

**BEFORE THE MADURAI BENCH OF THE MADRAS HIGH COURT**

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11.03.2020	19.03.2020

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CORAM**THE HONOURABLE MR. JUSTICE M.DHANDAPANI****CRL. A. (MD) NO. 314 OF 2015**

The State, rep. By
The Public Prosecutor
High Court, Madras.

.. Appellant/Complainant

- Vs -

1. Vazhivittan
2. Abdul Majeed

.. Respondents/Accused Nos.1 and 2

Criminal Appeal filed u/s 378 of the Code of Criminal Procedure, against the judgment dated 28.04.2015, passed by the Special Court for Trial of Cases under the Prevention of Corruption Act, Tirunelveli, in Special Case No.11/20145.

For Respondents : Mr. AR.L.Sundaresan, SC, for
Ms. AL.Gandhimathi

For Appellants : Mr. K.K.Ramakrishnan, APP

JUDGMENT

The accused/respondents herein were charged and tried before the learned Special Judge, Special Court for trial of cases under the Prevention of Corruption Act, Tirunelveli, in Spl.C. No.11/2014 for the offences u/s 7 and 13 (2) r/w 13 (1) (d) of the Prevention of Corruption Act (for short 'PC Act') and the trial court, vide judgment dated 28.4.2015, acquitted the accused/respondents herein, aggrieved by which the present appeal has been preferred by the appellant/State. For the sake of convenience, the respondents 1 and 2 will be referred to as A-1 and A-2, as per their array before the trial court.

2. The facts of the case, as is evidenced from the deposition of the prosecution witnesses, could be briefly stated as hereunder :-

P.W.3 is a contractor, who was doing contractual works under the Commercial Taxes Department and had paid a sum of Rs.2,500/-

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



towards security deposit, which was held in deposit with the Indian Overseas Bank. P.W.3, on 17.6.03, approached the office of the Deputy Commercial Tax Office, Senkottai to get back the money, where he got acquainted with A-1 and A-2, the Assistant Commercial Tax Officer and Assistant at the said office, who had demanded a sum of Rs.300/- and Rs.200/- respectively for the purpose of processing the forms submitted by P.W.3 for getting back the refund. P.W.3, however, not willing to pay the amount and accede to the guiles of A-1 and A-2 in demanding bribe for performing their official duties, approached P.W.11, the officer attached with the Vigilance & Anti-Corruption Department and gave the oral complaint, Ex.P-5, which was reduced into writing by P.W.11, the Trap Laying Officer, in which P.W.3 affixed his signature. Further to the said complaint given on 17.6.03, P.W.11 asked P.W.3 to come with Five Hundred Rupees on 18.6.03. P.W.11, thereafter, requested the assistance of official witnesses and, accordingly, P.W.4, the Junior Engineer, attached with the office of the Electricity Board and one other person, viz., Sathasivam, Assistant Engineer employed in the office of the Tamil Nadu Housing Board, appeared before P.W.11 on 18.6.03. P.W.4 and the said Sathasivam were provided with the copy of the complaint, which was read over by them and they ascertained the truth and veracity of the same from P.W.3, who was also present at the office of P.W.11. Pursuant to the same, P.W.3 produced ten numbers of Rs.50/- notes, which was initially counted by Sathasivam and after explaining the details of the trap operation to the persons gathered in the office of P.W.11 and allowing P.W.4 and Sathasivam to interact with the defacto complainant, P.W.3, and after P.W.4 and Sathasivam read over the complaint submitted by the defacto complainant, P.W.11 proceeded to coat the currencies brought by the defacto complainant to the tune of Rs.500/- containing Ten Fifty Rupee Notes with the chemical Phenolphthalein. After coating the currencies with Phenolphthalein and experimenting with its proper functioning, P.W.11, along with the defacto complainant, P.W.4 and other members of his team, proceeded to the Deputy Commercial Tax Office, Senkottai.

3. P.W.11, instructed P.W.4 to watch carefully the unfolding of the sequence of events on P.W.3 giving the amounts to A-1 and A-2. Accordingly, P.W.3, accompanied by P.W.4, entered the office and proceeded to meet A-1, where P.W.3 gave the refund form along with Rs.300/-, as bribe amount to A-1. A-1, thereafter, instructed him to meet A-2 and, accordingly, P.W.3 met A-2 and gave him the sum of Rs.200/- as bribe money and P.W.3 was assured by A-1 and A-2 that arrangements will be made for him to get the refund money back shortly.

4. Thereafter, the P.W.3 came out of the office and as per the prearranged signal, the defacto complainant lifted his dothi and wiped his face, and seeing the signal, the trap laying party reached the office of A-1 and P.W.3 along with P.W.11, Sathasivam and other



trap laying members entered the office where A-1 and A-2 were identified by the defacto complainant/P.W.3, who, thereafter, left the place. P.W.11 then proceeded along with P.W.4, Sathasivam and other trap laying officials to enquire A-1 and A-2. Thereafter, P.W.11 prepared a solution of Sodium Bi-Carbonate in two bottles and dipped both the hands of A-1 and on such act, the solution turned pink. Similarly, the hands of A-2 were also dipped in the solution of Sodium Bi-Carbonate, which was prepared in two bottles, which also turned pink. Thereafter, the shirt worn by A-1 was seized and it was dipped in a bottle of Sodium Bi-Carbonate, which turned pink. Thereafter, the bottles were sealed and numbered, which is M.O.2 series. The serial numbers on the Fifty Rupee notes, which was recovered from A-1 and A-2, were compared with the list already prepared. Thereafter, P.W.11 took A-1 and A-2 to their respective residence and conducted a search. However, no materials were seized from their residence. A-1 and A-2 were arrested and brought to the office of the Vigilance & Anti-Corruption at Palayamkottai. Mahazar, Ex.P-9, was prepared by P.W.11 on reaching his office and the mahazar, Ex.P-10 was prepared at the Deputy Commercial Tax Office.

5. P.W.12, taking up investigation of the case, examined witnesses and recorded their statements. The investigation officer gave requisition to the Court for sending the material objects for chemical examination. Accordingly, vide Ex.P-24, the material objects, viz., the bottles containing the solution and the seized currencies were sent for chemical analysis and the report, Ex.P-25, was received. On completion of investigation, P.W.12 filed the final report against the accused charging them for the offences as stated above.

6. The accused/respondents herein were furnished with the relied upon documents u/s 207 Cr.P.C. and the trial court framed the charge u/s 7 & 13 (2) r/w 13 (1) (d) of the PC Act against the accused/respondents herein. When questioned, the accused pleaded not guilty.

