. P.W.10 Shreetharan was the Superintendent in the said office and he deposed as to the despatch of Ex.P.2 Auto File. P.W.11 Madhavan was the Section Superintendent in the office of the Regional Transport Officer, Sivagangai and he deposed that he received the subject file through Tapal from the office of the Motor Vehicle Inspector, Karaikudi and handed over the same to P.W.12 for further action. He also identified the initials and the signatures of the accused in the Auto Release Order. Through him, Ex.Ps.24 to 30 were marked. P.W.12 Prakasam was the Record Clerk, Regional Transport Office, Sivagangai and he deposed that he entrusted the Tapal in question to accused No.2 Veerasamy for further action. But his testimony is rather unclear. In fact the prosecution wanted to have him declared as hostile, but the Court did not permit the same. P.W.13 Vijayagurusamy was the Accountant of Regional Transport Office, Sivagangai and he deposed about the raid conducted by the Vigilance and Anti Corruption police and Ex.P.23 Release Order was marked through him. P.W.14 Kalyanakumar was the Motor Vehicle Inspector of Regional Transport Office, Sivagangai and he deposed about the procedure to be adopted for issuing Release Orders in respect of impounded vehicles. During his further cross examination, Ex.D.1 to Ex.D.8 were marked. Of course to their marking, the prosecution lodged its objections. P.W.15 Jayabalan P.A. to the Deputy Transport Commissioner, Madurai, spoke about the office procedure to be followed. He spoke about the procedural lapses on the part of accused No.1 Mani and accused No.3. P.W.16 Manjula Devi was the Grade-I Police Constable in All Women Police Station, Sivagangai. She had assisted the Vigilance officials while searching accused No.3 Latha. P.W.17 Pandi was the Special Sub Inspector, Karaikudi South police station and he deposed about the receipt of Tapal from the Regional Transport Office, Sivagangai on 01.08.2008 through P.W.2 and the release of the auto in question. P.W.18 Radhakrishnan was the Deputy Transport Commissioner, Madurai and he spoke about the procedures to be followed for the release of the impounded vehicles. He identified the handwriting of accused No.1 Mani. P.W.19 Rajendran was the court staff. P.W.20 Balakrishnan was the temporary Junior Assistant, Regional Transport Office, Sivagangai and he deposed that on request of accused No.2 Veerasamy on 31.07.2008, he typed the release order for the auto in question. He also identified the handwriting and the initials of accused Nos.1 and 3 in the release order. He also

<https://hcservices.courtsofmadras.gov.in/hcservices/sevice-askyoursevice/> raid and subsequent developments. The counsel for



the accused had suggested during the course of the cross examination that Ex.P.7 was not typed in the manner as claimed by him. P.W.21 Bose was the temporary Junior Assistant, Motor Vehicle Inspector Office, Karaikudi and he deposed that on receipt of Tapal from P.W.8 on 29.07.2008, he handed over the same to P.W.11 on the very same day. P.W.22 Visalatchi was the Scientific Officer, Forensic Science Department, Chennai. Ex.P.33 Chemical Analysis Report was marked through her. P.W.23 Raja was the Inspector of Police Vigilance and Anti Corruption, Sivagangai. He received Ex.P.5 complaint from P.W.2 and registered Ex.P.36 First Information Report in Crime No.2 of 2008. He organized the trap. According to him, the trap was successful. P.W.24 Pandiarajan was the Inspector of Police, Vigilance and Anti Corruption, Sivagangai, who took over the investigation from P.W.23. He examined the relevant witnesses and after completing the investigation, filed the final report. Ex.P.39 Sanction Order in respect of accused No.1 was marked through him, since the sanction authority had passed away by then.

11. The prosecution would claim that P.W.2 remitted a sum of Rs.300/- as penalty on 24.07.2008 vide Ex.P.22 in the office of the Motor Vehicle Inspector, Karaikudi. The learned senior counsel appearing for accused No.2 would point out that this cannot inspire the confidence of this Court because the remittance was said to have taken place at about 7.15 a.m. It is improbable that the office of the Motor Vehicle Inspector, Karaikudi, was open at that time. In any event, P.W.2 had not submitted any application for release of the auto. It is not known as to how the fine amount was fixed and who instructed P.W.2 to pay the fine amount. P.W.7 Ganesan had deposed that as to the procedure to be followed for release of vehicle. The application for release must be accompanied by the registration Certificate, insurance policy, road tax receipt, fitness certificate and emission certificate. Only after these documents are perused and verified and if they are found to be in order, the application would be forwarded to the Regional Transport Office, Sivagangai, for taking further steps. Thereafter, the Regional Transport Officer will be asked to fix the fine amount and return the file to Karaikudi. Then the release order will be prepared. But in this case, the entire process appears to have been inverted. The fine amount had been paid in the first instance and thereafter the release had been sought for. There is nothing on record to show that the release application was accompanied by the necessary documents.

