**BAIL SLIP**

The Appellant/Accused namely A.Chandran, was released on bail as per the order of this Court dated 09.02.2015, made in MP(MD)No.1 of 2015 in Crl A(MD)No.31 of 2015.

The Appellant/Accused namely G.R.Nagarajan , was released on bail as per the order of this Court dated 09.02.2015, made in MP(MD) No.1 of 2015 in Crl A(MD)No.33 of 2015.

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 18.11.2019

PRONOUNCED ON : 18.02.2020

CORAM:

**THE HONOURABLE MR.JUSTICE B.PUGALENDHI**

Crl.A.(MD)Nos.31 and 33 of 2015

**Crl.A(MD)No.31 of 2015**

A.Chandran ... Appellant /Accused No.2

Vs.

State represented through
Inspector of Police,
Central Bureau of Investigation,
Anti Corruption Branch,
Chennai. ...Respondent/Complainant

**Prayer**: Criminal Appeal filed under Section 374(2) of Criminal Procedure Code to set aside the order of conviction and sentence made in C.C.No.8/2009 dated 23.01.2015 passed by the II Additional District Judge for CBI Cases, Madurai and acquit the appellant.

For Appellant : Mr.M.Ajmalkhan
Senior Counsel for
Mr.D.Shanmugaraja Sethupathi

For Respondent : Mr.N.Nagendran,
Special Public Prosecutor
For CBI Cases

**Crl.A(MD)No.33 of 2015**

G.R.Nagarajan ... Appellant /Accused No.1

Vs.

State represented by
Inspector of Police,
Central Bureau of Investigation,
Anti Corruption Branch,
Chennai.
[RC MA 1 2009 A 0037] ...Respondent/Complainant

**Prayer**: Criminal Appeal filed under Section 374(2) of Criminal Procedure Code to call for the records of the II Additional District Judge for CBI Cases, Madurai in C.C.No.8 of 2009 and set aside the judgment and conviction dated 23.01.2015 and acquit the appellant.

For Appellant : Mr.V.Raghavachari

For Respondent : Mr.N.Nagendran,
Special Public Prosecutor for CBI Cases

**COMMON JUDGMENT**

Since both these appeals are arising out of one and the same judgment, they are taken up together for hearing and disposed of by way of this common judgment.

2.The appeal is arising out of the conviction and sentence imposed by the II Additional District Judge for CBI cases, Madurai in C.C.No.8 of 2015. By order dated 23.01.2015, the trial Court found the appellants guilty, convicted and sentenced them as follows:

| Appellant/Accused | Section of Law | Sentence of Imprisonment |
|---|---|---|
| G.R.Nagarajan appellant in Crl.A (MD)No.33 of 2015/Accused No.1 | 120B IPC r/w 7 and 13(2) r/w 13 (1)(d) of PC Act | Two years rigorous imprisonment, fine Rs.25,000/-, in default six months rigorous imprisonment |
| | 7 of PC Act | Two years Rigorous imprisonment, fine Rs.25,000/-, in default six months rigorous imprisonment |
| | 13(2) r/w 13(1) (d) of PC Act | Two years Rigorous imprisonment, fine Rs.25,000/-, in default six months rigorous imprisonment |

| | | |
|---|---|---|
| A.Chandran / appellant in Crl.A (MD)No.31 of 2015 / Accused No.2 | 120B IPC r/w 7 and 13(2) r/w 13 (1)(d) of PC Act | Two years rigorous imprisonment, fine Rs.25,000/-, in default six months rigorous imprisonment |
| | 12 of PC Act | Two years rigorous imprisonment, fine Rs.50,000/-, in default six months rigorous imprisonment |

The above said sentences are ordered to run concurrently.

3.The case of the prosecution in brief is as follows:

(i)The *defacto* complainant [PW2] namely, T.Arockiyasamy, is a resident of Kalayarkovil Village, Sivagangai District. He was running a Photo studio in the name of ARO Photo Studio near the Bus Stop, Kalayarkovil. For developing his business, he submitted an application [EXP10] for a loan under Prime Minister Employment Generation Scheme on 18.02.2009 and the same was forwarded on 01.07.2019 by the Khadi and Village Industries Commission, Madurai vide ExP21 to the the Branch Manager Indian Overseas Bank, Kalayar Kovil Branch, wherein G.R.Nagarajan [Accused No.1] was working as a Senior Manager.

