



Crl.A(MD)No.61 of 2017

Bail Slip

Appellant namely Ramu S/o. Chandran was released on bail as per order of this Court dated 16.03.2017 made in Crl MP(MD)No.1613 of 2017 in Crl A(MD)No.61 of 2017

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date : 27.04.2022

CORAM

THE HONOURABLE MR. JUSTICE **G. ILANGO VAN**

Crl.A(MD)No.61 of 2017

Ramu : Appellant/ Accused

Vs.

The State rep by
The Inspector of Police,
Vigilance and Anti Corruption,
Sivagangai.
(in Crime No.1 of 2008

: Respondent/Complainant

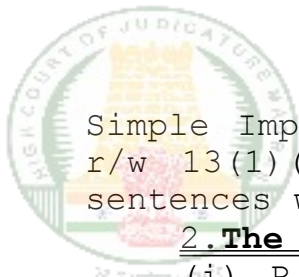
Prayer: Criminal Appeal filed under 374(2) of the Criminal Procedure Code r/w 27 of Prevention of Corruption Act, to call for the records relating to the judgment in Spl.C.C.No.43 of 2014 on 17.02.2017 on the file of the Special Court for Trial Cases under Prevention of Corruption Act, Sivagangai and set aside the same and acquit the appellant/accused from all charges framed against him.

For Appellant : Mr.T.Lajapathi Roy

For Respondent : Mr.R.Meenakshi Sundaram
Additional Public Prosecutor

JUDGMENT

This Criminal Appeal is preferred by the appellant, who was convicted by the trial court for the offence punishable under Sections 7 and 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988, against the judgment of conviction and sentence passed by the learned Special Judge for Trial Cases under the Prevention of Corruption Act, Sivagangai, in Spl.C.C.No.43 of 2014, dated 17.02.2017, by which, the appellant was convicted and sentenced to undergo 3 years of Rigorous Imprisonment and to pay a fine of Rs.1000/-, in default, to undergo 6 months Simple Imprisonment for the offence punishable under Section 7 of the Prevention of Corruption Act, 1988 and to undergo 3 years Rigorous Imprisonment and to pay a fine of Rs.1,000/-, in default, to undergo six months



Simple Imprisonment for the offence punishable under Section 13(2) r/w 13(1)(d) of the Prevention of Corruption Act, 1988 and the sentences were ordered to run concurrently.

2.The case of the prosecution:-

(i) P.W.2 lodged a complaint with the respondent stating that the appellant herein, who was working as a Village Administrative Officer in Pallivayal group village, demanded a sum of Rs.500/- as bribe amount for issuing Adangal. In pursuance of the complaint lodged by him, trap was prepared and trap was also laid and the accused was arrested, when he demanded and received the bribe amount of Rs.500 on 29.07.2008. After completing the formalities of investigation, final report was filed, which was taken cognizance by the Special Court in Spl.C.C.No.43 of 2014 against the appellant. Thereafter, charges under Sections 7 and 13(2) r/w 13(1)(d) of Prevention of Corruption Act were framed.

(ii) After framing the above said charges, the appellant was questioned and he denied the charges. For proving the above said charges, on the side of the prosecution, 13 witnesses were examined and marked 32 documents and 5 Material Objects were exhibited. On the side of the accused namely, the appellant herein, two witnesses were examined and one document was marked. After completing the trial process as noticed above, the accused person was convicted and sentenced as stated above.

3.The case of the prosecution as narrated through the evidence:-

(i) P.W.2, is a resident of Pallithammam Village. His father has owned 7 acres of land. Out of the aforesaid 7 acres, he was cultivating coconut and mango trees in two acres. In the remaining extent, groundnut was cultivated. After the death of his father, he continued to be in possession and cultivating the said land. He wanted to install Drip Irrigation in the property. For the purpose of getting adangal extract, he contacted the appellant on 12.03.2008, when he was working as Village Administrative Officer in Pallivayal group. He issued adangal and other certificates, but he has mentioned the land as dry one. He handed over the application to the Assistant Executive Engineer (Agriculture) for further process. In first week of May 2008, the company official visited the land and made a report. When he contacted the Executive Engineer he was told that in the adangal it has been mentioned as dry land. So he advised to take another adangal mentioning the nature of cultivation. When it was intimated to the appellant, he did not properly respond. At the end, he demanded a sum of Rs.1,000/- for making correction in the adangal and at that time, his relative namely, Rajkumar was also present. He requested the appellant to reduce the amount and accordingly, the amount was reduced to Rs.500/-. He advised him to pay Rs.500/- on 28.07.2008 and get the adangal extract. He visited the Office on that date, but the appellant was not available. Again he was asked to return on 29.07.2008. when he contacted him, he again asked him to come to Kalaiyarkovil office in the evening. So, he lodged a complaint



