BAIL SLIP
CRL.A.No.658 OF 2017

This appellant / accused No.2 K.Kumarasan, S/o.Kailasam was already directed to be released on bail in and by the Order of this Court dated 14.11.2017 and made in Crl.M.P.No.13076 of 2017 in Crl.A.No.658 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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| RESERVED ON : 21.03.2022 | PRONOUNCED ON : 22 .04.2022 |

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THE HON'BLE MR. JUSTICE G.CHANDRASEKHARAN

CRL.A.NOS.649 AND 658 OF 2017

Crl.A.No.649 of 2017

1.Gopalan (Deceased)
2.G.Vanaja
3.V.Muthulakshmi
4.G.Subramanian ...Appellants

(Appellants 2 to 4 are impleaded as per the order in Crl.M.P.No.14408 of 2021 dated 04.01.2022)

Vs.

The State of Tamil Nadu represented by
Inspector of Police,
Vigilance and Anti-Corruption
Thirchy. ...Respondent

Crl.A.No.658 of 2017

K.Kamarasan ...Appellant

Vs.

The State of Tamil Nadu represented by
Inspector of Police,
Vigilance and Anti-Corruption
Ariyalur & District. ...Respondent

PRAYER in Crl.A.No.649 of 2017 : Criminal Appeal is filed under Section 374 (2) of the Code of Criminal Procedure, to call for the records pertaining in Spl.Case.No.6 of 2012 dated 04.10.2017 passed by the Chief Judicial Magistrate/Special Judge, Ariyalur and set aside the judgment of Conviction.

PRAYER in Crl.A.No.658 of 2017 : Criminal Appeal is filed under Section 374 (2) of the Code of Criminal Procedure, to set aside the order of the Chief Judicial Magistrate/Special Judge, Ariyalur dated 04.10.2017 in Spl.Case.No.6 of 2012 and may be pleased to acquit the appellant from the charges under Sections 8 and 12 of the Prevention of Corruption Act, 1988.

In Crl.A.No.649 of 2017:-

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| For Appellants | : | Mr.P.Tamilavel |
| For Respondent | : | Mr.E.Raj Thilak<br>Additional Public Prosecutor |

In Crl.A.No.658 of 2017:-

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| For Appellant | : | Mr.R.Sivaraman |
| For Respondent | : | Mr.E.Raj Thilak<br>Additional Public Prosecutor |

COMMON JUDGMENT

Gopalan, deceased appellant in Criminal Appeal No.649 of 2017 is the first accused and the appellant K.Kamarasan in Criminal Appeal No.658 of 2017 is the second accused. They filed these appeals challenging the judgment of the trial Court in Spl.Case.No.6 of 2012 convicting the deceased appellant Gopalan under Sections 7 and 13 (2) r/w 13 (1) (d) of the Prevention of Corruption Act 1988, and convicting the appellant Kamarasan under Sections 8 and 12 of the Prevention of Corruption Act, 1988 and sentencing them there under.

2. Prosecution filed final report alleging that the deceased appellant Gopalan was working as Sub-Registrar (Guidelines), with the office of District Registrar Office, Ariyalur from 03.06.2009 to 09.10.2009 and he is a public servant within the definition of Section 2 (c) of the Prevention of Corruption Act, 1988. Second appellant is document writer. Defacto complainant is a farmer and he decided to execute a General Power of Attorney Deed in favour of his mother Tamilarasi. On 05.10.2009, he bought a Rs.100/- stamp paper and met appellant kamarasan, and he instructed him to prepare the General Power of Attorney Deed. Next day (i.e) on 06.10.2009 evening, defacto complainant