(ii) On 13.07.2009, G.R.Nagarajan along with A.Chandran [Accused No.2], who was an Appraiser under A1 on commission basis visited the Photo Studio of the defacto complainant and asked the defacto complainant to meet him on 17.07.2009 at the Bank. Accordingly, the defacto complainant met G.R.Nagarajan [A1] on 17.07.2009 at about 2.45 pm and enquired about his loan application. At that time the accused officer G.R.Nagarajan, demanded Rupees One Lakh as bribe for processing and sanctioning the loan of Rs.9,50,000/-. He further instructed the defacto complainant to hand over Rs.50,000/- to the accused No.2 Chandran within that evening as first installment and to pay the remaining amount after the loan is sanctioned and the accused officer G.R.Nagarajan told that he has explained Chandran in this connection.

(iii) As per the direction of G.R.Nagarajan, the defacto complainant met the accused No.2 Chandran at his residence on 17.07.2009. The accused No.2 Chandran asked the defacto complainant to pay the bribe amount of Rs.50,000/- to him before 10.00 O'clock on the next day at his residence and insisted the defacto complainant to come alone. Further Chandran warned him not to whisper anyone about the same.

(iv) Since the defacto complainant was not willing to pay the bribe amount, he contacted the Superintendent of Police, CBI,ACB, Chennai through their office phone and made complaint against the accused officers and the defacto complainant was informed that an Inspector of Police would contact him and got his mobile number. On his direction R.Ravi, Inspector of Police, CBI;ACB;Chennai [Trap Laying Officer / PW19], who was camping in Madurai in connection with investigation in a case on 17.07.2009 contacted the defacto complainant over phone. After getting details from the complainant, PW19 told him that he would come to Kalayarkovil next day, i.e., on 18.07.2009.Accordingly, on 18.07.2009 PW19 went to the house of the defacto complainant, where he gave a written complaint [ExP11] to PW19, who in turn, directed the defacto complainant to arrange for a sum of Rs.50,000/- to be given as bribe.

(v) Based on the complaint given by PW2, the TLO discreetly verified the genuineness of the complainant and the same was communicated to the Superintendent of Police;CBI;ACB, Chennai vide ExP25. On the direction of SP, CBI;ACB, he proceeded with the complaint for laying trap. Thereafter, a case in Crime No.RC37 A 2009 was registered and the FIR is marked as ExP28. On his request one M.Chandrasekaran, Superintendent and Ramalingam, Inspector from Central Excise Department appeared before the TLO. The TLO along with his team, defacto complainant and the official witnesses assembled in ARO Mahal, Kalayarkoil. TLO introduced the official witnesses to PW2 and showed the original complaint to them and obtained their signatures on the same. Thereafter, the TLO demonstrated about the Sodium Carbonate - phenolphthalein test to them. Thereafter, the TLO obtained Rs.50,000/-[MO3 Rs.1000 X 50] from PW6 intended to be given to the accused officers and the serial number of the currencies were noted in the entrustment mahazar [ExP12], PW2 and the Police party attested the same. The Police party coated the currencies with phenolphthalein powder and gave them to PW2. The TLO instructed PW2 to meet the accused officer and only on demand from the accused officer, he should give the money to the accused officer and to show signal after the accused officer received the money. Since the accused officer asked the defacto complainant to come alone, the defacto complainant alone went inside the residence of the accused officer Chandran and he met the accused officer around 9.55am on 18.07.2009 and the accused officer asked the defacto complainant whether he had brought Rs.50,000/- as demanded by the Bank Manager and the defacto complainant replied that he had brought the money. Then the defacto complainant had to wait in the hall and to give the money after 10 to 15 minutes. Accordingly, the defacto complainant gave the money to the accused officer Chandran, who in turn received the money and kept the same in Bureau. Thereafter he came out and showed the signal to the TLO. On noticing the signal the TLO along with his team entered the house of the accused officer and the defacto complainant identified Chandran.

