BAIL SLIP

The Appellant/Accused namely P.Boomikumaran (late), M/55/2012, S/o.(late)K.Panchapakesan was released on bail as per order dated 27.07.2012 made in Crl.MP.No.1 of 2012 in Crl.A.No.448 of 2012 on the file of the High Court.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 21.02.2022

PRONOUNCED ON : 29.04.2022

CORAM

THE HON'BLE Mr. JUSTICE G.CHANDRASEKHARAN

Crl.A.No.448 of 2012

P.Boomikumaran (Died)

B.Naveen Raam ...Petitioner

(Impleaded as per order in Crl.M.P.No.12445 of 2021 in Crl.A.No.448 of 2012 dated 29.11.2021).

Vs.

State Represented by
Sub Inspector of Police,
CBI / ACB / Chennai,
Crime No.R.C.MA1 2010 (A) 0004.

...Respondent

Prayer:- Criminal Appeal is filed under Section 374 (2) of Code of Criminal Procedure, to set aside the conviction and sentence imposed on the appellant in C.C.No.14 of 2010 on the file of the learned XII Additional Special Judge for C.B.I. cases, Chennai, dated 05.07.2012.

For Petitioner : Mr.V.Krishnamoorthy

For Respondent : Mr.K.Srinivasan,
Special Public Prosecutor
for CBI cases,
High Court of Madras.

JUDGMENT

The respondent filed a final report against the deceased appellant alleging that on 19.10.2010, at Canara Bank, Kuruvapulam Branch, Vedaranyam Taluk, Nagapattinam District, while working as Branch Manager (Scale II), deceased appellant demanded a sum of Rs.5000/- as illegal gratification from the de-facto complainant T.V.R. Veeramani for sanction of a fresh KCC loan of Rs.50,000/- and in the course of the same transaction, on 20.01.2010, by abusing his official position and by corrupt or illegal means, obtained a pecuniary advantage of Rs.5,000/- for the purpose of sanction of a fresh KCC loan of Rs.50,000/- to T.V.R. Veeramani. Thus, the deceased appellant said to have committed offenses punishable under section 7 and 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988.

2.On the basis of this final report, charges under sections 7 and 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988 were framed against the deceased appellant. deceased appellant denied the charges and demanded trial. Prosecution examined PWs 1 to 7 witnesses, produced exhibits P1 to P18 documents and MO1 to MO5. Deceased appellant examined DW1 and DW2 and produced exhibit D1.

3.The brief case of the prosecution as discerned from the evidence of the prosecution witnesses, is as follows:

PW2 owns agricultural land. He met the deceased appellant on 19.01.2010 evening for the purpose of agricultural loan. Deceased appellant told him that PW2 already availed a loan facility and not repaid the loan. Therefore, it is difficult for sanctioning the loan. PW2 told him that he has other agricultural lands and if loan is given, he would do agriculture and repay the old loan and new loan amount. Then the deceased appellant told him that if new loan has to be sanctioned, PW2 has to spend Rs.5,000/- and whether he is prepared to give the amount. PW2 told that he would think it over and inform. Further, the deceased appellant told him that if PW2 wants loan, he has to pay Rs.5,000/- before the evening of 20.01.2010.

4.On 20.01.2010, PW2 informed the Superintendent of CBI about the demand made by the deceased appellant. The Superintendent of CBI told him that CBI officer is stationed at Velankanni and directed PW2 to meet her and give a complaint. PW2 visited the Welcome Lodge at Velankanni and met the CBI officer (P.W.4) and gave the complaint. She read the complaint and enquired him. He was asked to wait for some time. Insurance officer Ganapathysubramaniyam and a Bank employee Palanivel came there as witnesses. They enquired PW2 about his complaint. PW2 handed over Rs.5,000/- brought by him to P.W.4 and he explained the significance of trap proceedings and demonstrated the sodium carbonate phenolphthalein test to PW2 and the witnesses and also explained the importance and relevance of the test. Then PW4 prepared Ex.P4 Entrustment Mahazar. Then all of them proceeded to deceased appellant's bank.