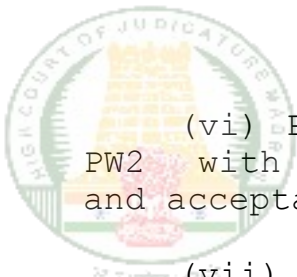
before the Vigilance police at about 1.45 p.m. The case was registered in crime No. 1/2008 and a trap arrangement was made. For the purpose of assisting the police, two officials from other departments were invited. One Mr.sekar and Mr.Ravi came to the office and they handed over Rs.500 to Inspector of Police, who registered the FIR.

(ii) The further event is spoken by P.W.12 Mr.Pandiyarajan, who was working as Inspector of Police that he arranged the pre-trap process and smeared the phenolphthalein powder in the currency note given by P.W.2. He also advised P.W2 and other witnesses to follow his instructions and asked P.W.2 and other witnesses to hand over the money, if demanded by the accused. They also prepared the mahazar by mentioning the note number, which was marked as Ex.P.5. At about 3.15 p.m the police team started from police station and at about 4.10 p.m, they reached the office and P.W.2 and another witness namely Sekar were asked to go to the office of the appellant. They went inside the office and came out. At that time the appellant was not available in the office and at about 6.20 p.m the appellant reached the office. P.W2 and Sekar went inside the office.

(iii) The further event is spoken by PW2 that when they entered the office, the appellant demanded whether he has brought Rs.500/-. He issued adangal extract by mentioning the date as 05.07.2008 but he requested him to put the date as 12.03.2008. He issued another fresh adangal extract and demanded a sum of Rs.500/-. The said amount was handed over to him and that was put in his pocket. They came out of the office and as advised earlier, he made a signal. On seeing the signal, the police team went inside the office of the appellant.

(iv)The further event is spoken by PW12 that PW12 and his team went inside the office of the appellant and the appellant was identified by PW2. He enquired the appellant and he prepared Sodium Bicarbonate Solution. The appellant was directed to dip his right hand and thereafter left hand in another solution. Both solutions turned pink. He collected the same in separate bottle and sealed it. He also recovered the bribe amount of Rs.500/- from the appellant and compared the number of note with the mahazar already prepared. It was found that they are one and the same. The accused was arrested and remanded to custody. He also recovered the relevant documents from the office. The search was made in the house of the appellant, but nothing was recovered. Further, the investigation was taken by PW13 Raja. He recorded the statement of witnesses. After completing the formalities of investigation, he filed the final report on 31.10.2009.

(v) PW3 is the relative of PW2. He has stated that he was also available with PW2, when the appellant demanded Rs.500/- as bribe amount.



(vi) PW4 is the official shadow witness, who corroborated with PW2 with regard to pre-trap arrangements, trapping process, demand and acceptance by the appellant and further process.

(vii) PW5 was working as Assistant Executive Engineer in the Agriculture Engineering Department. He has spoken about the procedure that was followed for sanctioning the fund for the Drip Irrigation Scheme.

(viii) PW6 stated that he joined as Village Administrative Officer in Moovarkanmai Group on 09.07.2008. He took over the charge of the aforesaid village from the accused. Ex.P24 is the charge document.

(ix) PW7 was working as Manager in A.G.S.Irrigation Private Limited. He made a spot visit to the property of P.W.2.

(x) PW8 has stated that he owns Arumugasamy complex near Kalaiyarkovil bus stand. One Marimuthu was running an office in the building. He vacated the same and the appellant was inducted as a tenant from July 2008.

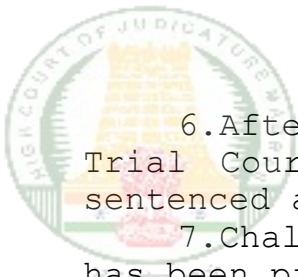
(xi) PW9 was working as Sheristadar in Chief Judicial Magistrate Court, Sivagangai. He submitted the material objects for the examination to the forensic science laboratory.

(xii) PW10 was working as Tashildar, Sivagangai from 18.02.2008 to 06.03.2009 and he spoken about the service particulars of the accused.