(vi) Two sodium carbonate solutions were prepared in two glass tumblers and fingers of both hands of the accused officer were immersed in them and on immersion, both solutions turned into pink in colour and they were sealed, recovered and marked as MO1 and MO2 respectively. When the accused officer was questioned about the receipt of the bribe money, the accused officer shown the money kept in the Almirah. The official witness took the money from the Almirah and the serial numbers of the currencies recovered from the Bureau tallied with the entries in the entrustment mahazar [ExP12]. The accused officer Chandran stated to the TLO that only on the instructions of the accused Nagarajan, Branch Manager, IOB, Kalayarkoil, he received the bribe amount. Then the TLO sent one Madhusudhanan, Inspector along with witness for questioning and arresting the accused officer No.2, who in turn was arrested by the Inspector of Police and a recovery mahazar [ExP13] and a rough sketch was prepared [ExP14. Thereafter, the accused officers was remanded to judicial custody. The TLO handed over all the materials and records to one G.Kalaimani, Inspector of Police [PW20]. A memo was filed before the Court for adding Chandran as an accused in this case, based on the statement of the Chandran during the trap. Then as per the direction of SP,CBI;ACB;Chennai, he handed over the investigation to PW21 on 10.08.2009.

4.PW21 recorded the statements of the witnesses and obtained chemical analysis report [ExP20] and after completion of the investigation he filed a final report as against the accused officers before II Additional District Judge for CBI cases, Madurai and the same was taken on file in C.C.No.8 of 2015.

5.During trial On the side of the prosecution 21 witnesses were examined, 33 documents were marked and three material objects were produced.

6.The available prosecution evidence are as follows:

(i) PW1 is the then Deputy General Manager in Central Office, Chennai and he has accorded sanction [ExP1] on 07.12.2009 for prosecuting the appellant.

(ii) PW2 is the then Chief Inspector, Indian Overseas Bank at Chennai and he speaks about the Prime Minister Employment Generation Scheme and through him ExP3 circular issued by IOB was marked.

(iii) PW3 is the then Senior Manager, IOB, Karaikudi through him ExP4,ExP5, ExP6,ExP7 and ExP8 were marked.

(iv) PW4 is the then Assistant Manager, IOB, Kalayarkovil Branch and he received the arrest cum personal search memo.

(v)PW5 is the then Clerk cum Cashier, PW14 is the then Clerk and PW15 is the then Senior Clerk, IOB, Kalayarkovil Branch. They deposed that no one accompanied the first accused officer, when he visits the customer.

(vi) PW6 is the defacto complainant and he speaks about the application submitted for loan, the accused officer No.1 visiting his Photo Studio along with A2, demanding bribe for sanctioning loan and lodging of complaint [ExP2] and before the SP, ACB;CBI, Chennai and the acceptance of money by the accused officer No.2.

(vii) PW7 is a shadow witness and he speaks about the trap demonstration, preparation of entrustment mahazar [ExP12], phenolphthalein test conducted on the hands of the accused officer, the recovery of bribe money from the accused officer Chandran in his presence.

(viii) PW8 and PW9 are the then employees at the defacto complainant's photo studio and they speak about the visit of the accused officers to the photo studio in the year 2009.

(ix) PW10 is the then Clerk, IOB, Kalayarkovil and he speaks about the work of the accused officer No.2 in the Bank.

(x) PW11 is the then Chief Manager, IOB, Karaikudi Region and he has issued ExP6 for dispensing the service of the accused officer No.2

(xi)PW12 is the subsequent Bank Manager of IOB, Kalayarvoil, after the arrest of A1 and through him ExP16, ExP17 and ExP18 were marked.

(xii) PW13 is the then Assistant Manger and through him ExP19 was marked.

(xiii)PW16 is the Scientific Assistant and she speaks about the presence of phenolphthalein and sodium in the MOs and also issuance of Chemical Analysis Report ExP20.

(xiv) PW17 is the then Assistant Development Officer in Khadi and Village Industries Commission and he speaks about the recommendation made on the loan application of the defacto complainant and forwarding of the same to IOB, Kalayarkovil branch and through him ExP21 and ExP22 were marked.

(xv) PW18 is the then Divisional Director of KVIC, Madurai and through him ExP23 was marked.