5.After reaching the bank, PW2 and 3 saw the deceased appellant was in the counter. On seeing PW2, deceased appellant came from his seat and took them to a room. He enquired as to who is PW3 and PW2 told him that PW3 is his brother-in-law. P.W.2 asked the deceased appellant to tell him positive result on his loan request. Deceased appellant asked him whether he brought Rs.5,000/- as demanded by him. PW2 took Rs.5,000/- from his shirt pocket and handed it over to the deceased appellant. Deceased appellant received the bribe money with his right hand and counted it using both his hands and kept in his right side pant pocket. When PW2 asked him whether he has to give any application, deceased appellant told him that he would inform after making it ready. Then PW2 and 3 came out of the bank and informed PW4 with a prearranged signal. Immediately PW4 and others officials went inside the bank and introduced them to the deceased appellant.

6.PW4 after introducing her and her team members asked the deceased appellant to identify himself. Accordingly, deceased appellant identified himself as P.Boomikumaran, Branch Manager. When PW4 asked the deceased appellant whether he demanded and accepted Rs.5,000/- as bribe from PW2, deceased appellant could not speak and he was shivering. PW4 asked Constable Subramaniam to prepare sodium carbonate solution and asked the deceased appellant to dip his right hand fingers in the solution. On dipping, the solution turned to pink color. The bottle containing the solution is MO2. Then fresh sodium carbonate solution was prepared and the deceased appellant was asked to dip his left hand fingers in the solution and on dipping, the solution turned to pink color. The bottle containing the solution is MO3. PW4 arrested the deceased appellant and asked him about the bribe money received from PW2. Deceased appellant pointed the right side of his pant pocket. Search was conducted and that five numbers of 1000/- rupees notes were found in the deceased appellant's right side of the pant pocket. The currency notes tallied with the serial numbers in the entrustment mahazar. Dhoti was arranged to the deceased appellant, after changing the dress, the right side of his pant pocket was dipped in fresh sodium carbonate solution and the solution turned to pink colour. The bottle containing the solution is MO4. PW4 prepared Ex.P5 recovery mahazar, Ex.P9 Rough sketch. House search was conducted and no incriminating material was found. PW3 corroborated the evidence of PW2 with regard to pre-trap proceedings, the demand and acceptance of bribe on the date of trap proceedings, its recovery by PW4.

7. PW6 Scientific officer in the Forensic Science department examined the sealed bottle containing right hand fingers' wash, left hand fingers' wash and right hand side pant pocket wash of the deceased appellant and found that the phenolphthalein and sodium carbonate were detected in the all three items. PW7 took up further investigation in this case, recorded the statement of the witnesses, obtained prosecution sanction from PW1 and filed final report against the deceased appellant under Sections 7 and 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988.

8.The trial Court, on considering the oral and documentary evidence, convicted the deceased appellant under sections 7 and 13(2) r/w 13(1) (d) of Prevention of Corruption Act, 1988 and sentenced him to undergo one year rigorous imprisonment and to pay a fine of Rs.5,000/- in default to pay the fine, to undergo simple imprisonment for one month under Section 7; sentenced the deceased appellant to undergo rigorous imprisonment for two years and to pay a fine of Rs.10,000/- in default to pay the fine, to undergo simple imprisonment for two months under section 13(2) r/w 13(1) (d) of Prevention of Corruption Act, 1988. The substantive sentences are ordered to run concurrently. Challenging the said judgment, deceased appellant has filed this appeal.