(xiii) PW11 was working as Technician in the Forensic science Laboratory, Chennai. He examined the material objects and submitted the report.

4. After completing the evidence on the side of the prosecution, the accused was questioned under Section 313 Cr.P.C. He denied the evidence of the prosecution witnesses. On his side, he examined two witnesses and he himself was examined as D.W.1. The appellant stated that he never demanded any bribe from PW2 on 09.07.2008 and he handed over the charge of Moovarkanmai village group to PW6-Kalidoss. Earlier one marimuthu was occupying the said office room and several persons used to visit him to give money to be handed over to Marimuthu. PW2 demanded him to issue a false certificate, he refused. Because of the aforesaid enmity, PW3 instigated PW2 to lodge the said complaint. On the particular date, after receiving the certificate, he placed Rs.500 stating that the amount must be paid to Marimuthu. When that was resisted, he put the money in the table and went away.

5. DW2 stating that on the date of trap, except P.W.2 no other persons came to the office and PW2 came to the office to collect the accused and at that time, he was also present and the accused never demanded any money as bribe from the aforesaid PW2.



6.After hearing the prosecution as well as the defence, the Trial Court recorded the findings of conviction and imposed the sentenced as noted above.

7.Challenging the conviction and sentence, the present appeal has been preferred by the appellant.

8.Heard both sides.

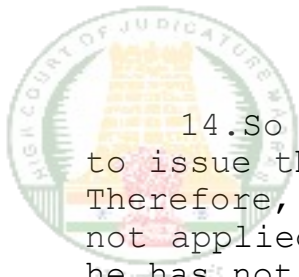
9.Appeal is against the conviction and sentence. P.W.1 was PA to collector. During the relevant time he issued the sanction order for prosecuting the appellant. Let us straightaway go to this point. Because this point has been raised by the learned counsel for the appellant as a preliminary issue. He would submit that during the relevant period the appellant was not at all in charge of Moovarkanmai village. Before the date, namely 09.07.2008, he handed over the charge to PW6- Kalidoss. On the date of the alleged demand and acceptance of the bribe amount, this appellant was not competent to issue the adangal extract in respect of the property situated in Moovarkanmai village group, because PW6 was the competent person. This important factor was not taken note of by PW1 at the time issuing the sanction order. PW1 would say that he was not aware whether the charge was handed over to PW6.

10.In this context, let us go to the evidence of PW6. He would say that on 09.07.2008, he took over the charge of Moovarkanmai group village from the appellant, who was holding the additional charge of Moovarkanmai group. The appellant was working as a Village Administrative Officer, Vakaikulam group and Pallivayal group. Ex.P24 is the relevant document. So from this evidence and from Ex.P24, it is seen that on the date of the occurrence, the appellant was not holding the charge of the occurrence village, it was contended.

11.Now, let us go to the evidence of PW2. He would say that he is having the ancestral property in Pallithammam village. For the purpose of getting adangal extract, he approached the appellant, who was working as Village Administrative Officer of Pallivayal group.

12.At the time of hearing the appeal, this Court raised a doubt with regard to the location of the property and relevant village. The learned Additional Public Prosecutor has clarified the same on the basis of A-Register of Pallivayal group, wherein, it has been mentioned that the Pallithammam village comes under the Pallivayal group. In the group, three villages are located. This document was not produced as an additional evidence by the respondent. Since there is a doubt with regard to the location of the village, this Court can take judicial notice. It is seen that the Pallithammam Village is located within the Pallivayal group.

13.Now, let us go to the evidence of PW6. He took over the charge in respect of Moovarkanmai group from the appellant, but Pallithampam village comes under the jurisdiction of Pallivayal village group. So, the appellant is the competent person to issue adangal. Even though during the examination of witnesses this fact was not properly clarified, now it has been clarified by the learned Additional Public Prosecutor.



14. So we can take that the appellant was the competent person to issue the adangal extract in respect of the Pallithammam village. Therefore, the contention on the part of the appellant that PW1 has not applied his mind to the issue, is not at all acceptable, though he has not concentrated on this point. The sanction order which was issued by him does not suffer from any illegality.