7. To prove the case, the prosecution examined P.W.s 1 to 12, marked Exs.P-1 to P-28 and M.O.s 1 and 2. When the accused were questioned u/s 313 Cr.P.C. about the incriminating circumstances appearing against them, they denied the same as false. Neither any oral nor any documentary evidence was marked on the side of the defence. The trial court, after hearing either side and after considering the materials, both oral and documentary, available on record, acquitted the accused/respondents herein. Aggrieved by the said acquittal, the appellant/State has preferred the present appeal.

8. Learned Addl. Public Prosecutor appearing for the appellant submitted that the trial court has, on flimsy grounds, acquitted the



accused/respondents herein without appreciating the materials available on record. It is the submission of the learned Addl. Public Prosecutor that though P.W.3, the defacto complainant turned hostile, treating him has hostile, P.W.3 was cross examined and very many inculpatory admissions have been elicited from him. Therefore, it is the submission of the learned Addl. Public Prosecutor that mere hostility of P.W.3 cannot be put against the prosecution and the inculpatory admissions of P.W.3 would go to the weight of the evidence, and such of those evidence need not be washed off altogether, but could be looked into for getting corroboration with the other evidence. It is the submission of the learned Addl. Public Prosecutor that the said admissions of P.W.3 in essence corroborates the evidence of P.W.s 4 and 11. It is therefore his submission that the said evidence of P.W.3 is very well admissible as evidence in trial and there is no legal bar for basing conviction on the said testimony, which has been amply corroborated.

9. It is the further submission of the learned Addl. Public Prosecutor that the finding of the trial court that wrong name of A-1 has been mentioned only go to show that the case of the prosecution is doubtful is a fallacious piece of finding for the simple reason that even failure to mention name would not be fatal to the prosecution. In the case on hand, the name of A-1 has been misspelt and that cannot be a ground to reject the version projected by the prosecution outright. In this regard, reliance has been placed on the decision of the Hon'ble Apex Court in **Kishan Chand Mangal - Vs - State of Rajasthan (1982 (30 SCC 466))**.

10. It is the further submission of the learned Addl. Public Prosecutor that demand of acceptance of money, which are *sine qua non* for constituting an offence u/s 7 and 13 (1) (d) of the PC Act have been substantially proved by the prosecution through the evidence of P.W.4 which finds corroboration with the evidence of P.W.3 and Ex.P-5. However, the trial court has not appreciated the materials in proper perspective and has erroneously acquitted the accused, which requires to be interfered with. In this regard, reliance was placed on the judgment of the Hon'ble Apex Court in **State of Gujarat - Vs - Navinbhai Chandrakant Joshi & Anr. (2018 (9) SCC 242)**.

11. In fine, it is the categorical submission of the learned Addl. Public Prosecutor that the prosecution/appellant, through cogent and convincing testimony, which has been corroborated on all respects, have proved the culpability of the accused/respondents herein the commission of the offence, which has not been properly appreciated by the trial court and, therefore, the acquittal recorded by the trial court deserves to be set aside.



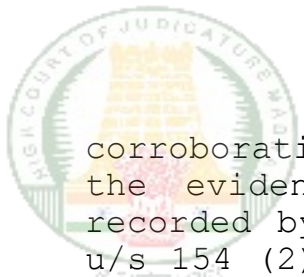
12. Per contra, Mr.A.R.L.Sundaresan, learned senior counsel appearing for the accused/respondents herein submitted that hostility of P.W.3 has affected the entire gamut of the prosecution theory and it would be wholly unsafe to rely on the evidence of P.W.4 to record conviction, which fact has been properly appreciated by the trial court while acquitting the accused. It is the further submission of the learned senior counsel that the evidence of P.W.11 does not gather corroboration from the evidence of P.W.3 and, therefore, no reliance can be placed on the statement recorded by the investigating agency u/s 161 Cr.P.C., which has been spoken to by P.W.11 in his testimony.

13. It is the further submission of the learned senior counsel that even according to P.W.5, routine yearly audit was underway and that being the case, the office would be overstaffed and, therefore, the deposition of P.W.4 that A-1 had asked P.W.3 as to whether he had brought the bribe money is too large a statement to be accepted at face value. It is the further submission of the learned senior counsel that no prudent person, even if he is receiving tainted money, would be vocally asking for the said money from the bribe giver and such being the case, the deposition of P.W.4 that A-1 vocally queried P.W.3 as to whether he has brought the bribe money could not be accepted.

14. It is the further contention of the learned senior counsel for the respondents/accused that though it is not necessary for P.W.3 to know the name of the accused, as laid down by the Hon'ble Apex Court, however, the mentioning of wrong names in the complaint would definitely vitiate the prosecution is the backdrop of P.W.3 turning hostile and in such case, the complaint, Ex.P-5, itself is prone to serious doubt.

15. It is the further submission of the learned senior counsel that even according to P.W.3, on 17.6.03, the day before the trap, when he had gone to the office for the purpose of ascertaining the procedure for getting back the refund, he was informed by an office assistant that he should pay a sum of Rs.300/- and Rs.200/- to A-1 and A-2. It is not the case of the prosecution that A-1 and A-2 demanded any money from P.W.3. That being the case, it is the submission of the learned senior counsel that demand and acceptance having not been shown through any convincing evidence, the appreciation of evidence by the trial court deserves no interference.

16. It is the submission of the learned senior counsel that the complaint, Ex.P-5, has been disowned by P.W.3 and has denied the statements made in Ex.P-5. In such circumstances, it is incumbent on the prosecution to establish the statements made in Ex.P-5 through cogent, convincing and corroborative evidence. However, the evidence of P.W.s 4 and 11 does not satisfy the test of



corroboration; in that the deposition of P.W.3 do not corroborate the evidence of P.W.s 4 and 11 and, therefore, the statement recorded by the prosecution cannot serve the purpose of being used u/s 154 (2) of the Evidence Act as the said statement, deemed to be recorded u/s 161 Cr.P.C., has not been corroborated in through the evidence of P.W.3. Further, P.W.11 has not spoken about the contents of the statement of P.W.3 recorded by him u/s 161 Cr.P.C. In such a scenario, relying upon the statement of P.W.3 recorded u/s 161 Cr.P.C. is impermissible u/s 154 (2) of the Evidence Act, as those statements recorded u/s 161 Cr.P.C. are not substantive pieces of evidence and could be used only for a limited purpose.

17. It is the further submission of the learned senior counsel that there are interpolations/corrections in Ex.P-7, viz., Form-I, which is the form given for the purpose of claiming the refund of deposit and, therefore, the corrections hit at the root of the prosecution version and cannot be the basis to further the prosecution case against the accused.