(xvi)PW19 TLO is the then Inspector of Police,CBI;SCB;Chennai and he speaks about the direction issued by the SP, CBI;ACB;Chennai and the complaint lodged by PW2, summoning of official witnesses, preparation of entrustment mahazar, conducting of demonstration of phenolphthalein test, the trap laid by him and the preparation of observation mahazar, rough sketch, recovery of bribe money from the accused officer No.1, preparation recovery mahazar and the arrest of the appellant.

(xvii)PW20 is the then Inspector of Police, CBI;ACB;Chennai and he speaks about the registration of FIR in Crime No.RC 37 A 2009 and the memo filed by him for arraying A2 as an accused.

(xviii) PW21 is the Investigating Officer in this case and who filed the final report in this case.

7.After completion of the prosecution side evidence, the incriminating circumstances were put before the appellants under Section 313 CrPC and the same was denied as false. On the side of the appellants/accused officers no witness was examined and no exhibit was marked.

8.The trial Court, in conclusion of the trial, found the appellants guilty, convicted and sentenced as stated supra. As against the conviction and sentence, the appellants have preferred the present appeals.

9.Heard the learned Counsel for the appellants and the learned Additional Public Prosecutor appearing for the State and perused the materials placed on record.

10.The learned Counsel for the first accused has raised the following grounds in support of his arguments.

(i) The defacto complainant [PW6] did not fulfil the eligibility criteria for getting a loan from KVIC and therefore, the first accused officer has not processed the application of the defacto complainant.

(ii) PW6 was not present at the time of inspection conducted by the first accused on 13.07.2009. Therefore, the statement of PW6 that first accused asked PW6 to come to the Bank is unbelievable. The evidence of PW8 and PW9 corroborate this fact.

(iii) The evidence of PW6 cannot be relied upon, since he has not approached the KVIC with clean hands and he has suppressed the facts in the loan application in respect of his existing business.

(iv) There are contradictions in the prosecution in respect of the place of receipt of money by the second accused.

(v)When the prosecution has examined one official witness [PW7] Chandrasekaran, the non examination of another witness one Ramalingam is fatal to the case of the prosecution.

(vi)The official witness PW7 was not present at the time of receipt of bribe money by the second accused and there is no corroborative evidence that the second accused has accepted the bribe money.

(vii) the second accused has offered explanation for the receipt of money that it is for an advance payment for making gold jewel.

(viii) The initial demand alleged to be made by the first accused and the instructions to hand over the money to the second accused have not been proved by the prosecution. The fact remains that the first accused has not accepted the bribe money and no recovery from him was also made.

(ix) The learned Counsel has also relied on the following judgments:

a.S.C.Jain Vs State represented by the Deputy Superintendent of Police, reported in (2018 SCC online Mad 9081).

b.P.Palraj Vs State, reported in 2012 (3) MWN (cr) 380.

c.M.R.Purushotham Vs State of Karnataka, reported in (2015) 3 SCC 247;

d.V.Sejappa Vs Police Inspector Lokayaukta, Chitradurga, 2016 (12) SCC 150.

e.G.Kotahandan Vs State, reported in MANU/TN/5790/2018;

f.Rakesh Kapoor Vs State of Himachal Pradesh 2012 (11) SCC 552;

g.Baliya @ Bal Krishnan Vs State of M.P. Reported in 2012 (9) SCC.

11.The learned Counsel for the second accused has raised the following grounds in support of his case:

(i) The defacto complainant is not eligible to get the loan from KVIC, since the said loan is granted only to start a new business and the defacto complainant was already running a business. Therefore, his application was not processed.

(ii)The second accused is a Goldsmith by profession and he has been running a jewelry shop. The defacto complainant used to place orders for jewels to the second accused and as such on 18.07.2009, PW6 came to the jewelry shop of the second accused, placed an order for a gold chain for his family member and paid a sum of Rs.50,000/- as an advance. Believing his words, the accused No.2 received the amount and kept the same in the drawer of the jewelry shop. Suddenly, the CBI officials entered and arrested this accused.