12. In fact P.W.8 Rajmohan would admit that only on 28.07.2008, the application was received from P.W.2 and thereafter he took steps to send the file from Karaikudi to Sivagangai. If



received on 24.07.2008. The prosecution had not produced any order whereby the fine amount was fixed. The learned senior counsel laid considerable stress on the fact that while the fine amount was paid on 24.07.2008, the release application was received on 28.07.2008. The other witnesses, namely, P.W.9 and P.W.10 also admitted that the fine amount will be fixed only by the Regional Transport Officer. No such order was produced in this case.

13. The learned senior counsel pointedly contended that the application said to have been submitted by the defacto complainant was not only incomplete but the defacto complainant did not appear to possess the necessary documents. The file never reached the office of the accused. To establish the same, Ex.D.3 was marked through P.W.14. The testimony of P.W.14 was corroborated by P.W.15 but both admitted that there was nothing to show accused No.2 Veerasamy received the file. The learned senior counsel appearing for the accused strongly submitted that Ex.P.23 Release Order was obtained on coercion. He pointed out that the Regional Transport Office, Sivagangai, was computerised. In fact P.W.11 Madhavan as well as P.W.20 Balakrishnan would admit the said fact. On 31.07.2008, the computer was very much working and there was no power cut. In fact the office had a back-up generator also. If the release order had been made ready in the normal course, it would have been in the prescribed format. But Ex.P.23 was a manually typed document. It has been admitted by the official witness P.W.20 that note sheet has to be made ready before issuing the release order. In this case, no such note sheet is available. In Ex.P.23, it has been mentioned that there is a reference to the application dated 28.07.2008 given by the owner of the vehicle. It is admitted that P.W.2 vehicle owner never submitted any application. It was only P.W.3 Shahul Hameed, driver who submitted the application. If as claimed by the prosecution, the release order had been prepared in due course, these mistakes would not have crept in at all. More than anything else, P.W.12 Prakasam, Record Clerk admitted that the Vigilance and Anti Corruption police obtained a signature from the first accused at about 10.00 p.m. Though the prosecution wanted the Court to declare him hostile, permission was denied.

14. The learned senior counsel would also argue on one other aspect. If according to the prosecution, accused No.2 made the demand and after the receipt of illegal gratification, accused No.2 handed over a sum of Rs.500/- to accused No.1 and a sum of Rs.100/- to accused No.3, there was no need for the Vigilance and Anti Corruption police to search every person in the office of the Regional Transport Officer, Sivagangai. P.W.12 deposed that Vigilance and Anti Corruption police searched the pockets of all the staff. P.W.13 Vijayagurusamy, Accountant, Regional Transport Office, Sivagangai also deposed that all the sections were



searched. This has been corroborated by P.W.20 Balakrishnan also. The statement of the learned senior counsel is that by subjecting the entire office staff to coercion, Ex.P.23 was obtained. The learned senior counsel appearing for the appellants submitted that the accused had submitted a written statement under Section 313 of Cr.P.C. pointing out that the release order was obtained under threat by the Vigilance and Anti Corruption police.

15. Answer to the issues:-

Even though the learned senior counsel would admit that the entire prosecution case is tainted and I find the contentions to be very persuasive, I am relieved from the obligation to answer the second issue, as these appeals can be disposed of by answering the first issue alone. As rightly contended by the learned senior counsel appearing for the appellants, the prosecution is duty bound to prove the charges under Sections 7, 13(2) r/w. 13(1)(d) of Prevention of Corruption Act beyond reasonable doubt and that there must be a proper proof of demand and acceptance of illegal gratification. Mere recovery by itself would not prove the charge. The proof of demand is an indispensable essentiality. Section 20 of Prevention of Corruption Act frames requirements of presumption only to the offence under Section 7 of the Act. Even then, such proof of acceptance of illegal gratification could follow only if there was proof of demand. In the absence of proof of demand, the legal presumption under Section 20 of the Act would not arise.

16. The Hon'ble Supreme Court in the decision reported in (2015) 10 SCC 152 (P.Satyanarayana Murthy V. State of A.P.) held as follows:-

"23. 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, dehors the proof of demand, ipso facto, would thus not be sufficient to bring home the charge under these two sections of the Act. 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."

17. Of course the learned Additional Public Prosecutor put up a valiant rear-guard action by relying on the decisions reported in AIR 1960 SC 548 (C.I.Emdan V. State of U.P.), AIR 1964 SC 575 (Dhanvantrai V. State of Maharashtra) and (2001) 1 SCC 691 (M. S. Narayana Murthy V. State of A.P.).



18. No doubt the decisions relied on by the learned Additional Public Prosecutor are to the effect that once the acceptance of the amount by the accused is established, the legal presumption under Section 20 of the Act will be triggered. But my hands are rather tied. It cannot be denied that the decision rendered in "Satyanarayana murthy" is heavily in favour of the appellants herein. The correctness of the said reasoning was of course contested before the two-Judge Bench of the Hon'ble Supreme Court in Neeraj Dutta V. State(Govt. of N.C.T. Of Delhi). The matter was then placed before a Three-Judge Bench of the Hon'ble Supreme Court in. Vide order dated 27.08.2019 in Crl.Appeal No.1669 of 2009 a reference was made in the following terms:-

"3. Noting the divergence in the treatment of the evidentiary requirement for proving the offence under Sections 7 and 13(1)(d) read with Section 13(2), Prevention of Corruption Act,1988, the Court referred the following question of a law for determination by a larger bench:

'The question whether in the absence of evidence of complainant/direct or primary evidence of demand of illegal gratification, is it not permissible to draw inferential deduction of culpability/guilt of a public servant under Section 7 and Section 13(1)(d)read with Section 13(2) of Prevention of Corruption Act, 1988 based on other evidence adduced by the prosecution.'