18. It is the further submission of the learned senior counsel that the deposition of P.W.3 in cross examination is to the benefit of the accused and the same could be taken advantage of by the accused u/s 154 (2) of the Evidence Act. The answers elicited both by the prosecution in its cross and also by the defence in cross, would definitely enure to the benefit of the accused u/s 154 (2) of the Evidence Act. Reliance was placed on the decision of the Hon'ble Apex Court in **Krishan Chander - Vs - State of Delhi (2016 (3) SCC 108)**.

19. It is the further submission of the learned senior counsel that Ex.P-7 does not contain the date on which it is submitted, which is a mandatory requirement and absence of date in the said form, which is marked as Ex.P-7, the entire case of the prosecution is shrouded with suspicion.

20. In fine, it is the submission of the learned senior counsel that the court below, on proper appreciation of the materials available before it and in view of their being non-corroboration on very many material aspects, has rendered a finding in favour of the respondents and acquitted them and there being no perversity or illegality in the said order, no interference is warranted with the well considered finding recorded by the court below.

21. This Court paid its careful attention to the submissions advanced by the learned counsel on either side and also perused the materials available on record as also the decisions relied on by the learned counsel for the parties.

22. In dealing with matters, where the acquittal rendered by the court below is put to test, it is trite that unless the order of



the court below suffers from the vice of perversity, the High Court ought not to interfere with the said order. In **Shailendra Pratap & Anr. - Vs - State of U.P. (2003 (1) SCC 761)**, the Supreme Court has categorically held that the appellate court would not be justified in interfering with the order of acquittal unless the same is found to be perverse. The relevant portion of the order is extracted hereunder for better clarity :-

"8. Having heard learned counsel appearing on behalf of the parties, we are of the opinion that the trial court was quite justified in acquitting the appellants of the charges as the view taken by it was a reasonable one and the order of acquittal cannot be said to be perverse. It is well settled that the appellate court would not be justified in interfering with the order of acquittal unless the same is found to be perverse. In the present case, the High Court has committed an error in interfering with the order of acquittal of the appellants recorded by the trial court as the same did not suffer from the vice of perversity."

23. Yet again, in **Ram Kumar - Vs - State of Haryana (1995 Supp. (1) SCC 248)**, the Hon'ble Supreme Court has once again highlighted the need for the High Court to give proper weight and consideration to the view of the court below and has further held that if the view taken by the court below is reasonable and plausible, order of acquittal should not be disturbed. In the above context, the Supreme Court held as under :-

"15. Learned counsel for the appellant contended that the trial court had recorded the order of acquittal of all the accused persons including the appellant giving sound and cogent reasons for disbelieving the prosecution case and, therefore, the High Court should not have interfered with the order of acquittal merely because another view on an appraisal of the evidence on record was possible. In this connection it may be pointed out that the powers of the High Court in an appeal from order of acquittal to reassess the evidence and reach its own conclusions under Sections 378 and 379 (sic 378) CrPC are as extensive as in any appeal against the order of conviction. But as a rule of prudence, it is desirable that the High Court should give proper weight and consideration to the view of the trial court with regard to the credibility of the witness, the presumption of innocence in favour of the accused, the right of accused to the benefit of any doubt and the slowness of appellate court in justifying a finding of fact arrived at by a judge



who had the advantage of seeing the witness. No doubt it is settled law that if the main grounds on which the court below has based its order acquitting the accused, are reasonable and plausible, and the same cannot entirely and effectively be dislodged or demolished, the High Court should not disturb the order of acquittal.”

24. The Hon'ble Apex Court, in **V.Sejappa - Vs - State by Police Inspector, Lokayukta, Chitradurga (2016 (12) SCC 150)** reiterating the principles to be followed in an appeal against acquittal, as has been laid down in a catena of judgments, held as under :-

“22. If the evaluation of the evidence and the findings recorded by the trial court do not suffer from any illegality or perversity and the grounds on which the trial court has based its conclusion are reasonable and plausible, the High Court should not disturb the order of acquittal if another view is possible. Merely because the appellate court on reappreciation and re-evaluation of the evidence is inclined to take a different view, interference with the judgment of acquittal is not justified if the view taken by the trial court is a possible view. In *State v. K.Narasimhachary* [*State v. K. Narasimhachary*, (2005) 8 SCC 364 : (2006) 1 SCC (Cri) 41] , this Court reiterated the well-settled principle that if two views are possible, the appellate court should not interfere with the acquittal by the lower court and that only where the material on record leads to an inescapable conclusion of guilt of the accused, the judgment of acquittal will call for interference by the appellate court. The same view was reiterated in *T. Subramanian v. State of T.N.* [*T.Subramanian v. State of T.N.*, (2006) 1 SCC 401 : (2006) 1 SCC (Cri) 401]

23. In *Muralidhar v. State of Karnataka* [*Muralidhar v. State of Karnataka*, (2014) 5 SCC 730 : (2014) 2 SCC (Cri) 690] , this Court noted the principles which are required to be followed by the appellate court in case of appeal against order of acquittal and in para 12 held as under: (SCC pp. 735-36)

“12. The approach of the appellate court in the appeal against acquittal has been dealt with by this Court in *Tulsiram Kanu* [*Tulsiram Kanu v. State*, AIR 1954 SC 1 : 1954 Cri LJ 225], *Madan Mohan Singh* [*Madan Mohan Singh v. State of U.P.*, AIR 1954 SC 637 : 1954 Cri LJ 1656], *Atley* [*Atley v. State of U.P.*, AIR 1955 SC 807 : 1955 Cri LJ