went to Jeyamkondam Sub-Registrar office and met appellant Kamarasan. After completing the formalities with regard to preparation of the General Power of Attorney Deed, as instructed by appellant Kamarasan, defacto complainant went to Jeyamkondam Sub-Registrar's office along with two witnesses and met appellant Kamarasan at Jeyamkondam Sub-Registrar's office at about 11.00 hours on 08.10.2009. Appellant Kamarasan demanded Rs.500/- for paying the same as gratification other than legal remuneration to appellant Gopalan. Appellant Gopalan also demanded Rs.500/- as gratification other than the legal remuneration from defacto complainant. On the same day, defacto complainant reported the matter to the Inspector of Vigilance and Anti Corruption and a case was registered in Crime No.30 of 2009 under Sections 7 and 8 of Prevention of Corruption Act, 1988. During the course of trap proceedings on 09.10.2009 between 11.45 hours and 12.00 hours in the office of the Sub-Registrar, Jeyamkondam, appellant Gopalan reiterated the illegal demand of Rs.500/- and accepted the same through appellant Kamarasan. Thus, deceased appellant Gopalan is liable to be prosecuted for the offences under Sections 7, 13 (2) r/w. 13 (1) (d) of the Prevention of Corruption Act, 1988 and appellant Kamarasan is liable to be prosecuted for the offences under Sections 8 and 12 of the Prevention of Corruption Act, 1988.

3. On the basis of this final report, charges under Sections 7, 13 (2) r/w. 13 (1) (d) of the Prevention of Corruption Act, 1988 were framed against deceased appellant Gopalan and charges under Sections 8 and 12 of the Prevention of Corruption Act, 1988 were framed against appellant Kamarasan. Appellants denied the charges and demanded trial.

4. Prosecution examined PW.1 to PW.17 witnesses and produced Ex.P1 to P19 and MO.1 to MO.3 in support of the case of the prosecution. There was no witness or document produced on the side of the accused/appellants.

5. The case of the prosecution as discerned from the evidence of prosecution witnesses, in brief, is as follows,

P.W.2 planned to go abroad and decided to execute a General Power of Attorney Deed, in respect of his family properties, in favour of his mother. He met appellant Kamarasan on 05.10.2009 and informed him about his intention to execute the General Power of Attorney Deed. He also handed over Rs.100/- stamp paper to him. He met him at Jeyamkondam Sub-Registrar Office on 06.10.2009 and paid Rs.100/- towards his charges. Appellant Kamarasan asked him to come next day with two witnesses along with their address proof. Since, PW.2 was not well, he met Kamarasan on 08.10.2009. Kamarasan asked him to pay Rs.650/-. When he asked him that the registration charges is only Rs.150/- and why he was asking Rs.650/-, Kamarasan replied that a sum of

Rs.500/- is to be paid to appellant Gopalan. Only then he would register the document. P.W.2 met Gopalan and asked him why he was asking Rs.500/- in excess of the registration charges. Appellant Gopalan responded by saying that only if he pays Rs.500/-, the document would be registered. P.W.2 did not want to give bribe and therefore, he gave Ex.P2-complaint to the respondent Police. Next day PW.15-Vigilance Police Inspector introduced witness Syed Ahamad Kabir and Kumar. They, read his complaint and enquired about the allegations made in the complaint. PW.15 had demonstrated the Sodium Carbonate Phenolphthalein test in his presence and in the presence of the witnesses. As directed, he gave Rs.500/- meant to be given as bribe to appellant Gopalan. The pre-trap proceedings and handing over of Rs.500/- were recorded in Ex.P4-Entrustment Mahazar.

6. Then P.W.2 along with witnesses and police officials, visited the Sub-Registrar Office, Jeyamkondam. P.W.2 and P.W.3, went inside the office and met Kamarasan. Appellant Kamarasan asked him whether he brought Rs.500/- demanded by him and Rs.150/- towards registration charges. P.W.2 answered in affirmative and then appellant Kamarasan took them to deceased appellant Gopalan. Gopalan asked him whether he came for power of attorney deed and P.W.2 answered positively. He paid Rs.150/- to appellant Kamarasan and he handed it over to deceased appellant Gopalan. Deceased appellant Gopalan directed a computer operator (person working in a computer) to prepare receipt for Rs.150/-. Then he asked P.W.2 as to where is the sum of Rs.500/- demanded by him. P.W.2 took the money from his shirt pocket and about to give it to deceased appellant Gopalan. Then. appellant Kamarasan received the money in his right hand and gave it to deceased appellant Gopalan. Deceased appellant Gopalan received the money with his right hand and kept it in a box on the table. After sometime, PW.2 was delivered a computer bill. Then both P.W.2 and P.W.3 came out of office and signalled to PW.15 with the pre-arranged signal. Immediately, PW.15 came to him and P.W.2 explained him as to what had happened inside the office. PW.15, P.W.2 and P.W.3 and the team went inside the office and P.W.2 identified the appellants Gopalan and Kamarasan. Then, he was asked to go outside.

