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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.12.2021

CORAM:

THE HON'BLE MR.JUSTICE V. BHARATHIDASAN

Crl.A.No.298 of 2013

State represented by
The Deputy Superintendent of Police,
Vigilance and Anti Corruption,
Special Cell, Salem.
(Crime No.8/AC/2003)

... Appellant

Versus

1. M.Gurusamy, (deceased)
S/o. Mutha Gounder
2. P.Karthikeyan,
S/o. Palanivel
3. V.Lalithambal,
W/o. N.Nagarajan

... Respondents

PRAYER : Criminal Appeal filed under Section 378 of the Code of Criminal Procedure, to set aside the judgment of acquittal, dated 01.10.2012 in Special C.C.No.12 of 2004 on the file of the Hon'ble Court of the Chief Judicial Magistrate/Special Judge, Namakkal and convict the respondent/accused (A-1 for offence under Sec.13(2) r/w 13(1)(d) of the Prevention of Corruption Act, 1988 and A-2 -A3 for offences under Sec. 218 I.P.C. as charged.

For Appellant	:	Mr.C.E.Pratap, Govt. Advocate (Crl. Side)
For Respondents	:	Mr.K.Kalaivanan for Mr.C.D.Johnson for R1 Mr.N.Manokaran for R2 Mr.P.Rajavel for R3



ORDER

This Criminal Appeal has been filed challenging the order of acquittal of respondents 2 and 3/A2 and A3 passed in Special C.C.No.12 of 2004 dated 01.10.2012 on the file of learned Chief Judicial Magistrate/Special Judge, Namakkal.

2. Totally, there are three accused. A1 was charged for the offence under Sec.7 of Prevention of Corruption Act and the 2nd and 3rd respondents/A2 and A3 were charged for the offence under Sec.218 I.P.C. r/w 7 and 13(2) r/w 13(1)(d) of Prevention of Corruption Act. However, during trial, the Trial Court had altered the charge and dropped the charge under Sec.7 and 13(2) r/w 13(1)(d) of Prevention of Corruption Act and framed charge under Sec.218 I.P.C. After trial, the trial court convicted A1 under Sec.7 of Prevention of Corruption Act and acquitted A2 and A3 from the charges under Sec.218 I.P.C. Challenging the order of acquittal, the State is before this Court with this Criminal Appeal.

3. The case of the prosecution is that A1 was working as Village Administrative Officer and P.W.4 approached A1 for transfer of patta, for which, he demanded a sum of Rs.1000/- as a bribe. Hence, P.W.4 had filed a complaint before the appellant and based on the complaint given by him, a crime was registered and trap was arranged, in which, A1 caught red handed, and he was charged with for the offence under Sec.7 of Prevention of Corruption Act. So far as the respondents 2 and 3/A2 and A3 are concerned, A2 was a Revenue Inspector and A3 was Zonal Deputy Tahsildar, who were added as accused on the ground that they have manipulated the records as if the patta has been issued as early as 21.08.2003. Whereas, actually, the patta was issued only on 30.08.2003. The Trial Court after full-fledged trial convicted A1, however, acquitted A2 and A3 on the ground that there is no materials available to show that A2 and A3 have created false records as if the patta was issued on 21.08.2003. Before the trial court, the prosecution has examined as many as 15 witnesses and marked 24 exhibits. Earlier, the respondents 2 and 3/A2 and A3 have given a complaint stating that they have been falsely implicated in this case and the Investigation Officer had harassed them. Based on that complaint, the District Collector had ordered an enquiry headed by Revenue Divisional Officer and the report of the Revenue Divisional Officer and other relevant records have been marked on the side of defence as Ex.D1 to D5. After considering the materials, the trial court had acquitted the respondents 2 and 3. Challenging the same, the present appeal has been filed.



4. Mr.C.E.Pratap, learned Government Advocate (Criminal Side) appearing for appellant would submit that, even though the patta said to have been issued on 21.08.2003, from the evidence of P.W.3, Computer Operator, who uploaded patta, would clearly shows that patta has been issued only on 30.08.2003 and it is only the respondents, with an intention to help A1, had falsified the records as if patta has been granted on 21.08.2003. The evidence of P.W.12 would clearly proves that the respondents 2 and 3 have manipulated the records. Without considering the same, the Trial Court had acquitted the respondents 2 and 3.

5. Mr.N.Manoharan and Mr.P.Rajavel, learned counsels appearing for respondents 2 and 3/A2 and A3 would submit that, the application has been filed by P.W.2 on 08.08.2003 and on the very same day, the enquiry was conducted and statement of P.W.4 was recorded. Thereafter, patta has been issued on 21.08.2003. Subsequently, the patta has been uploaded on 30.08.2003. Even as per the evidence of P.W.3, he does not know, when the patta was issued and when it was handed over to him for uploading in the computer system. Apart from Ex.P7, the application filed by P.W.4, an enquiry was conducted by the Revenue Divisional Officer and the report submitted by Revenue Divisional Officer was marked as Ex.D2, which would clearly shows that patta was issued on 21.08.2003. Therefore, absolutely, there is no materials to show that the respondents 2 and 3 have manipulated the records. The Trial Court, after considering all the materials, has rightly acquitted the respondents 2 and 3. Hence, there is no merit in this appeal.

6. Heard rival submissions made by learned Government Advocate appearing for appellant as well as learned counsels appearing for respondents 2 and 3 and perused the records.

7. The allegation made against respondents 2 and 3 is that they have created false records as if the patta was issued on 21.08.2003 to help A1 to escape from the clutches of law. The Trial Court, after considering entire materials, had come to a conclusion that there is no materials available to show that they were aware of the earlier application given by P.W.4 on 08.08.2003, but the application was given only on 21.08.2003 and the same was processed and patta was issued on the same day. That apart, enquiry conducted Revenue Divisional Officer and District Collector would also clearly shows that there is no falsification of records. Therefore, the Trial Court had come to a conclusion that absolutely there is no materials available on



record that they have falsified the records and the charge under Sec.218 I.P.C. was not proved. This Court also considered the materials available on record carefully and find no error in the order of acquittal.

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8. It is settled principal of law that, in an order of acquittal, there is double presumption in favour of the accused. Firstly, the fundamental principle of criminal justice delivery system is that, every person, accused of committing an offence shall be presumed to be innocent, unless their guilt is proved by a competent Court of law. Secondly if the accused has secured an order of acquittal, the presumption of their innocence is reaffirmed and strengthened by the trial Court. Even if two reasonable conclusions are possible on the basis of evidence on record, the appellate Court should not disturb the finding of the acquittal recorded by the trial Court.

9. In the above circumstances, I find no illegality or perversity in the judgment of the trial Court and there is no reason to interfere with the order of acquittal passed by the trial Court. Hence, the appeal fails and the same is deserves to be dismissed.

10. In the result, the Criminal Appeal is dismissed. The judgment of the trial Court in Spl.C.C.No.12 of 2004 dated 01.10.2012 is hereby confirmed.

Sd/-
Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

rpp

To

1. The Chief Judicial Magistrate/Special Judge,
Namakkal.
2. The Deputy Superintendent of Police,
Vigilance and Anti Corruption,
Special Cell, Salem.



3. The Public Prosecutor,
High Court, Madras.

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Copy to:

The Section Officer,
Criminal Section,
High Court, Madras.

+2ccs to Mr.P.Rajavel, Advocate, S.R.No.67759

+1cc to Mr.N.Manokaran, Advocate, S.R.No.67762

CRL.A.No.298 of 2013

SSV(CO)
SU(19/01/2022)