(iii) The evidence of PW6 does not inspire confidence for the reasons

a. he has not come with clean hands for the loan

b. it is not stated in the complaint that on 17.07.2009, PW6 met the second accused and the second accused demanded money on behalf of first accused.

c. According to PW6, he was present in his studio, when the accused officers made inspection on 13.07.2009, but according to PW8 and PW9 have stated that PW6 was not present at that time.

(iv)There are contradictions in the evidence in respect of the place at which the second accused has received the money. The name of this appellant is not found in the First Information Report and he has been roped in this case.

(v) The learned Counsel also placed reliance on the following judgments:

1. State of Maharastra Vs Dnyaneshwar Laxman Rao Wankhede, reported in (2010) 2 SCC (Cri) 385;
2. State of Punjab Vs Madan Mohanlal Verma, reported in (2013) 14 SCC 153;
3. P.Satyanarayana Murthy Vs District Inspector of Police, State of AP and another, reported in (2015) 10 SCC 152;
4. V.Deivasuga Vs State of Tamil Nadu, [Crl.A.Nos.217 and 257 of 2014, decided on 22.02.2018.

12.Per contra the learned Special Public Prosecutor appearing for the respondent submitted that on 17.07.2009 the first accused demanded Rs.1,00,000/- in his chamber and he further directed the defacto complainant to give Rs.50,000/- to the second accused as first installment. Further the second accused also demanded the amount of Rs.50,000/- on 17.07.2009 evening on the direction of first accused. The defacto complainant has informed about the demand on that evening itself to the SP, CBI;ACB, Chennai over phone and the complaint was also lodged on the next day itself, ie., on 18.07.2009 6.30am., which is established through the evidence of PW6. Further on 18.07.2009 at about 9.50am the second accused had also reiterated the demand as stated by A1 and A2 had also accepted the illegal gratification of Rs.50,000/- on behalf of first accused from the defacto complainant at the second accused's house cum shop. The tainted money of Rs.50,000/- which was recovered from the Bureau in the second accused's house by the TLO [PW19] in the presence of Official witness [PW7] and this recovered tainted money also tallied with the entrustment mahazar[ExP12]. During the trap, the second accused admitted the acceptance of the bribe amount and on the instructions of the first accused only he has received the bribe amount. This admission has been corroborated by the evidence of official witness [PW7] and the TLO [PW19]. Therefore, the trial Court has rightly found both accused guilty, convicted and sentenced both the accused.

13.This Court has paid its best attention and anxious consideration to the rival submissions made on either side and also perused the materials placed on record.

14.According to the defence, the defacto complainant PW6 has not approached the KVIC for grant of loan, with clean hands and therefore, the first accused officer has not processed his application. Admittedly, the first accused officer along with the second officer inspected the PW6's studio on 13.07.2009. In this case, the first accused officer has taken the second accused officer for the visit on 13.07.2009. As per ExP.19 Circular No.7(f) 104 of 1975, dated 23.08.1975, issued by the Assistant General Manager, Indian Overseas Bank, Central Office, Madras-2, even filling of the jewel loan applications, preparation of vouchers, preparing timely reminders by Appraiser are not permitted. Admittedly, the second accused officer is an Appraiser in IOB, Kalayarkovil. While so, there is no explanation from the first accused officer for taking the second accused officer, for the visit, in violation of the circular ExP19, when there are several bank staff available. Even if PW6 was not entitled for loan, the application of the defacto complainant could have very well been rejected by mentioning the correct reasons. But, the application was with the first accused officer from 01.07.2009 till 18.07.2009, when the inspection was made by him on 13.07.2009 itself. All these clearly establish the very criminal intention of the first accused officer to extract money from the PW6. Further, there is no ground raised by the defence that PW6 had any motive against these appellants for lodging a complaint against them.