7. On being identified by P.W.2, P.W.15 - Trap laying officer introduced himself to appellants deceased Gopalan and Kamarasan and enquired Gopalan about his identity and post. P.W.3 was present along with other police officials. Sodium Carbonate solution was prepared and when deceased Gopalan was asked to dip his right hand fingers in the Sodium Carbonate solution, the solution changed to pink colour. The bottle containing the solution is MO.2. He enquired about the bribe money. Deceased appellant Gopalan handed over Rs.500/-. The currency note number tallied with the number in the Entrustment

mahazar. There was also a sum of Rs.900/- available in the box, out of this amount, Rs.642/- is Government money. Appellant Gopalan was not able to account for the excess sum of Rs.438/-. Another Sodium Carbonate solution was prepared and appellant Kamarasan was asked to dip his right hand fingers. When he did, the solution changed to pink colour. The bottle containing the solution is M.O.3. Then, P.W.15 seized the relevant records, Exs.P5, P6, P9, P10 and P11. He prepared Ex.P7-Seizure Mahazar and Ex.P8-Observation Mahazar, Ex.P15-Rough sketch. He arranged for search of Gopalan's house and sent Ex.P.16-Advance Intimation Letter. The search list is Ex.P17.

8. P.W.4 is the Village Administrative Officer of Pappakudi (South) village. He informed the respondent police about P.W.2 owning family property in survey No.4, Guruvalapper temple Village. P.W.5 had handed over Ex.P12-file containing copies of Adangal, extract, computer chitta, 'A' Register extract and patta in respect of Survey No.4/33 to the respondent police. P.W.6 had spoken about paying a sum of Rs.462/- to the Government account and keeping the excess amount of Rs.438/- in 'C' account. P.W.7-Office Assistant had spoken about handing over Rs.438/- to P.W.6. P.W.9 spoke about preparing Ex.P9-receipt as instructed by deceased appellant Gopalan. P.W.10 typed Ex.P5-General Power of Attorney Deed. P.W.11 and P.W.12 are the attestors to the General Power of Attorney Deed. P.W.14 is the mother of defacto complainant. P.W.16 is the paternal uncle of defacto complainant. They spoke about the execution of power of attorney deed by defacto complainant. P.W.13 is the Assistant Director of Tamil Nadu Forensic Science Department. He spoke about the receipt of two sealed glass bottles with unbroken seals on 20.10.2009, each containing 180ml of pink turbid liquid. On examination, it was found the liquid tested positive for the presence of phenolphthalein and Sodium Carbonate. P.W.17, investigating officer in this case examined witnesses and got sanction for prosecution of deceased appellant Gopalan and after completing investigation, filed final report.

9. On the basis of oral and documentary evidences produced in the case, trial Court found the deceased appellant Gopalan guilty for the offences under Sections 7 and 13 (2) r/w 13 (1) (d) of the Prevention of Corruption Act 1988, convicted and sentenced him to undergo 5 years simple imprisonment and to pay a fine of Rs.5,000/-, in default of payment of fine, to undergo further one year simple imprisonment under Section 7 of Prevention of Corruption Act; to undergo seven years of simple imprisonment and pay a fine of Rs.5,000/- in default of payment of fine, undergo further one year simple imprisonment under Section 13 (2) r/w 13 (1) (d) of the Prevention of Corruption Act. Appellant Kamarasan was convicted and sentenced to undergo simple imprisonment and to pay Rs.5,000/-, in default to pay

fine, to undergo one year simple imprisonment under Section 8 of the Prevention of Corruption Act and to undergo five years simple imprisonment and to pay fine of Rs.5,000/-, in default to pay fine, to undergo further one year simple imprisonment under Section 12 of the Prevention of Corruption Act, 1988. The substantive sentences are ordered to run concurrently. Challenging the said judgment, these Criminal Appeals are filed by the appellants.