1653] , Aher Raja Khima [Aher Raja Khima v. State of Saurashtra, AIR 1956 SC 217 : 1956 Cri LJ 426], Balbir Singh [Balbir Singh v. State of Punjab, AIR 1957 SC 216 : 1957 Cri LJ 481], M.G. Agarwal [M.G. Agarwal v. State of Maharashtra, AIR 1963 SC 200 : (1963) 1 Cri LJ 235], Noor Khan [Noor Khan v. State of Rajasthan, AIR 1964 SC 286 : (1964) 1 Cri LJ 167], Khedu Mohton [Khedu Mohton v. State of Bihar, (1970) 2 SCC 450 : 1970 SCC (Cri) 479], Shivaji Sahabrao Bobade [Shivaji Sahabrao Bobade v. State of Maharashtra, (1973) 2 SCC 793 : 1973 SCC (Cri) 1033], Lekha Yadav [Lekha Yadav v. State of Bihar, (1973) 2 SCC 424 : 1973 SCC (Cri) 820], Khem Karan [Khem Karan v. State of U.P., (1974) 4 SCC 603 : 1974 SCC (Cri) 639], Bishan Singh [Bishan Singh v. State of Punjab, (1974) 3 SCC 288 : 1973 SCC (Cri) 914], Umedbhai Jadavbhai [Umedbhai Jadavbhai v. State of Gujarat, (1978) 1 SCC 228 : 1978 SCC (Cri) 108], K. Gopal Reddy [K. Gopal Reddy v. State of A.P., (1979) 1 SCC 355 : 1979 SCC (Cri) 305], Tota Singh [Tota Singh v. State of Punjab, (1987) 2 SCC 529 : 1987 SCC (Cri) 381], Ram Kumar [Ram Kumar v. State of Haryana, 1995 Supp (1) SCC 248 : 1995 SCC (Cri) 355], Madan Lal [Madan Lal v. State of J&K, (1997) 7 SCC 677 : 1997 SCC (Cri) 1151], Sambasivan [Sambasivan v. State of Kerala, (1998) 5 SCC 412 : 1998 SCC (Cri) 1320], Bhagwan Singh [Bhagwan Singh v. State of M.P., (2002) 4 SCC 85 : 2002 SCC (Cri) 736], Harijana Thirupala [Harijana Thirupala v. Public Prosecutor, (2002) 6 SCC 470 : 2002 SCC (Cri) 1370], C. Antony [C. Antony v. K.G. Raghavan Nair, (2003) 1 SCC 1 : 2003 SCC (Cri) 161], K. Gopalakrishna [State of Karnataka v. K. Gopalakrishna, (2005) 9 SCC 291 : 2005 SCC (Cri) 1237], Sanjay Thakran [State of Goav. Sanjay Thakran, (2007) 3 SCC 755 : (2007) 2 SCC (Cri) 162] and Chandrappa [Chandrappa v. State of Karnataka, (2007) 4 SCC 415 : (2007) 2 SCC (Cri) 325]. It is not necessary to deal with these cases individually. Suffice it to say that this Court has consistently held that in dealing with appeals against acquittal, the appellate court must bear in mind the following:

(i) There is presumption of innocence in favour of an accused person and such presumption is



27. The points that arise for consideration in the present case are :-

i) Whether P.W.3 turning hostile will vitiate the prosecution;

ii) Whether the testimony of P.W.3 corroborates the relevant portions in Ex.P-5, complaint;

iii) Whether the non-mentioning/wrong mentioning of the name of the accused in the initial complaint will vitiate the prosecution;

iv) Whether the deposition of P.W.4 is in corroboration with the evidence of P.W.s 3 and 11, and whether conviction could be rendered on the basis of the said evidence of P.W.4, the official/shadow witness;

v) Whether the prosecution could rely on Ex.P-5, complaint to get the benefit of Section 154 (2) of the Evidence Act;

vi) What is the evidentiary value that could be attached to the answers given by the accused in Section 313 Cr.P.C. Questioning;

vii) Whether the prosecution has discharged its initial presumption and if so, whether the accused has rebutted the said presumption.

28. Though the above issues have arisen for consideration, however, as all the issues are intrinsically interconnected, they are being dealt with together and discussed below.

29. The case revolves around three crucial witnesses, viz., P.W.s 3, 4 and 11. P.W.3 is the defacto complainant, while P.W.4 is the official/trap witness and P.W.11 is the investigating officer. P.W.3 in the course of his evidence turned hostile and, the prosecution, declaring him as hostile, has cross examined him. It is now the duty of this Court to find out whether the evidence of P.W.3 could be relied upon, even though he has turned hostile.

30. Witnesses turning hostile in criminal cases had come to the notice of the Hon'ble Supreme Court, in the case of **Ramesh & Ors. - Vs - State of Haryana (2017 (1) SCC 529 :: AIR 2016 SC 5554)** and in that context, analysing the ratio laid down on the said aspect as also the reasons discerned for such an attitude, the Hon'ble Apex Court held as under :-

"39. We find that it is becoming a common phenomenon, almost a regular feature, that in criminal cases witnesses turn hostile. There could be various reasons for this behaviour or attitude of the witnesses. It is possible that when the statements of such witnesses were recorded under Section 161 of the



Code of Criminal Procedure, 1973 by the police during investigation, the investigating officer forced them to make such statements and, therefore, they resiled therefrom while deposing in the court and justifiably so. However, this is no longer the reason in most of the cases. This trend of witnesses turning hostile is due to various other factors. It may be fear of deposing against the accused/delinquent or political pressure or pressure of other family members or other such sociological factors. It is also possible that witnesses are corrupted with monetary considerations.

40. In some of the judgments in past few years, this Court has commented upon such peculiar behaviour of witnesses turning hostile and we would like to quote from few such judgments. In *Krishna Mochi v. State of Bihar* [*Krishna Mochi v. State of Bihar*, (2002) 6 SCC 81 : 2002 SCC (Cri) 1220] , this Court observed as under:

"31. It is a matter of common experience that in recent times there has been a sharp decline of ethical values in public life even in developed countries much less developing one, like ours, where the ratio of decline is higher. Even in ordinary cases, witnesses are not inclined to depose or their evidence is not found to be credible by courts for manifold reasons. One of the reasons may be that they do not have courage to depose against an accused because of threats to their life, more so when the offenders are habitual criminals or high-ups in the Government or close to powers, which may be political, economic or other powers including muscle power."

* * * * *

43. In *State v. Sanjeev Nanda* [*State v. Sanjeev Nanda*, (2012) 8 SCC 450 : (2012) 4 SCC (Civ) 487 : (2012) 3 SCC (Civ) 899] , the Court felt constrained in reiterating the growing disturbing trend:

"99. Witness turning hostile is a major disturbing factor faced by the criminal courts in India. Reasons are many for the witnesses turning hostile, but of late, we see, especially in high profile cases, there is a regularity in the witnesses turning hostile, either due to monetary consideration or by other tempting offers which undermine the entire criminal justice system and people carry the impression that the mighty and powerful can always get away from the clutches of



law, thereby eroding people's faith in the system.

100. This Court in *State of U.P. v. Ramesh Prasad Misra* [State of U.P. v. Ramesh Prasad Misra, (1996) 10 SCC 360 : 1996 SCC (Cri) 1278] held that it is equally settled law that the evidence of a hostile witness could not be totally rejected, if spoken in favour of the prosecution or the accused, but it can be subjected to closest scrutiny and that portion of the evidence which is consistent with the case of the prosecution or defence may be accepted. In *K. Anbazhagan v. Supt. of Police* [K. Anbazhagan v. Supt. of Police, (2004) 3 SCC 767 : 2004 SCC (Cri) 882], this Court held that if a court finds that in the process the credit of the witness has not been completely shaken, he may after reading and considering the evidence of the witness as a whole, with due caution, accept, in the light of the evidence on the record that part of his testimony which it finds to be creditworthy and act upon it. This is exactly what was done in the instant case by both the trial court and the High Court [Sanjeev Nanda v. State, 2009 SCC OnLine Del 2039 : (2009) 160 DLT 775] and they found the accused guilty.

