



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 16.12.2021
CORAM

THE HONOURABLE MR.JUSTICE V. BHARATHIDASAN

Criminal Appeal No.150 of 2014

The State Rep.by
The Public Prosecutor,
High Court,
Madras
(V & AC Salem
Crime No.4/AC/91)

..Appellant/Complainant

/versus/

1. Tr.C.Sukumaran (A-1) - (62/2014)
Formerly Forest Ranger,
Shevaroy's South Range,
No.23, Gandhi Nagar,
East Subramaniamapuram,
Trichy-20.
2. Tr.D.R.Venkataraman, (A-2) - (65/2014)
S/o Rangasamy,
Formerly Forester,
Thoppur Section,
Bamboo Estate Division,
Gobichettipalayam,
Periyar District.

..Respondents/Accused
(A-1 & A-2)

Prayer:Criminal Appeal is filed under Section 378 of Cr.P.C. praying to set aside the judgment of acquittal of the respondents/accused[A-1 & A-2] passed in Special Calendar Case No.34/95 dated 22.10.2013 by the Court of the Special Judge/Chief Judicial Magistrate, Salem and convict the respondents/accused [A-1 & A-2] for the offences framed against them in accordance with law in the interest of justice.

For Appellant ... Mr. C.E.Pratap,
Government Advocate (Crl.side)

For respondents ... Mr.V.R.Annagandhi for R1
... Mr.K.Gandhikumar
for R2



J U D G M E N T

Challenging the order of acquittal passed by the learned Special Judge/Chief Judicial Magistrate, Salem, in Spl.C.C.No.34 of 1995, dated 22.10.2013, this Criminal Appeal has been filed by the State.

2.Respondents 1 and 2 are the accused in the above said Spl.C.C.No.34 of 1995 and they stood charged for the following offences:

Rank of the Accused	Charges framed
First Accused	Under Sections 120-B r/w 167, 477-A, 420, 409 IPC and r/w 13(2) r/w 13(1)(c) and (d) of the Prevention of Corruption Act, 1988 and 167, 477-A, 420(2 counts) 409 IPC and r/w Section 13(2)r/w 13(1)(c) and 13(1)(d) of the Prevention of Corruption Act, 1988
Second Accused	Under Sections 120-B r/w 167, 477-A, 420, 409 IPC and r/w 13(2) r/w 13(1)(c) and (d) of the Prevention of Corruption Act, 1988 and 167, 477-A, 420 409 IPC and r/w Section 13(2) r/w 13(1)(c) and 13(1)(d) of the Prevention of Corruption Act, 1988

After ful-fledged trial, by a judgment dated 22.10.2013, the trial Court acquitted both the accused. Against the order of acquittal, the present criminal appeal has been filed before this Court.

3.Pending the appeal, the first respondent/A1 died and to that effect, a memo along with death certificate of the first accused has been filed by the learned counsel appearing for the first respondent/A1. Learned Government Advocate (Crl.Side) also confirmed the same. In view of the above, this Criminal Appeal is dismissed as abated as against the first respondent/A1.

4. The case of the prosecution, in brief, is as follows:-

A1, in this case, has been working as a Forest Ranger in Shevaroy's South Range. A2 has been working as a Forester, Thoppur Section in Shevaroy's South Range. A Re-afforestation of Elathur Silviculture Plantation during the year 1989-90, to the value of Rs.27,000/- was entrusted with a Contractor [PW-8], by the first accused for raising of 10.50 hectares of Silviculture Pasture Plantation in the existing 13.50 hectares and Tamarind Plantation in Elathur, including Rs.9016.30 for construction of the damaged stone wall fencing around the Elathur Silviculture Pasture and Tamarind Plantation. PW-2 [Tr.G.Kumaravelu,], who was