10. Learned counsel for the appellants submitted that the appellant in Criminal Appeal No.649 of 2017 i.e., Gopalan was dead on 09.04.2020 and his legal heirs are continuing the appeal. The very foundation of this case is false for the reason that the properties in respect of which P.W.2 wants to execute General Power of Attorney Deed is not his individual property. These properties stand in the name of joint family members. P.W.4 had clearly stated in his evidence that the property in Survey No.4 is joint family property. How can P.W.2 can execute the General Power of Attorney Deed in respect of a joint family property? The registration of case by P.W.15 and then the alleged trap is illegal as per Section 17 of the Prevention of Corruption Act. It is seen from the evidence of P.W.3 that he has not been given any written authority to take part in the trap proceedings. Therefore, his evidence cannot be accepted. The prosecution has not proved the demand of bribe and its acceptance by the appellants. Sum of Rs.500/- was paid towards registration charges and not as bribe. The box used to keep the money was not subjected to Sodium Carbonate Phenolphthalein test. Though there are other witnesses present at the time of trap proceedings, but none of them was examined as independent witnesses. Witness Kumar was not examined. There is a motive for P.W.2 to give false complaint against deceased Gopalan for the reason that when P.W.2 requested Gopalan not to register the document brought by one Saminathan in respect of Survey No.4 of 2004, his request was negatived by the deceased Gopalan. Due to that enmity, P.W.2 gave this complaint. Sanction was given without proper application of mind. The judgment reported in 2022 LiveLaw (SC) 192 (K.Shanthamma ..vs.. The State of Telangana) is relied for the proposition that the proof of demand by public servant and its acceptance by him is sine-quanon for establishing the offence under Section 7 of Prevention of Corruption Act. He also relied the judgment of the Hon'ble Supreme Court in Appeal (Crl.) case No.1335 of 2005 between State, Inspector of Police, Vishakapatnam ..vs.. Surya sankaram Gargi reported in http://indiankanoon.org/doc/190260 for the proposition that without the order of Superintendent of Police, an Inspector of Police cannot investigate the case. The relevant portion reads as follows:-

> "…. When a statutory functionary passes an order, that too authorizing a person to carry

> out a public function like investigation into an offence, an order in writing was required to be passed. A statutory functionary must act in a manner laid down in the statute. Issuance of an oral direction is not contemplated under the Act. Such a concept is unknown in Administrative Law. The statutory functionaries are enjoined with a duty to pass written orders.”

Though these contradictions, omissions and lapses were brought to the notice of the trial Court, the Trial Court has not properly appreciated the evidence and wrongly convicted the appellants and sentenced them. Therefore, the learned counsel for the appellants prayed for setting aside the judgment of conviction and imposition of sentences and to acquit the appellants.

11. Per contra, learned Additional Public Prosecutor submitted that the demand of bribe money by the appellants, its acceptance by them and recovery from them were proved by the prosecution through the evidences of P.W.2, P.W.3 and P.W.15. Case was properly registered and properly investigated. Appellants have not established any ground or prejudice caused to them in the matter of registration of the case and investigation. Those grounds were not raised before the trial Court. Therefore, it is not open to challenge the registration of first information report and conduct of investigation in the appeal for the first time. The trial Court has properly analysed the evidence and rightly convicted and sentenced the appellants. Thus, the learned Additional Public Prosecutor prayed for confirming the judgment of the trial Court and for the dismissal of these appeals.

12. Considered the rival submissions and perused the records.

13. Points for consideration in these appeals are,

1) Whether the prosecution has failed to establish the demand of bribe and acceptance of the amount as bribe ?

2) Whether the appeals have to be allowed in the light of the grounds raised above ?