101. We cannot, however, close our eyes to the disturbing fact in the instant case where even the injured witness, who was present on the spot, turned hostile. This Court in *Manu Sharma v. State (NCT of Delhi)* [Manu Sharma v. State (NCT of Delhi), (2010) 6 SCC 1 : (2010) 2 SCC (Cri) 1385] and in *Zahira Habibullah Sheikh (5) v. State of Gujarat* [Zahira Habibullah Sheikh (5) v. State of Gujarat, (2006) 3 SCC 374 : (2006) 2 SCC (Cri) 8] had highlighted the glaring defects in the system like non-recording of the statements correctly by the police and the retraction of the statements by the prosecution witness due to intimidation, inducement and other methods of manipulation. Courts, however, cannot shut their eyes to the reality. If a witness becomes hostile to subvert the judicial process, the court shall not stand as a mute spectator and every effort should be made to bring home the truth. Criminal judicial system cannot be overturned by those gullible witnesses who act under pressure, inducement or intimidation. Further, Section 193



IPC imposes punishment for giving false evidence but is seldom invoked."

44. On the analysis of various cases, the following reasons can be discerned which make witnesses retracting their statements before the court and turning hostile:

- (i) Threat/Intimidation.
- (ii) Inducement by various means.
- (iii) Use of muscle and money power by the accused.
- (iv) Use of stock witnesses.
- (v) Protracted trials.
- (vi) Hassles faced by the witnesses during investigation and trial.
- (vii) Non-existence of any clear-cut legislation to check hostility of witness.

45. Threat and intimidation has been one of the major causes for the hostility of witnesses. Bentham said: "witnesses are the eyes and ears of justice". When the witnesses are not able to depose correctly in the court of law, it results in low rate of conviction and many times even hardened criminals escape the conviction. It shakes public confidence in the criminal justice delivery system. It is for this reason there has been a lot of discussion on witness protection and from various quarters demand is made for the State to play a definite role in coming out with witness protection programme, at least in sensitive cases involving those in power, who have political patronage and could wield muscle and money power, to avert trial getting tainted and derailed and truth becoming a casualty. A stern and emphatic message to this effect was given in Zahira Habibullah case [Zahira Habibullah Sheikh (5) v. State of Gujarat, (2006) 3 SCC 374 : (2006) 2 SCC (Cri) 8] as well.

* * * * *

48. Apart from the above, another significant reason for witnesses turning hostile may be what is described as "culture of compromise". Commenting upon such culture in rape trials, Pratiksha Bakshi ["Justice is a Secret: Compromise in Rape Trials" (2010) 44, Issue 3, Contributions to Indian Sociology, pp. 207-233] has highlighted this problem in the following manner:

"During the trial, compromise acts as a tool in the hands of defence lawyers and the accused to pressurise complainants and victims to change their testimonies in a courtroom. Let us turn to a recent case from Agra wherein a young Dalit



woman was gang-raped and the rapist let off on bail. The accused threatened to rape the victim again if she did not compromise. Nearly a year after she was raped, she committed suicide. While we find that the judgment records that the victim committed suicide following the pressure to compromise, the judgment does not criminalise the pressure to compromise as criminal intimidation of the victim and her family. The normalising function of the socio-legal category of compromise converts terror into a bargain in a context where there is no witness protection programme. This often accounts for why prosecution witnesses routinely turn hostile by the time the case comes on trial, if the victim does not lose the will to live."

(Emphasis Supplied)

31. Criminal Justice System is being plagued by culture compromise, which in turn, hits at the substratum of the justice. Threat and intimidation are one of the major causes for the hostility of witnesses. It is true that "witnesses are the eyes and ears of justice" and wrong deposition of the witnesses in a court of law results in low conviction rate, thereby undermining the confidence of the public in the criminal justice delivery system. Weeding out the culture compromise is the greatest test not only for the prosecution, but equally for the judiciary as that culture, in no way, should tilt the scales in favour of the accused, thereby allowing them to walk out scot free. The scales of justice should be maintained in balance so that the wrong doer gets punished and the innocent is freed. It is not that mere fulfilling one of the limbs, viz., innocent is not punished, as has been followed time immemorial and being the hallmark of justice, should not be the norm and that both the limbs, viz., the wrong doer gets punished and the innocent is freed should be the platform for the judiciary to launch itself in safeguarding its citizens.

32. Just because the witness have turned hostile, that alone should not be the ground to acquit the accused. It is within the domain of the justice system to separate the grain from the chaff, viz., act like a sieve, by filtering the evidence, leaving aside the hostility to holistically come to the conclusion as to the involvement of the accused in the offence.

33. In *Krishan Chander's case (supra)*, the Supreme Court, advertent to very many decisions on the aspect of witness turning hostile and the reliance that could be placed on the said evidence, held as under :-



"27. This Court is of the view that whenever a prosecution witness turns hostile his testimony cannot be discarded altogether. In this regard, reliance is placed by the ASG on the decision of this Court in *Rabindra Kumar Dey v. State of Orissa* [*Rabindra Kumar Dey v. State of Orissa*, (1976) 4 SCC 233 : 1976 SCC (Cri) 566] . The relevant para 12 of the aforesaid case reads thus:

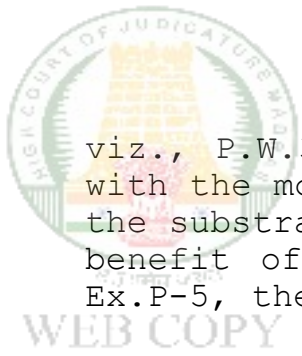
"12. It is also clearly well settled that the mere fact that a witness is declared hostile by the party calling him and allowed to be cross-examined does not make him an unreliable witness so as to exclude his evidence from consideration altogether. In *Bhagwan Singh v. State of Haryana* [*Bhagwan Singh v. State of Haryana*, (1976) 1 SCC 389 : 1976 SCC (Cri) 7] Bhagwati, J., speaking for this Court observed as follows:

'8. ... The prosecution could have even avoided requesting for permission to cross-examine the witness under Section 154 of the Evidence Act. But the fact that the court gave permission to the prosecutor to cross-examine his own witness, thus characterising him as, what is described as a hostile witness, does not completely efface his evidence. The evidence remains admissible in the trial and there is no legal bar to base a conviction upon his testimony if corroborated by other reliable evidence.'"