9.The learned counsel for the appellant submitted that sanction for prosecuting the deceased appellant was not properly given. Deceased appellant can only be removed by the General Manager and he is the appointing authority. When the sanction was not accorded by the General Manager, the sanction is not legal. PW2 has five criminal cases against him including a murder case. Without checking his antecedents, on the basis of a false complaint given by him, this case was registered against the appellant. PW2 had given contrary evidence by improving his evidence from what he stated in his 161 Cr.P.C. statement. PW2 and PW4 colluded and arranged a trap proceedings. PW2 is a defaulter of bank loan. PW2 thrust the money in the pocket of the appellant. PW2 fought with the appellant and DW2 gave evidence with regard to the quarrel between the appellant and

PW2. The appellant is dead and only his legal heirs are continuing the appeal. Without checking the bad antecedents of PW2 and without considering that he has motive to give false complaint against the deceased appellant, case was registered and trap was laid. Mere recovery of money without proof of demand is not enough to prove the charges under section 7 of Prevention of Corruption Act, 1988. The trial Court has not considered the aforesaid vital aspects, which cut at the root of the prosecution case, and wrongly convicted and sentenced the appellant. Therefore, the learned counsel for the appellant prayed for setting aside the judgment of the trial Court and acquittal of the appellant.

10.Learned counsel for the appellant submitted the ruling reported in 2015 2 L.W (Crl) 116 R.Sasidaran @ Sasi Vs. The State represented by The Inspector of Police, Vigilance and Anti Corruption, Nagercoil, for the proposition that phenolphthalein test cannot be treated as substantive evidence.

Judgment in Crl.A.No.190 of 2012 (Madras High Court), Mohanmeda Bee Vs. The State represented by The Inspector of Police, Vigilance and Anti Corruption, Villupuram, is pressed into service to show that when the rough sketch without details is produced and when it creates doubt as to whether trap witness might have seen the trap proceedings, then the evidence of trap witness cannot be believed.

The judgment reported in 2002 (10) SCC 371 Punjabrao Vs. State of Maharashtra, is relied for the proposition that the accused can establish his case by preponderance of probability. If the explanation offered by him under Section 313 Cr.P.C is found to be reasonable, it cannot be thrown away merely on the ground that he did not offer his explanation at the time when the amount was seized.

He relied on the judgment reported in 2006 (1) SCC 401 T.Subramanian Vs. State of Tamil Nadu, for the proposition that in the absence of any evidence of demand and acceptance of the amount as illegal gratification, appellant has to be acquitted.

The judgment reported in 2008 (1) MLJ Crl 542 (Supreme Court) State of Karnataka Vs. Ameer Jan, is relied for the proposition that if the order of sanction does not indicate application of mind sanction becomes invalid.

The judgment reported in 2010 3 MLJ (Crl) 175 A.N.Manickam Vs. State by Inspector of Police, Vigilance and Anti Corruption, Coimbatore, relied for the proposition that if the defence of accused is plausible and more probable than that of prosecution case, it should be accepted.

He relied on the judgment reported in 2012 (3) MLJ (Criminal) 465 K.Chinnamathan and another Vs. State by Inspector of Police, Vigilance and Anti Corruption, City - II, Detachment, Adayar, Gandhi Nagar, Chennai, for the proposition that when the prosecution has neither proved the demand nor the acceptance of bribe and when the prosecution has not proved the case beyond reasonable doubt, the accused is entitled for the benefit of doubt.

The judgment reported in 2015 Crl L.J 1715 C.Sukumaran Vs. State of Kerala, is relied for the proposition that proving accusation against the accused with regard to acceptance of illegal gratification from the complainant, demand of bribe amount lies on the prosecution.

The judgment reported in 1992 Cri L.J 490 Som Prakash Vs. State of Punjab, is relied for the proposition that the witnesses forming part of the raiding party are not independent witnesses and when the evidence regarding handing over money to the appellant being unbelievable, the conviction of the appellant cannot be sustained.