14. It is not in dispute that the deceased appellant Gopalan was working as Sub-Registrar, Jeyamkondam and appellant K. Kamarasan was a document writer during the relevant point of time. PW.2 approached appellant Kamarasan for preparation of a General Power of Attorney Deed in favour of his mother PW.14. Accordingly, appellant K.Kamarasan prepared General Power of Attorney Deed (Ex.P5) and said to have demanded a sum of

Rs.150/- towards registration charges and Rs.500/- as bribe to deceased appellant Gopalan. Not wanting to give the bribe, PW.2 gave a complaint and in the trap proceedings, the bribe money of Rs.500/- was said to have been recovered from the deceased appellant Gopalan. During the course of pendency of this appeal, appellant Gopalan died and his legal heirs are continuing the appeal proceedings. One of the main contention of the learned counsel for the appellants is that the property for which PW.2 wanted to execute a General Power of Attorney Deed is not his individual/independent property, but it is a joint family property. How can a General Power of Attorney Deed can be executed in respect of a joint family property.

15. It is claimed by PW.2 that he had plans to go to abroad and therefore, he executed the General Power of Attorney Deed (Ex.P5) in favour of his mother. It is now admitted by him that he had not gone to abroad. It is claimed by the appellants that PW.2 asked deceased appellant Gopalan not to register any documents in respect of S.No.4/204 Old S.No.4/1A/4C to be presented by Sambandam, S/o. Rathinam Pillai. Deceased Gopalan informed PW.2 that if the document produced for registration is in order, he cannot avoid registration, unless there is Court order not to register the document. Then, on 06.10.2009, the document presented for registration by Sambandam was registered. This is the motive, according to the appellants, for PW.2 to give false complaint against the appellants.

16. With regard to motive alleged by the appellants, especially the registration of document presented by Sambandam against the dictates of PW.2, except a suggestion to PW.2, there is no evidence produced to establish this motive. Therefore, the motive alleged by the appellants for PW.2 to give a false complaint against the appellants cannot be accepted.

17. Perusal of Ex.P5 - General Power of Attorney Deed shows that PW.2 claims to have owned ancestral property in R.S.No.4/33 in Guruvalapper Kovil Village, Jeyamkondam, Ariyalur District to an extent of 1.67.5 Hectares. In this property, he had undivided 1/5 share. There is plan to sell this property and he has to join and execute the sale deed. Since he planned to go to abroad in connection with employment and it was not possible for him to personally oversee and take part in the sale arrangement and execute the sale deed, he appointed his mother PW.14 as his Power of Attorney. PW.16, paternal uncle of PW.2 also confirms that the property is a joint family property and PW.2 had executed a Power of Attorney in favour of his mother. There is nothing illegal in executing Power of Attorney Deed in respect of undivided share for the purpose of sale, when the owner found it not possible for him to personally execute the sale deed. Therefore, the execution of Ex.P5- General Power of

Attorney Deed for the undivided share of PW.2 cannot be considered as an illegal act. Merely because PW.2 had not gone to abroad after the execution of Power of Attorney Deed, we cannot doubt the case of the prosecution and accept the case of the defence that it probablises their case that this case is foisted falsely against the appellants.

18. We have to find from the evidence available as to whether the prosecution established the demand of illegal gratification other than legal remuneration by the deceased appellant Gopalan for performing his public duty as Sub-Registrar at the time of Registration of Ex.P5 – General Power of Attorney Deed. So far as acceptance of bribe money is concerned, it is the case of the appellants, as suggested to PW.2, PW.3 and PW.15 that PW.2 gave a sum of Rs.500/- towards registration charges of Rs.150/- since he had no change for Rs.150/-. After receiving Rs.500/-, deceased Gopalan returned Rs.350/- to PW.2. From the suggestion made to PW.2, PW.3 and PW.15, it is clear that deceased appellant Gopalan accepted the receipt of Rs.500/-, the trap money smeared with phenolphthalein powder, but claims that it was not received as bribe, but only received towards registration charges. Whether this explanation of appellants can be accepted or not is a matter for consideration.