working as a District Forest Officer, on the recommendation of the A1, sanctioned a sum of Rs.23,000/- on 24.07.1989, for plantation of 4620 seedlings, soil, working around 4200 plants and dug 4200 trenches etc. Thereafter, an agreement was entered with PW-8 [Tr.N.Govindarajan, Contractor] by A1 for execution of the work and the work was completed. On completion of work, a part payment was made by PW-2 on 26.07.1989 for a sum of Rs.18,528/- and the remaining amount was paid by PW-7 [Tr.S.Balaji, District Forest Officer] on 31.10.1989. Thereafter, an inspection was conducted by PW-5 [Tr.Sampath Kumar, Assistant Conservator of Forest, Forest Protection Squad Salem] on 03.01.1990 and found that there is some discrepancy in execution of the work that out of 4620 sanctioned seedlings, only 2614 seedlings alone have been planted and soil work had been done only to 1003 plants and trenches had been dug only to those 1003 plants instead of 4200 plants as entered in the M-Book. Then a preliminary enquiry was conducted by the Department. Based on that, a First Information Report was registered against A1, A2 for the above said offence. After obtaining prior sanction to prosecute the accused, the investigation of the case was entrusted to PW-20, (Tr.Panneerselvam) Deputy Superintendent of Police, Salem Vigilance and Anti-Corruption. He recorded the statements of the witnesses and laid final report before the trial Court stating that both the Accused 1 and 2 have entered in to a criminal conspiracy for the commission of offence by framing incorrect officials records in the capacity of public servants, falsification of records, cheating, criminal breach of trust to the tune of Rs. 11.074/-, also committed the offence of criminal misconduct by corrupt or illegal means and obtained pecuniary advantage for themselves by abusing their official position.

5. Based on the materials, the Trial Court framed charges for the offences under Sections 120-B r/w 167, 477-A, 420, 409 IPC r/w 13(2) r/w 13(1)(c) and (d) of Prevention of Corruption Act against both the accused. The accused denied the same. In order to prove the case of the prosecution, on the side of the prosecution, as many as 20 witnesses were examined and 32 documents were exhibited.

6. Out of 20 witnesses examined, PW-1 [Tr.Harikrishnan, Principal Chief Conservator of Forest] issued sanctioning order to prosecute the accused. P.W.2 [Tr.G.Kumaravelu], District Forest Officer, accepted the running account bills and issuance of cheque to the contractor. PW-3[Tr.M.Madeshan] Junior Drafting Officer, had verified and submitted the running account bills to the sanctioning authority for perusal. PW-4[Tr.Vikraman] Accountant of District Forest Office, Salem, had maintained the fund application register and he had issued cheques based on the order passed by PW-2 and handed over to the contractor



through A2. PW-5[Tr.Sampath Kumar]Assistant Conservator of Forest, Forest Protection Squad Salem had inspected the work as per the order of the Conservator of Forest Salem Circle, and submitted his report for deficiency of work. PW-6 [Tr.Soundarajan] Forester of Thoppur Section, who accompanied with PW-5[Assistant Conservator of Forest] at the time of inspection, had prepared re-survey report. PW-7[Tr.Balaji] District Forest Officer, had sanctioned the remaining bill amount on the recommendation of A1 and he found that there was some deficiency in execution of the work. PW-8 [Tr.Govindaraju] Contractor, who executed the work, turned hostile. PW-9 [Tr.Palanisamy] Assistant, Office of the Forest Ranger, South Range, Salem, had given an application for registration of the contractor and the same was filled up by him. PW-10[Tr.Jayavel] Bank Manager, Indian Overseas Bank, had opened current account of the Contractor[Tr.Govindaraj].

7.PW-11[Tr.Ponnaiyah]Assistant Conservator of Forest, had not made any inspection in the disputed area along with other officers. PW-12 [Tr.Shunmugam]Forest Ranger, Shevaroy's South Range, Salem had maintained M-Book entries made by A1. PW-13 [Smt.Babyrani] Junior Assistant, Forest Office, Salem, checked and scrutinized the week diary of Forest Ranger and Forester. PW-14 to PW-17 all were employed under the Contractor as daily wages at the relevant point of time. PW-18[Tr.Selvaraj] Junior Drafts Man, District Forest Office, Salem, had compared the estimate along with sketch submitted by A1. PW-19[Tr.Balanathan] Conservator of Forest, Salem Circle, had ordered inspection to be conducted by PW-5. PW-20 [Tr.Panneerselvam] Inspector of Police, V & AC, Salem has given evidence, based on the records, since the original investigating officer of this case Tr.Krishnasamy, expired during trial.