4. Heard learned senior counsels for the parties at length.

5. We note that two three-judge benches of this Court, in the cases of B. Jayaraj v. State of Andhra Pradesh, (2014) 13 SCC 55; and P.Satyanarayana Murthy v. District Inspector of Police, State of Andhra Pradesh and Another, (2015) 10 SCC 152, are in conflict with an earlier three-judge bench decision of this Court in M. Narsinga Rao v. State of A.P., (2001) 1 SCC 691, regarding the nature and quality of proof necessary to sustain a conviction for the offences under Section 7 and 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988 when the primary evidence of the complainant is unavailable.

19. The Hon'ble three-Judge Bench directed the Registry to place the papers before the Hon'ble Chief Justice for constituting the Larger Bench. Till date, the Larger Bench has not been constituted for answering the reference.

20. Now the question that arises for consideration is that what am I supposed to. If the Hon'ble three-Judge Bench in Neeraj



Dutta has taken a contrary view, this Court may probably go through all the decisions and follow that which appears to be more reflective of the correct legal position. But in this case, the latest three-Judge Bench felt it necessary to request the Hon'ble Chief Justice to constitute a Larger Bench. The Hon'ble three-Judge Bench in Neeraj Dutta only doubted the reasoning in "Satyanarayanamurthy".

21. P.W.2 is the defacto complainant in this case. It was his auto that was seized and detained. His complaint is that to release the same, the accused demanded a sum of Rs.800/- as bribe amount. But when P.W.2 stood in the witness box, he turned hostile. He did a somersault that will make any acrobat performing in a circus proud. He withstood the aggressive cross examination of the Public Prosecutor and was not shaken at all. He even went to the extent of disowning a substantial part of the complaint. He accused the Vigilance and Anti Corruption police of having prepared the complaint of their liking and making him to sign on the dotted lines. He alone could have spoken about the demand or bribe by the accused. The testimony of P.W.2 does not in any way implicate accused Nos.1 and 2. Of course the shadow witness P.W.4 Athimoolam had testified that accused No.2 repeated the demand at the time of trap. The prosecution also would claim that after accused No.2 received a sum of Rs.800/-, he went to the room of accused No.1 to give a sum of Rs.500/- to him. But when the star witness has stabbed the prosecution in the back, the cameo performance by P.W.4 shadow witness will not resurrect the prosecution case.

22. Applying the ratio laid down in "Satyanarayanamurthy", I must necessarily hold that the prosecution has miserably failed to prove the demand in this case. Therefore, the impugned Judgment of the Court below must be necessarily set aside. It is accordingly set aside. Of course the acquittal of accused No.3 Latha not having been challenged, stands.

23. The story cannot end here. There has to be a sequel. I have no doubt whatsoever in my mind that P.W.2 had taken the prosecution for a real ride. He does not deny that he had signed the complaint. Admittedly he approached the Vigilance and Anti Corruption police. If he approached the Vigilance and Anti Corruption police, it obviously means that there was some demand for payment of illegal gratification. He had also been a party to the trap. It has also been brought in the evidence that his auto did not have the necessary documents. That is why the learned senior counsel appearing for the appellants would claim that in the normal course of the events, the defacto complainant could not have got back his auto and that is why he hatched a diabolical



because, the defacto complainant is not present in person before me. However, this is a case in which proceedings will have to be taken against the defacto complainant by the trial Court. The learned trial Judge is directed to take immediate follow up action under Section 340 of Cr.P.C. against P.W.2/defacto complainant in this case. Registry is directed to monitor the follow up action taken in this regard.

24. With this direction, the criminal appeals stand allowed and the accused stand acquitted. The bail bond, if any, executed by them shall stand cancelled and the fine amount, if any, paid by them, shall be refunded forthwith.

Sd/-

Assistant Registrar (CRL.SIDE)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

pmu

To

1. The Special Judge,
Special Court for Prevention of Corruption Act Cases,
Sivagangai.
2. The District Collector,
Sivagangai
3. The Commissioner of Police, Sivagangai
4. The Deputy Inspector General of Police, Mylapore, chennai.
5. The joint Secretary to Government,
Public and Law Department, Secretariat, chennai.
6. The Inspector of Police, Vigilance and Anti-Corruption,
Sivagangai.
7. The Registrar(Judicial)Madurai Bench of Madras High Court,
Madurai.



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8. The Section Officer, Criminal Section,-2 copies
Madurai Bench of Madras High Court, Madurai.

9. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

CRL.A.(MD).Nos.269 & 272 of 2014

11.05.2020

KM (26.05.2020) 13P 10C