19. PW.2 during the course of his evidence clearly stated that after preparation of Ex..P5-General Power of Attorney Deed, he met Kamarasan on 06.10.2009 at Sub Registrar Office, Jeyamkondam and he received his charge of Rs.100/-. He asked PW.2 to come to Sub Registrar Office next day along with two witnesses and the documents supporting their residential address. Since he was not well, he could not go to Sub Registrar Office on 07.10.2009. On 08.10.2009, he visited Sub Registrar Office, Jeyamkondam and met Kamarasan. Kamarasan asked Rs.650/- for registration purpose. He asked him when the registration charge was Rs.150/-, why he was asking Rs.650/-. Kamarasan told him that a sum of Rs.500/- should be paid to Gopalan, only then he would register the document. He wanted to ask Gopalan about this and Kamarasan took him to Gopalan. PW.2 asked deceased appellant Gopalan as to why he was asking Rs.500/- in respect of registration charges. Deceased appellant Gopalan, in response, stated that only if Rs.500/- is paid, the document would be registered. PW.2 informed him that he had no money and would come later. Then, he gave a complaint. This evidence is with regard to his first demand made on 08.10.2009. Then on 09.10.2009, after arranging for trap by PW.15, PW.2 and PW.3 went inside the Sub Registrar Office, Jeyamkondam. Kamarasan asked him whether he brought Rs.500/- demanded by him and Rs.150/- for registration charges, PW.2 answered in the affirmative. Then, Kamarasan took him to Gopalan. Gopalan

asked him as to whether he came for Power of Attorney Deed and PW.2 answered in affirmative. PW.2 paid Rs.150/- towards computer fees and the documents to Kamarasan. Kamarasan handed over them to Gopalan. Gopalan signed in the document and asked a staff to prepare receipt. Then he asked what about the demand of Rs.500/- made by him. PW.2 took Rs.500/- from his shirt pocket and tried to give to Gopalan. But Kamarasan received the amount and gave it to Gopalan. Gopalan received the money with his right hand and kept in a box in the table. Then followed the trap proceedings. PW.2 had given clear evidence with regard to the demand of bribe amount on 08.10.2009 and again on 09.10.2009. The demand of bribe amount by deceased appellant Gopalan on 09.10.2009, its acceptance by Kamarasan from PW.2 and then giving it to deceased appellant Gopalan were clearly spoken by PW.3.

20. Of course, there is evidence of PW.2 during the course of cross examination that nobody asked him to bring the document writer; Kamarasan perused the document; Gopalan did not say that he would receive the document only if Rs.500/- was paid, at that point of time. Learned counsel for the appellants submitted that this evidence of PW.2 creates doubt that whether the alleged demand of bribe made on 08.10.2009 was really true. The suggestion was made only to the effect that whether Gopalan told PW.2 that he would receive the document only if a sum of Rs.500/- was paid. There was no suggestion or question with regard to the alleged demand of Rs.500/- as bribe on 08.10.2009. It is seen from the evidence of PW.11 and PW.12 that they had visited the Sub Registrar Office on 08.10.2009 for the purpose of registration of Ex.P5. Then, they again visited the Sub Registrar Office, Jeyamkondam on 09.10.2009. Only on 09.10.2009 Ex.P5 was registered. According to PW.2, since Gopalan demanded Rs.500/- and he did not want to give the bribe, he lodged Ex.P2-complaint. These circumstances establish the case of prosecution that the appellants deceased Gopalan and Kamarasan demanded a sum of Rs.500/- as bribe for registration of Ex.P5 - General Power of Attorney Deed and that was the reason why the document was not registered on 08.10.2009. Therefore, this bald evidence of PW.2 that Gopalan did not tell him that he would receive the document only if he was paid Rs.500/- would no way affect the credibility of evidence of PW.2. We cannot pick and chose particular sentence while appreciating the evidence. Entire evidence has to be taken into consideration for appreciating the evidence. If the entire evidence of PW.2 is considered, he had clearly stated that appellants Gopalan and Kamarasan demanded Rs.500/- as bribe on 08.10.2009 for registering Ex.P5 – General Power of Attorney Deed and that demand was again made on 09.10.2009 prior to trap proceedings. PW.3 corroborates the evidence of PW.2 with regard to the demand made on 09.10.2009. Therefore, this Court is of the considered

view that the demand of bribe amount of Rs.500/- made by deceased Gopalan and Kamarasan on 08.10.2009 and 09.10.2009 had been clearly proved by the prosecution beyond any doubt.