11.In reply, the learned Special Public Prosecutor for CBI cases submitted that even in the complaint, loan arrears is referred. PW2 had given evidence with regard to the demand of illegal gratification by the appellant on 19.10.2010 and then reiteration of the demand on 20.10.2010. PW3 confirms the demand made on 20.01.2010. PW2 and PW3 gave evidence with regard to acceptance of bribe amount of Rs.5,000/- by the deceased appellant on 20.01.2010. PW3 and PW4 had given evidence with regard to recovery of bribe amount from the deceased appellant. The sodium carbonate phenolphthalein test for the right and left hand fingers and pant pocket of the deceased appellant tested positive for the presence of sodium carbonate and phenolphthalein, proving that the deceased appellant after receiving phenolphthalein smeared bribe amount of Rs.5,000/- from PW2 kept it in his pant pocket. The evidence of DW1 and DW2 is not reliable. The prosecution had clearly proved the charges against the deceased appellant and therefore, the trial Court had rightly convicted and sentenced the deceased appellant. Thus, he prayed for confirming the judgment of the trial Court and dismissal of this appeal.

12.Points for consideration,

i)Whether the submission of the learned counsel for the appellant that appellant was falsely framed in this case by P.W.2 when appellant denied P.W.2's request for sanction of loan is correct?

ii)Whether the prosecution has failed to establish charges against the accused with regard to demand and acceptance of illegal gratification?

iii)Whether the appeal has to be allowed?

13.The gist of the charges against the deceased appellant is that, when he was working as Branch Manager, Canara Bank, Kuruvapulam Branch, Vedaranyam Taluk, Nagapattinam District, he is said to have demanded and accepted illegal gratification of Rs.5,000/- from P.W.2 for sanctioning a fresh KCC loan of Rs.50,000/-. Trial Court found the deceased appellant guilty under Section 7 and under Section 13 (2) r/w. 13 (1) (d) of the Prevention of Corruption Act, 1988, convicted him and sentenced thereunder.

14.From the case of prosecution and the defence set out, it is not in dispute that deceased appellant was working as Branch manager at the relevant point of time in Canara Bank at Koilkuthagai Village. It is also not in dispute that P.W.2 approached him for for a second loan. Prosecution case is when P.W.2 approached P.W.1 for second loan, the deceased appellant said to have demanded a sum of Rs.5,000/- as illegal gratification for sanctioning second loan. On the other hand, the case of the appellant as seen from the cross examination of P.W.2, the explanation offered in 313 Cr.P.C. questioning and the evidence of D.W.1 and D.W.2 is that when P.W.2 demanded a second loan, deceased appellant told him that there is already a loan pending in P.W.2's wife's name. When that loan is pending a fresh loan cannot be given unless the previous loan is repaid. Angered at this, P.W.2 said to have scolded the deceased appellant stating that he is a big shot in the village and left the place. It is further seen from the cross examination of P.W.2 and explanation offered in 313 questioning that P.W.2 came to the bank next day, gave Rs.5,000/- towards his loan account and undertook to pay the balance amount in 10 days and immediately left the office. Thereafter, CBI officials entered into the scene. Though, deceased appellant explained to the C.B.I officials, they have not listened to his explanation. This is the case of the appellant as against the case of the prosecution with regard to the demand and acceptance of Rs.5,000/-.

15.From the case set out by the appellant, it is clear that the recovery of Rs.5,000/- from the deceased appellant on the day of trap proceedings is not seriously disputed by the deceased appellant. It is his case that Rs.5,000/- was not received by him as bribe amount, but as a part of previous loan amount of P.W.2. P.W.2, P.W.3 and P.W.4 had given evidence with regard to the trap proceedings and the recovery of Rs.5,000/- from the deceased appellant. Their evidence is that on entering the bank and after being identified by P.W.2, P.W.4 introduced herself and her team members and also verified the identity of the deceased appellant. She prepared Sodium Carbonate solution and asked the deceased appellant to dip his right hand fingers into the solution. On dipping, the solution turned to pink colour. A fresh Sodium Carbonate solution was prepared and deceased appellant was asked to dip his left hand fingers and after dipping, the solution turned to pink color. On search, as instructed by P.W.4, sum of Rs.5,000/- was recovered from the right side pant pocket of the deceased appellant. A dhoti was provided to deceased appellant for changing his dress and then his right side pant pocket was dipped into a fresh Sodium Carbonate solution. It also turned into pink color.