15.Insofar as the ground that there is no independent witness to corroborate the statement of PW6 that the second accused received the bribe amount of Rs.50,000/- is concerned, it cannot be expected that the Officers, who are indulging in corrupt practices to demand and accept bribe in the presence of others. The Hon'ble Supreme Court, in Mukut Bihari and another Vs State of Rajasthan reported in (2012) 11 SCC 642 has held as follows:

> *9. The case of the appellants has no merit as the case is squarely covered by the judgment of this Court in C.M. Sharma v. State of A.P. TH. I.P., AIR 2011 SC 608, wherein a similar issue had been raised that the complainant alongwith the shadow witness went to the office of the accused but the accused asked the shadow witness to go out of the chamber. Shadow witness left the chamber. However, the complainant brought the shadow witness in the chamber and explained to the accused that he was his financer. Despite that the accused again asked the shadow witness to leave the chamber and thus, he went out. The accused demanded the money and the complainant paid over the tainted money to him, which he received from his right hand and kept in right side pocket of the trouser. A signal was given, whereupon he was trapped by the team which apprehended the accused and conducted sodium carbonate test on the fingers of the right hand and right trouser pocket of the accused, which turned pink. The tainted notes were lying on the floor of the office, which were recorded.*
>
> *10. This Court, after considering various judgments of this Court including Panalal Damodar Rathi (supra) and Smt. Meena Balwant Hemke (supra) held that acceptance of the submission of the accused that the complainants version required corroboration in all*

*circumstances, in abstract would encourage the bribe taker to receive illegal gratification in privacy and then insist for corroboration in case of the prosecution. Law cannot countenance such situation. Thus, it is not necessary that the evidence of a reliable witness is necessary to be corroborated by another witness, as such evidence stands corroborated from the other material on record. The court further distinguished the case of Panalal Damodar Rathi (supra) on the ground that in that case the Panch witness had not supported the prosecution case and therefore, the benefit of doubt was given to the accused. In Smt. Meena Balwant Hemke (supra) as the evidence was contradictory, the corroboration was found necessary.*

Therefore, when the complainant has clearly stated about the demand made on 17.07.2009, no corroboration is required and the first accused officer told that he had informed the second accused officer about the further action to be taken. Further, according to the complainant PW6, the second accused had instructed him to come alone and not to inform any one. Therefore, the intention of the second accused in instructing so, is to accept the money without the knowledge of others.

16.The corroboration is required only when the evidence of witness is doubtful. The Hon'ble Supreme Court in ***C.M.Sharma Vs State of Andhra Pradesh***, reported in ***(2010) 15 SCC 1***, has held as follows:

*"18.Further corroboration of evidence of a witness is required when his evidence is not wholly reliable. On appreciation of evidence, witnesses can be broadly categorized in three categories viz., unreliable, partly reliable and wholly reliable. In case of a partly reliable witness, the court seeks corroboration in material particulars from other evidence. However in a case in which a witness is wholly reliable, no corroboration is necessary. Seeking corroboration in all circumstance of the evidence of a witness forced to give bribe may lead to absurd result. Bribe is not taken in public view and, therefore, there may not be any person who could see the giving and taking of bribe. As in the present case, a shadow witness did accompany the contractor but the appellant did not allow him to be present in the chamber. Acceptance of this submission in abstract will encourage the bribe taker to receive illegal gratification in privacy and then insist for corroboration in case of prosecution. Law can not countenance such situation.*

*19.In our opinion it is not necessary that the evidence of a reliable witness is necessarily to be* *corroborated by another witness. Not only this corroboration of the evidence of a witness can be found from the other materials on record."*

The evidence of PW6 with regard to the demand and acceptance of tainted money is trustworthy and was not shattered by the defence. Further, the money is recovered from the second accused by the TLO in the presence of PW6 and PW7. Moreover, the second accused has himself admitted the receipt of money.

17.With regard to the place of occurrence is concerned, a perusal of the the rough sketch [ExP14] it is mentioned that the place of trap as house cum shop of Lakshmi jewelry and so, the prosecution has rightly pointed the place of occurrence and the trap as house cum jewelry shop and therefore, the prosecution has established rightly the place of occurrence and the trap.

18.Insofar as the defence taken by the second accused that the money was received as an advance for the order placed by the defacto complainant for making gold jewel is concerned, to prove the same, the second accused has not produced any receipt for having received amount as an advance and the particulars of the jewel to be made, such as, name of the jewel, weight, rate of the gold or total amount for the jewel have not been produced. There is not even a document produced in this connection. In the absence of any material such a defence theory fails.