(Emphasis Supplied)

34. From the above, it is amply clear that even if a witness, who is crucial to the prosecution, has turned hostile, still, his evidence remains admissible and it could be taken into consideration for appreciating the entire gamut of facts placed before the Court. Therefore, the above proposition makes it clear that there is no embargo on the Court to rely upon the admissible portion of the testimony of the hostile witness to arrive at a just and reasonable conclusion. With the above proposition of law in mind, this Court now proceeds to dissect the testimony of P.W.3 vis-a-vis Ex.P-5 to find out whether the hostility of P.W.3 vitiates the prosecution or could the testimony of P.W.3 be relied upon in conjunction with Ex.P-5 to avail the benefit of Section 154 (2) of the Evidence Act.

35. True it is that P.W.3, the defacto complainant, has turned hostile. It is also to be borne in mind that P.W.3, being the trap witness, his evidence must be analysed with great care and caution as there is always an element of bias attached to the evidence of the trap witness. However, in the case on hand, the trap witness,

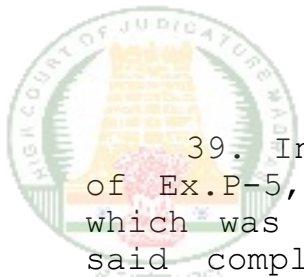


viz., P.W.3 has turned hostile. Therefore, this Court is burdened with the more heavy task of finding out whether the hostility shakes the substratum of the prosecution case or his evidence, receives the benefit of Section 154 (2) of the Evidence Act, by corroborating Ex.P-5, the complaint given by him.

36. A perusal of the evidence of P.W.3 reveals that in chief examination, before being treated as hostile, P.W.3 has admitted his giving the complaint, which was reduced into writing by P.W.11. Therefore, the sanctity of Ex.P-5, the complaint, cannot be faulted with or doubted. Further, P.W.3 has categorically deposed that the signature appended to Ex.P-5 is that of P.W.3. Even according to P.W.3, he had given the said complaint on 17.6.03. Further, it is the deposition of P.W.3 that on the next day, i.e., 18.6.03, P.W.3 came to the office of P.W.11, where P.W.4 and Sathasivam were present. The evidence of P.W.3 thereafter discloses the sequence of events as spoken to by P.W.4 relating to the coating of the currencies with the chemical compound. P.W.3 has also spoken about the bribe given by him to A-1 and A-2. However, after this point, P.W.3 has turned hostile in not admitting his signature in the mahazar, but later in the examination, admitted his signature.

37. It is seen from the evidence of P.W.3 that at certain points in his evidence, P.W.3 has not walked in tandem with the prosecution prompting the prosecution to treat him as hostile and cross examine him. P.W.3, on being cross examined by the prosecution, admitted having seen A-1 and A-2 on 17.6.03, i.e., the preceding day of the trap. Further, the testimony of P.W.3 reveals that he had not informed P.W.11 about A-1 asking him whether he has brought the money, but P.W.3 has admitted that he took Rs.300/- from his shirt pocket and gave it to A-1. Likewise, the receipt of bribe amount by A-2 has also been admitted by P.W.3, which has been informed by him to P.W.11, while questioned u/s 161 Cr.P.C. P.W.3 has also categorically admitted that A-2 received the money and kept it on his table and told him that he will make the necessary arrangements for the refund of the deposit money of P.W.3 and that P.W.3 has informed this aspect to P.W.11 while his statement was recorded u/s 161 Cr.P.C.

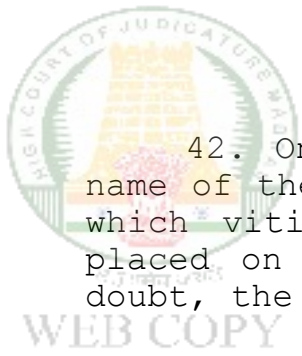
38. In cross examination done by the accused, P.W.3 has categorically denied the suggestion that A-1 and A-2 did not receive the money, but that P.W.3, on his own accord, had pressed the money into the person of A-1 and A-2. P.W.3 has also denied the suggestion that at the behest of the police, he had given the sum of Rs.300/- to A-1. P.W.3 has also categorically denied the suggestion that he did not go to the office of the Deputy Commercial Tax Office on 17.6.03 or to the office of P.W.11 on 17.6.03. P.W.3 has also categorically denied the suggestion that the happenings on 18.6.03, as spoken to by him have not taken place.



39. In the backdrop of the above evidence of P.W.3, a perusal of Ex.P-5, the complaint, which has been orally given by P.W.3, which was reduced into writing by P.W.11, clearly shows that the said complaint is in complete corroboration not only with the evidence of P.W.3, but also with the evidence of P.W.11. The testimony of P.W.11, the Trap Laying Officer, is in complete corroboration with the evidence of P.W.3 as also Ex.P-5, the complaint given by P.W.3. In such a scenario, the hostility of P.W.3, in certain parts of his testimony does not entirely wash off his entire testimony and the contradictions, in no way, materially affect the credibility of his testimony. Therefore, the prosecution could very well rely on Ex.P-5, complaint, to derive the benefit u/s 154 (2) of the Evidence Act. Therefore, the contention on behalf of the accused that the benefit u/s 154 (2) of the Evidence Act could not be gained by the prosecution deserves to be rejected.

40. Once this Court has come to the conclusion that the testimony of P.W.3 is corroborated by P.W.11 and Ex.P-5, the Court has to now fall back on the testimony of the shadow witness, viz., P.W.4, to find out whether his evidence has corroborated the testimony of the witnesses above.

41. A perusal of the deposition of P.W.4, the shadow witness, reveals that his deposition, on all material aspects, corroborates the testimony of P.W.s 3 and 11 and also Ex.P-5. Though a contention is raised as to the deposition of P.W.4 with regard to A-1 asking P.W.3, whether he has got the bribe money, which according to the accused, is a clear improvement to suit the needs of the prosecution relating to demand, however, it is to be pointed out that may be the words expressed by P.W.4 may be a bit blunt, which may not have been used by A-1 to ask P.W.3 whether he has got the money asked for by him, but it cannot be simply rejected for the reason that the occurrence had taken place in the year 2003 and the deposition in chief of P.W.4 had taken place during December, 2007 after a gap of four years, and cross examination had taken place a year after. Therefore, the words expressed by P.W.4 with regard to the demand made by A-1 of P.W.3 may be the sum and substance of the demand of A-1 and not the exact words of A-1, as the passage of time between the occurrence proper and his evidence would have to be borne in mind warranting P.W.4 to reproduce the exact words of A-1. This Court is of the view that the deposition of P.W.4 as to the words uttered by A-1 cannot be taken at its face value to discard the evidence of P.W.4, when in all other respects, the evidence of P.W.4 corroborates with P.W.s 3 and 11 as also Ex.P-5. Though conviction could be based on the evidence of P.W.4, coupled with the evidence of P.W.11 and Ex.P-5, however, his evidence being in corroboration with the evidence of P.W.s 3 and 11 and also Ex.P-5, this Court has no hesitancy to accept the evidence of P.W.4.