8.When the above incriminating materials were put to the accused under Section 313 Cr.P.C., they have denied the same as false. However, they did not choose to examine any witness or mark any documents on their side.

9.Having considered all the above materials, the trial Court acquitted all the accused, in respect of the charges, as detailed in the first paragraph of this judgment. Aggrieved against the acquittal of the accused, the present Criminal Appeal has been filed by the State. Pending the appeal, the first accused/1st respondent died and the appeal is surviving only against the second accused alone.

10.The learned Government Advocate (crl.side) appearing for the appellant submitted that from the evidences of PW-5, PW-7 and PW-11, it could be seen that during their inspection, A1 and A2 executed the work only in 8.5 hectares of land in raising



plantation, instead of 10.5 hectares of land and that A1 and A2 have recorded having planted 4620 seedlings, but, 2614 seedlings alone had been planted in 8.5 hectares of land. Further, it is clearly revealed that the soil work had been done only to 1003 plants and trenches has been dug only to those 1003 plants and not 4200 plants as entered in the M-Book by A2 and check measured by A1. Further, he submitted that A1 and A2 have submitted M-Book with false measurements and claimed excess amount in the running account bill, on making false entries which was found by the Superior Officers viz., PW-5 and PW-7 during their inspection. The evidence of PW-11 is very clearly proved the fact of false entries made by A1 and A2 in the Measurement Book relating to the work executed under their supervision.

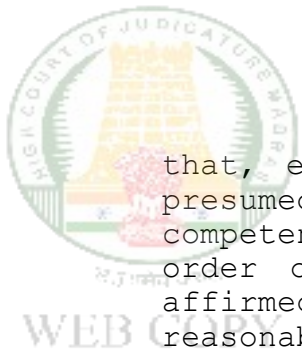
11. The learned counsel appearing for the second respondent/A2 submitted that the trial Court, considering all the evidence, has rightly come to the conclusion that the prosecution had failed to prove its case beyond reasonable doubt and acquitted the respondents/accused and there is no reason to interfere with the order of acquittal.

12. This Court considered the rival submissions made on either side and perused the materials available on records carefully.

13. On perusal of the records, it could be seen that the first accused died, pending appeal and to that effect, death certificate of the first accused along with the memo filed. In view of the above, this Criminal Appeal is dismissed as abated as against the first accused.

14. So far as the A2 is concerned, he has been working as a Forester. All the allegations are made against the first accused alone. The work was entrusted for execution to PW-8 [Contractor], who turned hostile and A1 alone maintained M-book and submitted the Running Account Bill to PW-2 for sanctioning the amount. So far as A2 is concerned, he conspired along with A1, thereby he committed the above said offence. But in the cross examination of PW-2, he clearly stated that A2 has no role for introducing PW-8 to PW-2. That apart, PW-2 has not received any complaint against A2 and A2 has no role for disbursement of amount. That apart, absolutely there is no evidence available on record to show that A2 has conspired with A1 and committed the above said offences.

15. It is settled principal of law that, in an order of acquittal, there is double presumption in favour of the accused. Firstly, the presumption of innocence is available to him, the fundamental principle of criminal justice delivery system is



that, every person, accused of committing an offence shall be presumed to be innocent, unless his guilt is proved by a competent Court of law. Secondly, if the accused has secured an order of acquittal, the presumption of his innocence is re-affirmed 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.

16. In the above circumstances, this Court finds 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 deserves to be dismissed.

17. In the result, the Criminal Appeal is dismissed. The judgment of the trial Court in Spl.C.C.No.34 of 1995 dated 22.10.2013 is hereby confirmed.

Sd/-
Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

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To

1. The Special Court cum Chief Judicial Magistrate Court,
Salem.
2. The Public Prosecutor,
High Court, Madras-104.

Copy To

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

+1cc to Mr.V.R.Annagandhi, Advocate, S.R.No.67803

+1cc to Mr.K.Gandhikumar, Advocate, S.R.No.67834

Crl.A.No.150 of 2014

JPL(CO)
RGA(04/01/2022)