21. PW.3 and PW.15 had clearly given evidence with regard to trap proceedings. The right hand fingers of Gopalan and Kamarasan were subjected to sodium carbonate phenolphthalein test. PW.13 in her evidence clearly stated that MO.2 and MO.3 solutions tested positive for the presence of sodium carbonate and phenolphthalein. She produced Ex.P13 report. The currency notes seized from deceased Gopalan confirmed with the currency notes entered in the Entrustment Mahazar. Thus, the demand of bribe money by Kamarasan and Gopalan and its acceptance were proved without any pale of doubt by prosecution. It is not the case of the appellants that they have not received the money, but their claim is that money was received only towards registration charges. However this explanation, in the considered view of this Court, cannot be accepted for the reason that there is no evidence in support of their claim. No doubt, the proof of demand of bribe by public servant and its acceptance by him is sine quonon for establishing the offence under Section 7 of Prevention of Corruption Act. In the case before hand, in the considered view of this Court, the proof of demand of bribe by Kamarasan on behalf of Gopalan and then by Gopalan, a public servant and its acceptance were clearly proved by the prosecution. Therefore, the judgment relied by the learned counsel for the appellants reported in 2022 Live Law (SC) 192 (K.Shanthamma ..vs.. The State of Telengana) is not useful to their case.

22. This is a case registered for the offences under Sections 7, 13(2) r/w.13(1)(d) of the Prevention of Corruption Act against the deceased accused Gopalan and under Sections 8 and 12 of the Prevention of Corruption Act against the accused Kamarasan. It is submitted by the learned Additional Public Prosecutor that the Inspectors are authorised by the State to investigate the offences under Sections of Prevention of Corruption Act, 1988. Only if an investigation is sought to be conducted for the offence under Section 13(1)(e) of Prevention of Corruption Act, 1988, the order of police officer not below the rank of Superintendent of Police is required. This is not a case registered under Section 13(1)(e) of Prevention of Corruption Act. Therefore, the investigation conducted by PW.17 is in order. Thus, this Court finds that the judgment relied by the learned counsel for the appellant in Hon'ble Supreme Court Appeal (Crl.) case No.1335 of 2005 between State, Inspector of Police, Vishakapatnam ..vs.. Suryasankaram Gargi reported in http://indiankanoon.org/doc/190260 is not applicable to the facts and circumstances of this case.

23. For the reasons stated above, this Court finds that the prosecution has clearly proved the demand of bribe and its acceptance by the appellants and then, recovery by PW.15. The trial Court has properly appreciated the evidence and rightly convicted and sentenced the appellant for the charges framed against him. This Court finds no reason to interfere with the judgment of the trial Court. Thus, the points are answered against the appellants.

24. In fine, this Court confirms the judgment of conviction passed in Spl.Case.No.6 of 2012 dated 04.10.2017 by the learned Judicial Magistrate/Special Judge, Ariyalur against the deceased appellant Gopalan under Sections 7 and 13 (2) r/w 13 (1) (d) of the Prevention of Corruption Act 1988, and the conviction recorded and sentence imposed against the appellant Kamarasan under Sections 8 and 12 of the Prevention of Corruption Act, 1988, and dismisses these Criminal Appeals. In view of the death of Gopalan during the pendency of the Appeal, the sentence ordered against him cannot be enforced. If the fine amount is not paid, the legal heirs are liable to pay the fine amount, from the estate of deceased appellant Gopalan.

25. Accordingly, these Criminal Appeals are dismissed. The trial Court is directed to take steps to secure appellant in Crl.A.No.658 of 2017, viz., K.Kamarasan to undergo the remaining period of sentence.

Sd/-
Assistant Registrar(CS-IV)

// True Copy //

Sub Assistant Registrar

mra

To

1.The Chief Judicial Magistrate,
Ariyalur.

2.The Judicial Magistrate/
Special Judge,
Ariyalur.

3.The Superintendent,
Central Prison,
Trichy.

4.Inspector of Police,
Vigilance and Anti-Corruption
Thirchy.

5.Inspector of Police,
Vigilance and Anti-Corruption
Ariyalur & District.

6.The Public Prosecutor,
Madras High Court, Chennai.

+1cc to Mr.P.Tamilavel, Advocate Sr.No.27911



RLD(CO)
RVM(19/05/2022)