19.According to the defence, the acceptance of tainted money by the second accused on behalf of first accused has not been proved by the prosecution. In this case, the tainted money has been found in the possession of the second accused and in the presence of PW6 and PW7 the same was recovered by the TLO. Moreover, the phenolphthalein test conducted on the hands of the second accused proved the presence of phenolphthalein and sodium carbonate in the MOS and the evidence of Scientific Officer also corroborates the same. Apart from that the second accused officer himself has admitted before the TLO [PW19] during the trap that the amount of Rs.50,000/- was received by him from PW6 only on the instructions of Nagarajan, Branch Manager, IOB with regard to the loan applied by PW6 and the recovered money also tallied with the entrustment mahazar [ExP12]. When the recovery, the phenolphthalein test and his own statement prove the acceptance of the bribe money and the defence has not sufficiently rebutted the presumption under Section 20 of the PC Act in respect of the possession of the tainted money. Therefore, this ground is not sustainable.

20.According the learned Counsel for the first accused, the defacto complainant PW6 was not present at the time of inspection made by the appellants on 13.07.2009. But, the defacto complainant PW6 in his evidence has clearly deposed that on 13.07.2009, the appellants visited his studio and caused inspection and while leaving, the first accused officer instructed the defacto complainant to meet him in the Bank on 17.07.2009. Though, the defence disputed the presence of the defacto complainant on 13.07.2009, the initial demand made by the first accused officer on 17.07.2009 at his bank has not at all been disputed by any of the appellants, when such a demand is specifically mentioned by the defacto complainant in the complaint[ExP11] and in this evidence. This would go to show that there was a demand made by the first accused officer. Therefore, the ground raised by the appellants does not come to their rescue.

21.What is required for an offence under the Prevention of Corruption Act is that the demand, acceptance and recovery. In this case, the demand and acceptance were sufficiently proved by the prosecution and the tainted money as recorded in the entrustment mahazar [ExP12] was also recovered from the accused officer. The phenolphthalein test conducted on the both hands of the appellant/accused officer has also proved positive.

22.The corruption has ruined the system. Despite implementation of the Prevention of Corruption Act, corruption has not been eradicated and it has become a common affair. Nobody is having the sense of fear to the prevailing Act. The higher officials must act as an example to their subordinates in discharge of their duties. If the higher officials themselves commit such offences, then they loose their morale to question their subordinates. Ultimately, the system fails. The Hon'ble Apex Court in *Niranjan Hemchandra Sashittal* v. *State of Maharashtra* reported in (2013) 4 SCC 642, painfully discussed the gravity of the corruption in the following terms:

> *"26. It can be stated without any fear of contradiction that corruption is not to be judged by degree, for corruption mothers disorder, destroys societal will to progress, accelerates undeserved ambitions, kills the conscience, jettisons the glory of the institutions, paralyses the economic health of a country, corrodes the sense of civility and mars the marrows of governance. It is worth noting that immoral acquisition of wealth destroys the energy of the people believing in honesty, and history records with agony how they have suffered.*

23.Since the prosecution has established their case, this Court is not inclined to interfere with the order of the trial Court. Accordingly, the criminal appeals are dismissed. The conviction and sentence imposed on the appellants in C.C.No.08 of 2015, dated 23.01.2015 by the II Additional District Judge for CBI Cases, Madurai is hereby confirmed. The bail bonds if any shall stand cancelled. The trial Court is directed to secure the appellants and confine them to prison, to undergo the remaining period of sentence.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

To

1.The II Additional District Judge,
For CBI Cases, Madurai.

2.-Do- Through The Principal District and Sessions Judge,
Madurai.

3.The Director General of Police,
Mylapore, Chennai – 600 004

4.The Inspector of Police,
Central Bureau of Investigation,
Anti Corruption Branch,
Chennai.

5.The Special Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

6.The Record Keeper (2 Copies),
Criminal Section,
Madurai Bench of Madras,
Madurai.

+1 CC to Mr.D.SHANMUGARAJASETHUPATHI, Advocate ( SR-7029[F] dated 19/02/2020 )

+1cc to Mr. V.Raghavachari, Advocate Sr.No.6935 judgment made in

Crl.A.(MD)Nos.31 and 33 of 2015
18.02.2020

VB (31.12.2020) 14P 10C