16.The combined reading of evidence of P.W.2, P.W.3 and P.W.4 clearly proved the acceptance of Rs.5,000/- by the deceased appellant and its recovery. Phenolphthalein test for his right and left hand fingers and right side pant pocket tested positive for the presence of Sodium Carbonate and Phenolphthalein, as per the evidence of P.W.6, and Ex.P13 report. In the light of the above findings, that Sodium Carbonate Phenolphthalein test proved that deceased appellant received Rs.5,000/- from P.W.2 and it was recovered from his person and that acceptance of Rs.5,000/- and its recovery are not seriously disputed by the deceased appellant, this Court is of the considered view that the judgment relied by the learned counsel for the appellant reported in 2015 (2) L.W (Crl) 116 R.Sasidaran @ Sasi Vs. The State Represented by The Inspector of Police, Vigilance and Anti Corruption, Nagercoi, is not applicable to the facts and circumstances of this case.

17.With regard to the demand of illegal gratification, learned counsel for the appellant submitted that there is absolutely no evidence with regard to the alleged demand made on 19.01.2010 to corroborate the evidence of P.W.2. As already stated P.W.2 has given false case against the deceased appellant for the reason that he refused to give a second loan when the first loan remained unpaid. With regard to the first demand made on 19.10.2010, admittedly, we have only the evidence of P.W.2. P.W.3 was assigned the task of trap witness with an instruction to accompany P.W.2 when he meets deceased appellant and watch the trap proceedings. The evidence of P.W.2 is that P.W.3 accompanied him when he met deceased appellant on 20.01.2010 and deceased appellant reiterated his demand of Rs.5,000/- as bribe. The evidence of P.W.3 is that after entering the bank, they found deceased appellant was in the counter. P.W.2 and deceased appellant exchange wishes and P.W.2 introduced P.W.3 as his brother-in-law. Deceased appellant took him to a room look like a dining hall. P.W.3 followed them. But, did not enter into the room and watched from a distance. Deceased appellant and P.W.2 were speaking for sometime and then P.W.2 handed over Rs.5,000/- to the deceased appellant. It is seen from the evidence of P.W.3 that he had not heard the second demand made by the deceased appellant on the date of trap proceedings. P.W.3 just witnessed the receipt of phenolphthalein smeared Rs.5,000/- by the deceased appellant. Thus, we have to decide with regard to the demand of bribe by the deceased appellant only from the evidence of P.W.2.

18.P.W.2 is very categorical in his evidence that deceased appellant demanded Rs.5,000/- on 19.10.2010 for sanctioning a second loan and reiterated the demand on the day of trap proceedings, that is, on 20.01.2010. As already stated, the recovery of Rs.5,000/- was proved by prosecution without any doubt. Demand of Rs.5,000/- is spoken by P.W.2. When there is evidence of P.W.2 available with regard to demand and acceptance of bribe of Rs.5,000/- and acceptance is proved by the prosecution, it has to be decided whether the explanation offered by the deceased appellant that Rs.5,000/- was received towards part payment of previous loan amount is an acceptable explanation. When P.W.2 was cross examined, it is elicited from his evidence that P.W.2 and his wife obtained Rs.50,000/- each as a loan and a sum of Rs.1,20,000/-is pending for repayment towards this loan. It is also elicited from his evidence that when he demanded the loan on 19.10.2010 deceased appellant informed him that when the old loan is pending, it is difficult to sanction a new loan. It was suggested to him that his earlier loan account would be classified as Non Performing Asset and P.W.2 would not be in a position to obtain loan from other banks. Therefore, it is submitted that, P.W.2 got angry and scolded the deceased appellant informing that he would come next day and pay the loan amount. Another suggestion was made that P.W.2 met the deceased appellant in dining hall, gave Rs.5,000/- to him and angrily told him to adjust this amount in his account and left the room. During the course of his examination under Section 313 Cr.P.C he stated that, when P.W.2 demanded fresh loan, deceased appellant told him that he would consider his request after repaying the old loan. P.W.2 told him that he has lot of landed properties and why deceased appellant was hesitating to sanction loan. When deceased appellant re-affirmed that only if old loan is discharged, new loan can be considered. P.W.2 shouted at him and left the bank stating that he would come tomorrow. Next day he came and paid Rs.5,000/- to adjust in his loan account and informed that he would pay the balance loan amount in one week or ten days and left the bank.