15. So we shall go to the next aspect as to the demand as well as the acceptance. In respect of the demand, PW2 stated that on 26.07.2008 the demand of Rs.1000/- as bribe was made by the appellant, but that was reduced Rs.500/- and at that time, PW3 was also present, who is a relative of PW2. He was also corroborated by PW3 over the aforesaid demand. The arguments that has been advanced by the appellant to the effect that there was previous enmity between PW3 and the appellant over the issue of a certificate for claiming compensation amount from the Government for snake bite. But absolutely there is no evidence on the side of the appellant. So, this Court is unable to accept the line of argument that was advanced by the appellant. We take the evidence of PW3 and PW2 together and it is seen that there was a demand of Rs.1,000/- as bribe by the appellant. The evidence of PW2 and PW3 were not successfully challenged.

16. Now coming to the trap occurrence. PW2 would say that on 29.07.2008, he lodged the complaint upon which the aforesaid trap was laid and as advised by the trap laying officer, he along with the official witness namely, Sekar went to the office of the appellant and at that time, he demanded Rs.500/- and PW2 handed over the currency note, which was smeared with the phenolphthalein powder. The accused collected the said money and put the same in his pocket. So this piece of evidence is corroborated by PW4- Sekar, who was a shadow witness arranged by the trap laying officer. He would say that at about 4.35 PM when they visited the office the appellant, he demanded whether PW2 has brought Rs.500/- which was demanded by him. Before receiving the amount, he issued the adangal extract. The evidence of PW2 and PW4 show that there was a specific demand and acceptance of money by the appellant on 29.07.2008.

17. Now, let us go to the evidence of DW1 on this aspect, who is the accused. He has stated that PW2 gave the money stating that it must be in turn handed over to one marimuthu, who was running a Bishmi bricks in the aforesaid room previously. When that was resisted, PW2 put the same in the table and went away and the accused has admitted that he issued the certificate namely, adangal extract on that date. From this aspect, it is seen that the accused admits that the money was recovered from him by the police team. But he wants to explain it away stating that it was meant to be paid to Marimuthu.

18. Now let us go to evidence of PW8, who is the owner of the building where the office of the appellant was housed. He would say that originally one Marimuthu was a tenant in the aforesaid room and from July 2008, it was rented to the appellant, since marimuthu has vacated. From this aspect, the learned counsel for the appellant wanted to believe that the defence has probabilsed the theory that



what was recovered from the appellant was meant to be paid only to the previous tenant namely, Marimuthu and not a bribe amount. But absolutely I do not find no corroborative circumstances. The explanation is offered by the appellant for the sake of explanation. It cannot be construed as a probabalising fact. The entire defence of the appellant appears that on a wrong assumption, the appellant construed himself as a non competent person to issue adangal extract. But from the aforesaid discussion it is seen that Pallithammam village lies within the jurisdiction of the appellant.

19.From the discussion made above, I am of the considered view that the prosecution proved the case beyond all reasonable doubt and the appellant has not successfully discharged the presumption, which is available in favour of the prosecution under Section 20 of the Prevention of Corruption Act. Here the demand as well as the acceptance has been properly proved. So, I find no perversity or illegality has been committed by the trial Court in convicting the appellant under Sections 7 and 13(2) r/w 13(1)(d) of the Prevention of Corruption Act., so the conviction under the above sections are confirmed.

20.Considering the facts and circumstances and also the amount involved in the occurrence, I am of the considered view that the justice will be met, if the sentence is reduced to one year Rigorous imprisonment, from three years rigorous imprisonment under both sections. The fine amount requires no modifications.

21.In fine, this Criminal Appeal is partly allowed and the sentence awarded by the Courts below on the appellant under Section 7 of the prevention of Corruption Act, is reduced to one year rigorous imprisonment. Fine sustained. The sentence imposed for the offence under Section 13(2) r/w 13(1)(d) of the Prevention of Corruption Act, is reduced to one year rigorous imprisonment. Fine sustained. The sentences shall run concurrently. The period of incarceration during the investigation as ordered by the trial court is also set off. Bail bond, if any, executed by the appellant shall stand cancelled. The trial Court is directed to secure the appellant and commit him to prison to undergo the remaining period of sentence.

Sd/-

Assistant Registrar (CS I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To

1.The Judge,
Special Court for Trial Cases
<https://hcservices.ecourts.gov.in/hcservices/>
under Prevention of Corruption Act,
Sivagangai.



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2.The Inspector of Police,
Vigilance and Anti Corruption,
Sivagangai.

3.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.

+1 CC to M/s.T. LAJAPATHI ROY, Advocate (SR-22499[F] dated
29/04/2022)

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27.04.2022

MGJ(01.06.2022) 8P 7C