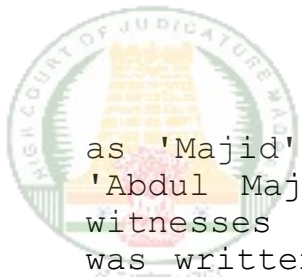
42. One of the pivotal contention of the accused is that the name of the accused have not been correctly given in the complaint, which vitiates the complaint and, therefore, no reliance can be placed on the said complaint and once the complaint is prone to doubt, the entire prosecution edifice falls to the ground.

43. In **Kishan Chand Mangal v. State of Rajasthan, (1982 (3) SCC 466)**, the Hon'ble Supreme Court had occasion to consider the necessity of mentioning of name of the accused in the FIR and in that context held as under :-

"10. The first contention is that the name of the appellant Kishan Chand Mangal is not to be found in Ex. P-12. That is true. But what is stated in Ex. P-12 is that a Factory Inspector accompanied by his friend visited the factory of the appellant and demanded a bribe. Now, the appellant in his evidence as DW 1 has stated that complainant Rajendra Dutt did come to his house on November 22, 1974, around 4.30 p.m. Appellant further proceeds to say that Rajendra Dutt had some grievance against a clerk Singhal and appellant insisted upon giving a written complaint at the time of the visit of Rajendra Dutt. If Rajendra Dutt as is now contended wanted to falsely implicate the accused there is no reason why he would not mention the name of the appellant in Ex. P-12. On the contrary the absence of the name of the appellant in Ex. P-12 would indicate that probably the appellant had visited the factory of Rajendra Dutt after a long time and that is what transpires from Ex. P-12 that the visit of the appellant was after a year and a half. It is reasonable to infer that Rajendra Dutt did not know the name of the appellant but knew him by the designation of his office as Factory Inspector. Therefore, the absence of name of Kishan Chand Mangal in Ex. P-12 is hardly of any significance."

44. From the above proposition of law laid down by the Hon'ble Apex Court, it is emphatically clear that even non-mentioning of name of the accused in the FIR is not detrimental to the prosecution. In the case on hand, it is not the contention of the accused that the names of the accused have not been mentioned; rather the contention is that the names of the accused have been wrongly mentioned, which shrouds the prosecution theory into suspicion.

45. A perusal of the complaint, Ex.P-5 reveals that the name of A-1 has been written as 'Melavittan', while that of A-2 is written



as 'Majid'. The name of A-1 is 'Vazhivittan' and that of A-2 is 'Abdul Majid'. Even it is evident from the deposition of the witnesses as also not countered by the accused that the complaint was written by P.W.11 to the oral dictates of P.W.3. P.W.3, has, thereafter, signed the complaint Ex.P-5. However, there is wrong mentioning of name of A-1, to some extent and insofar as A-2, half of the name of A-2 is shown rather than the full name. On a holistic reading of the complaint, it cannot be said that the wrong mentioning of the name of A-1 and mentioning only half the name of A-2, affects the substratum of the prosecution case. It is to be borne in mind that P.W.11 had written the complaint to the dictates of P.W.3. There is a likelihood of short hearing or mishearing, which has reflected in the name being partly wrongly written. Mere wrong mentioning of the name in part alone cannot be put against the prosecution to defeat its case, more especially, when all the other evidence unerringly point a finger on the accused. In such a backdrop, this Court, taking cue from the decision of the Hon'ble Apex Court in *Kishan Chand Mangal's case (supra)*, is of the considered view that the wrong mentioning of name is not significant and in no way affects the prosecution case.

46. One another crucial fact, which stares at the face of the accused is the answers given by the accused on being questioned u/s 313 Cr.P.C. To one of the question, A-1 has stated that he was taken to Tirunelveli Vigilance & Anti-Corruption Office and he was asked to take the money from his right side pocket of his shirt and, accordingly, the A-1 took the money and gave it to the police. P.W.3, in his evidence in cross, on being treated hostile, has deposed that A-1 accepted the money, given as bribe and kept it in his pocket, however, the said fact has not been divulged by him to the investigating agency. This deposition of P.W.3 has been corroborated by P.W.4 in his evidence. Likewise, the deposition of P.W.3 with regard to A-2 receiving the bribe amount and keeping it on his table has also been corroborated by P.W.4. The evidence of P.W.s 3 and 4 corroborate the answers given by A-1 and A-2 during their questioning u/s 313 Cr.P.C., with regard to the money given by P.W.3.

47. The Supreme Court had occasion to consider the evidentiary value of the statement of the accused under Section 313 Cr.P.C. in the case of **Edmund S. Lyngdoh v. State of Meghalaya, (2016 (15) SCC 572)** and in the said judgment, held thus :-

"21. Where the accused gives evasive answers in his cross-examination under Section 313 CrPC, an adverse inference can be drawn against him. But such inference cannot be a substitute for the evidence which the prosecution must adduce to bring home the offence of the accused. The statement under Section 313 CrPC is not evidence. In Bishnu Prasad Sinha v.



State of Assam [Bishnu Prasad Sinha v. State of Assam, (2007) 11 SCC 467 : (2008) 1 SCC (Cri) 766] , this Court held that conviction of the accused cannot be based merely on his statement recorded under Section 313 CrPC which cannot be regarded as evidence. It is only the stand or version of the accused by way of explanation explaining the incriminating evidence/circumstances appearing against him. **The statement made in defence by the accused under Section 313 CrPC can certainly be taken aid of to lend credence to other evidence led by the prosecution. The statements made under Section 313 CrPC must be considered not in isolation but in conjunction with the other prosecution evidence.**"

(Emphasis supplied)

48. From the above ratio laid down by the Supreme Court, it is amply clear that though the statement of the accused with regard to the questioning u/s 313 of Cr.P.C. is not substantive evidence that could be used against him in isolation to arrive at the culpability of the accused, however, the same can be taken aid of to lend credence to the other evidence let in by the prosecution.

49. It is therefore clear that there is no embargo on the Court to look into the answers given by the accused to the questions posed by the Court u/s 313 of Cr.P.C. for the purpose of seeing whether it lends support to the evidence of prosecution witnesses in order to find out the culpability of the accused.

50. In the case on hand, as noticed above, the statement of the accused u/s 313 Cr.P.C. with regard to the money being on the person of the accused, when they were apprehended by the investigating agency and that their hands turned pink for the phenolphthalein test, which is evident from Ex.P-25, clearly reveal that their statements stand corroborated on all material aspects by P.W.s 3 and 4 and, therefore, this Court can very well rely on their statements coupled with the deposition of P.W.s 3 and 4 to find strength to the prosecution version.