19.Assuming that, deceased appellant paid Rs.5,000/- towards the previous existing loan, deceased appellant was required to issue receipt for the payment immediately. In the case before hand, there is no evidence to show that deceased appellant issued receipt for the payment of Rs.5,000/- towards part repayment of previous loan amount. There are certain procedures to be followed while withdrawing money from the bank and remitting money in the bank. Necessary challans, have to be filled up and submitted to the concerned staff managing the counter either for withdrawing or depositing the money. When there are staff available for this purpose, Managers are not expected to receive the money directly from the customers, towards repayment of loan, especially a part payment. Another suggestion was made to the deceased appellant that sum of Rs.5,000/- was thrust to the deceased appellant. The suggestion was made to P.W.4 that the money was thrust on the pocket of the accused. Though no specific suggestion was made to P.W.2 as to whether money was thrust into his hand or the pocket, a specific suggestion was made to P.W.4 that money was thrust into the pocket of the accused. Even here, it is not specific suggestion as to whether money was thrust into the shirt pocket or pant pocket. However, P.W.3 who witnessed the acceptance of bribe money by deceased appellant, was not questioned about the alleged thrust of money by P.W.2. Though, P.W.3 has given chief examination running into 4 ½ pages, his cross examination was very cryptic and brief. Most of the questions relate to his experience of being a trap witness in C.B.I cases, house search of the deceased appellant, preparation of documents, etc. No question with regard to the trap proceedings, the acceptance and recovery of amount were posed to P.W.3 except some innocuous suggestions.

20.If the amount of Rs.5,000/- was thrust into the pocket of the deceased appellant as alleged by the deceased appellant, assuming without admitting that P.W.2 tried to thrust the money in the pocket of the deceased appellant, deceased appellant could have easily prevented P.W.2 from thrusting the money into his pocket by a repulsive action. If the money was thrust into the pant pocket of the deceased appellant, how come it is possible for the deceased appellant's right and left hand fingers tested positive for the presence of phenolphthalein solution. It is not easy for a person to approach a person closely and thrust the money into pant pocket. Even if an attempt was made, deceased appellant could have easily pushed P.W.2 away from him and prevented him from thrusting money in his pocket. That was not the case here. Therefore, the claim of the deceased appellant that P.W.2 thrust the money into his pant pocket, in the facts and circumstances of this case cannot be accepted. D.W.1 is only hearsay witness. D.W.2 admittedly the close friend of deceased appellant. In the light of the evidence available with regard to demand of bribe amount and its acceptance by the deceased appellant, the evidence of D.W.2

cannot be accepted as his evidence is an interested testimony. The reason is that, if really P.W.2 threatened deceased appellant in connection with sanctioning of loan, deceased appellant could have given a police complaint against P.W.2. That was not done in this case. Therefore, this Court is of the considered view that, D.W.2's evidence is not useful to the case of the appellant.

21.One more submission by the learned counsel for the appellant is that P.W.2 has criminal cases including a murder case pending against him. Therefore, his evidence has to be looked upon with suspicion. Merely because P.W.2 has criminal cases pending against him, we cannot reject his complaint and evidence when there is evidence available to support his version of the case.

22.It is submitted that Ex.P9 sketch lacks details as to the place where the witnesses were standing at the time of handing over the bribe amount. Perusal of Ex.P9 shows that the place where deceased appellant accepted the bribe amount is marked in the rough sketch. It goes without saying that P.W.2 was also standing near the place where deceased appellant accepted the bribe amount. Ex.P9 is only a rough sketch and not drawn with the minute of details. Rough sketches are drawn only with a view to inform the Court as to the place of occurrence in a best possible manner. The investigation officer is not expected to draw rough sketch like a blue print of a house. Sufficient details are provided in the rough sketch for the Court to have a fair idea about the place of occurrence. Therefore, this Court is of the view that the judgment in Crl.A.No.190 of 2012 (Madras High Court), Mohanmeda Bee Vs. The State represented by The Inspector of Police, Vigilance and Anti Corruption, Villupuram, and other judgments relied by the learned counsel for the appellant are not applicable to the facts and circumstances of this case.

23.As regards sanction for prosecution, it is submitted by the learned counsel for the appellant that only General Manager has the power to sanction against the deceased appellant and in this case sanction was not accorded by General Manager but by Assistant General Manager. Therefore, sanction is illegal. However, it is seen from the evidence of P.W.1 that he is authorized to sanction for prosecution against the deceased appellant as disciplinary authority. It is said so in the sanction order itself. Therefore, the claim that P.W.1 has no competency to sanction prosecution against the deceased appellant cannot be entertained. Even otherwise, Section 19 (3) of the Prevention of Corruption Act, 1988, provides that no finding, sentence or order passed by a Special Judge shall be reversed or altered by a Court in appeal, confirmation or revision on the ground of the absence of, or any error, omission or irregularity in, the sanction required under Sub-section (1), unless in the opinion of that Court, a failure of justice has in fact occasioned thereby;

In the case before hand, appellant has not made out any case of failure of justice on the ground of alleged lack of competency of P.W.1 in granting sanction. Thus, this Court finds that the arguments advanced by the learned counsel for the appellant questioning the validity of the sanction for prosecution against the deceased appellant cannot be entertained.

24.In the light of the evidence available and discussed above, this Court comes to the conclusion that the explanation offered by the deceased appellant with regard to the recovery of Rs.5,000/- from him cannot be accepted. On the other hand, prosecution has proved the demand of Rs.5,000/- as illegal gratification, its acceptance by the deceased appellant and recovery from the deceased appellant beyond any reasonable doubt. The trial Court rightly convicted the deceased appellant and sentenced him for the charges framed under Section 7 and 13 (2) r/w 13(1)(d) of the Prevention of Corruption Act, 1988. This Court finds no reason to interfere with the judgment of the trial Court. Thus, this Court answers that the case of the appellant that deceased appellant was framed by P.W.2, on his failure to sanction second loan to P.W.2 is not true; prosecution has proved the charges against the deceased appellant for demand and acceptance of illegal gratification of Rs.5,000/- and therefore, this appeal is dismissed for point number 1 to 3 against the deceased appellant.

25.In the result, this Court confirms the conviction imposed by the trial Court in C.C.No.14 of 2010 on the file of the learned XII Additional Special Judge for C.B.I. cases, Chennai, dated 05.07.2012 against the deceased appellant and dismisses Criminal Appeal in Crl.A.No.448 of 2012.

Sd/-
Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

Sli/ep

To

1. The XII Additional Special Judge for C.B.I. cases,
   Chennai.

2. The Sub Inspector of Police,
   CBI / ACB / Chennai,
   Crime No.R.C.MA1 2010 (A) 0004.

3. The Special Public Prosecutor,
   For CBI Cases,
   High Court of Madras.

Copy to:
The Section Officer,
Criminal Section Record,
High Court, Madras.

Crl.A.No.448 of 2012

NR(CO)
UMA(15/06/2022)