51. The charge framed against the accused is under the Prevention of Corruption Act and once the prosecution has discharged its initial presumption to show the act of the accused, the weight shifts on the shoulder of the accused to rebut the presumption. However, in the case on hand, except for stating that the case against them is a foisted one, no presumptive material has been placed before the Court to infer that the accused has, in fact, rebutted the presumption laid on its shoulder, by adducing necessary evidence. It is to be stated that the accused have not placed any rebuttal, worth considering, to draw a presumption, which transfers



the burden back on the prosecution. In the absence of the accused rebutting the fact by presumptive materials, this Court is of the considered view that the prosecution has proved the case against the accused.

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52. It has been time and again held by the various courts that minor contradictions/inconsistencies/discrepancies/embellishments in the evidence of the witnesses will not in any way affect the substratum of the prosecution. Further, it has been held that over a passage of time, there are prone to be contradictions/inconsistencies/discrepancies/embellishments in the evidence of witnesses and so long as it is not material, such contradictions should not be given much weight to throw away the prosecution version. In **Bakhshish Singh v. State of Punjab, (2013 (12) SCC 187)**, the Hon'ble Supreme Court, on the question of contradiction/embellishments in the evidence, held as under :

"31. This Court in several cases observed that minor inconsistent versions/discrepancies do not necessarily demolish the entire prosecution story, if it is otherwise found to be creditworthy. In *Sampath Kumar v. Inspector of Police* [*Sampath Kumar v. Inspector of Police*, (2012) 4 SCC 124 : (2012) 2 SCC (Cri) 42] this Court after scrutinising several earlier judgments relied upon the observations in *Narayan Chetanram Chaudhary v. State of Maharashtra* [(2000) 8 SCC 457 : 2000 SCC (Cri) 1546] to the following effect: (*Sampath Kumar case* [*Sampath Kumar v. Inspector of Police*, (2012) 4 SCC 124 : (2012) 2 SCC (Cri) 42])

"21. ... '42. Only such omissions which amount to contradiction in material particulars can be used to discredit the testimony of the witness. The omission in the police statement by itself would not necessarily render the testimony of witness unreliable. When the version given by the witness in the court is different in material particulars from that disclosed in his earlier statements, the case of the prosecution becomes doubtful and not otherwise. Minor contradictions are bound to appear in the statements of truthful witnesses as memory sometimes plays false and the sense of observation differ from person to person.' (*Narayan Chetanram Chaudhary case* [(2000) 8 SCC 457 : 2000 SCC (Cri) 1546])"

32. In *Sunil Kumar Sambhudayal Gupta v. State of Maharashtra* [(2010) 13 SCC 657 : (2011) 2 SCC (Cri) 375] this Court observed as follows:

"30. While appreciating the evidence, the court

<https://hcservices.ecourts.gov.in/hcservices> take into consideration whether the



contradictions/omissions had been of such magnitude that they may materially affect the trial. Minor contradictions, inconsistencies, embellishments or improvements on trivial matters without effecting the core of the prosecution case should not be made a ground to reject the evidence in its entirety. The trial court, after going through the entire evidence, must form an opinion about the credibility of the witnesses and the appellate court in normal course would not be justified in reviewing the same again without justifiable reasons. (Vide State v. Saravanan [(2008) 17 SCC 587 : (2010) 4 SCC (Cri) 580] .)"

33. The embellishments in the statements of Narinder Banwait (PW 19) referred to above, in our view do not constitute such contradictions which destroy the core of the prosecution case as this Court in Raj Kumar Singh v. State of Rajasthan [(2013) 5 SCC 722] has observed as under:

"43. ... It is a settled legal proposition that, while appreciating the evidence of a witness, minor discrepancies on trivial matters, which do not affect the core of the case of the prosecution, must not prompt the court to reject the evidence thus provided, in its entirety. The irrelevant details which do not in any way corrode the credibility of a witness, cannot be labelled as omissions or contradictions. Therefore, the courts must be cautious and very particular in their exercise of appreciating evidence. The approach to be adopted is, if the evidence of a witness is read in its entirety, and the same appears to have in it, a ring of truth, then it may become necessary for the court to scrutinise the evidence more particularly, keeping in mind the deficiencies, drawbacks and infirmities pointed out in the said evidence as a whole, and evaluate them separately, to determine whether the same are completely against the nature of the evidence provided by the witnesses, and whether the validity of such evidence is shaken by virtue of such evaluation, rendering it unworthy of belief."

53. There is no cavil over the proposition of law that it is the duty of the court to have conceptual fairness bearing in mind the sacrosanct duty of the court to arrive at the truth on the basis



of the materials available on record. The Court has a sacred duty to see that not only the interest of the accused as per law is protected, but the societal and collective interests of the one and all is safeguarded. However, a perusal of the impugned judgment reveals that for flimsy and whimsical reasons, taking into consideration the inconsistencies/contradictions/discrepancies, which in no way affect the root of the prosecution theory, the trial court, brushing aside all the material evidence, has went on to hold that the prosecution has not proved the case and that the allegations against the accused are not made out, which is against the well established precedent, noted supra.

54. For the reasons aforesaid, this Court is of the considered opinion that the judgment of acquittal recorded by the trial court is not only perverse, but it suffers the vice of illegality and, therefore, the said acquittal deserves to be set aside.

55. Accordingly, this criminal appeal is allowed setting aside the order of acquittal of the respondents herein/accused and they are convicted of the charges framed u/s 7 and 13 (2) r/w 13 (1) (d) of the Prevention of Corruption Act and are hereby sentenced to undergo simple imprisonment for a period of one year for each of the offence and each of the accused are directed to pay a fine of Rs.5,000/-. The sentences are directed to run concurrently. The respondents herein/accused are entitled for set off u/s 428 Cr.P.C. The respondents / accused are directed to surrender before the trial Court within a period of eight weeks from the date of receipt of a copy of this Judgement, failing which, the trial court is directed to take steps to commit the respondents herein/accused to prison to serve the sentence imposed upon them by this Court.

Sd/-

Assistant Registrar (AD II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

GLN

To

1.The Chief Judicial Magistrate, Tirunelveli.

2. The Special Judge
Special Court for Trial of cases Under
The Prevention of Corruption Act
Tirunelveli.



3.The Principal District Judge, Tirunelveli.

4. The Public Prosecutor
High Court, Madras.

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

Copy to:

The Section Officer,
Criminal Section(Records),
Madurai Bench of Madras High Court,
Madurai (2c)

+1 CC to M/s.S.RAVI, Advocate (SR-12646[F] dated 20/03/2020)

+1 CC to M/s.AL.GANTHIMATHI, Advocate (SR-12390[F] dated 19/03/2020)

CRL. A. (MD) NO. 314 OF 2015
19.03.2020

KK/14.05.2020/ 25P- 10C