



Crl.A.No.9 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.02.2023

Coram:

THE HONOURABLE **MR. JUSTICE P.VELMURUGAN**

Crl.A.No.9 of 2015

Baby

... Appellant

Vs.

State by Deputy Superintendent of Police
(Vigilance & Anti Corruption)

Erode

Crime No.5/AC/2009/ER

... Respondent

Prayer: Criminal Appeal is filed under Section 374 (2) of Criminal Procedure Code, against the Judgment of the learned Chief Judicial Magistrate cum Special Judge, Tiruppur, in Special C.C.No.1 of 2014 dated 16.12.2014.

For Appellant :Mr.V.Ramamurthy

For respondent : Mrs.G.V.Kasthuri
Additional Public Prosecutor



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JUDGMENT

This Criminal Appeal has been filed against the Judgment of the learned Chief Judicial Magistrate cum Special Judge, Tiruppur passed in Special C.C.No.1 of 2014 dated 16.12.2014.

2. The respondent police registered a case in Crime No.5/AC/2009/ER against the petitioner for the offence under Section 7 of Prevention of Corruption Act and after completing the proceedings and investigation, laid charge sheet before the Chief Judicial Magistrate cum Special Court, Tiruppur. The learned Special Judge, taken the case on file in Spl.C.C.No.1 of 2014 and after completing the formalities framed the charges against the appellant and other accused for the offences under Section 7, 13(2) read with 13(1) (d) of Prevention of Corruption Act 1988.

3. In order to substantiate the case of the prosecution before the trial Court, on the side of the prosecution during trial, totally 17 witnesses



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were examined as P.W.1 to P.W.17 and 24 documents were marked as Exs.P.1 to P.24 and no material object was exhibited.

4. After completing the examination of the prosecution witnesses, when incriminating circumstances culled out from the evidence of the prosecution witnesses were put before the accused by questioning under Section 313 Cr.P.C., they denied the same as false and pleaded not guilty. On the side of the defence, no oral or documentary evidence was produced.

5. On conclusion of trial after hearing the arguments advanced on either side, considering the materials, the trial Court found the appellant alone guilty for the charged offences and thereby convicted her and sentenced to undergo one year simple imprisonment and to pay fine of Rs.1,000/- in default, to undergo, simple imprisonment for a further period of 3 months for the offence under Section 13(2) read with 13(1) (d) of Prevention of Corruption Act and no separate sentence was ordered for



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the offence under Section 7 of Prevention of Corruption Act. Since the trial Court not found the 2nd accused guilty for the charged offences, acquitted the 2nd accused from all the charges. Challenging the said Judgment of conviction and sentence, the 1st accused has filed the present appeal before this Court.

6. The specific case of the prosecution is that the appellant was working as a Sub Inspector of Police in the Prohibition Enforcement Wing in the Kangeyam Police Station. The defacto complainant is an Agriculturist and he is also a member of toddy Association. The defacto complainant had cultivated 50 Coconut trees and he used to extract toddy from the said coconut trees and sell the the same. On 11.06.2009, the Police personal from the Kangeyam Prohibition Enforcement Wing, went to the place of the defacto complainant to conduct raid and on coming to know about the same, the defacto complainant, disposed of the Toddy and had kept the empty mud pots. During the raid, the police broken the empty mud pots and also registered a case against the defacto



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complainant. Thereafter, the appellant demanded a sum of Rs.10,000/- from the defacto complainant through P.W.4 who is member of Toddy Association for releasing him on bail and again on 17.06.2009, the appellant demanded money from the defacto complainant over the cell phone of P.W.6/Head Constable and subsequently, on 18.06.2009, the appellant called the defacto complainant through her cell phone and insisted the defacto complainant to come and meet her in her office with money on 19.06.2009. Since the defacto complainant did not like to pay the illegal gratification, he approached the respondent police and gave a complaint. Subsequently, the respondent police, after conducting preliminary enquiry, registered a case and planned to conduct trap proceedings and they also conducted a pre-trap proceedings and that P.W.3 stood as a shadow witness for the trap proceedings. Thereafter, they proceeded to the office of the appellant wherein, the appellant received bribe money from the defacto complainant through the 2nd accused and kept it in her handbag. Subsequently, P.W.14/the Trap Laying Officer, after receiving pre-arranged signal from the defacto



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complainant, went inside the office of the appellant and after completing the Phenolphthalein Test, recovered the money from the appellant through recovery mahazar and after completing the formalities, filed the charge sheet before the concerned Court. Hence, the case.

7. The learned counsel for the appellant would submit that even as per the prosecution, the 2nd accused only received the money directly from the defacto complainant, whereas the trial Court from the very same materials and evidence, acquitted the 2nd accused and convicted the appellant alone which is erroneous. Further he would submit that there are discrepancies with regard to the place of receiving money. Though the prosecution has stated that the appellant demanded money from the defacto complainant through the cell phones of her co-worker, the same was not proved by the prosecution by producing the call details of the said cell phone number and that the said cell phones were also not seized. He would submit that the appellant never demanded and accepted any money from the defacto complainant as a bribe. The trial Court failed to appreciate the evidence properly and also failed to consider the



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discrepancies and contradictions and erroneously held the appellant guilty for the charged offences and convicted her. He would further submit that the defacto complainant had a strong motive to implicate the appellant in this case. Since the appellant had registered a case against the defacto complainant, the defacto complainant and his associates wanted to get rid of the Kangeyam Prohibition Enforcement Wing Unit and therefore, they had targeted the appellant and subsequently, they have implicated the appellant in this case and the same was also admitted by the defacto complainant during his cross examination, whereas the trial Court failed to consider the same. He would further submit that the alleged demand of money by the appellant, was not proved. Even P.W.2 who originally lodged the complaint, himself has turned hostile. When the prosecution declared the prime prosecution witness viz., P.W.2 who is none other than the defacto complainant, as a hostile witness, the conviction cannot be recorded based on the evidence of the hostile witness. Since P.W.2 was treated as a hostile witness, there should be some corroboration to establish the charge framed against the appellant. Though P.W.3 had



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accompanied with the defacto complainant/P.W.2, since P.W.3 is a stock witness, his evidence cannot be corroborated with the evidence of P.W.2.

Further prosecution has failed to prove the fact that P.W.3 had obtained permission from his superior to witness the trap proceedings and hence in the absence of examination of higher officials of P.W.3, the evidence of P.W.3 has no value. Further, P.W.1 who is the sanctioning authority, has erred in granting sanction to the prosecution to prosecute the appellant overlooking that P.W.14/Trap Laying Officer did not conduct any preliminary enquiry about the antecedents of the appellant. Further, there are material contradictions and inconsistencies in the evidence of the prosecution witnesses regarding the alleged demand of illegal gratification by the appellant which would go into the root of the prosecution case. Further, based on the un-corroborative and hostile evidence, conviction cannot be recorded. To convict an accused under the Prevention of Corruption Act, the sine qua non for constitution of offence viz., demand, acceptance and recovery have to be proved by the prosecution beyond all reasonable doubt, whereas in this case, the prosecution has not proved



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the said ingredients for illegal gratification. Mere recovery alone is not sufficient to convict an accused and mere acceptance alone is also not a ground to convict an accused. The trial Court failed to look into all the aspects and erroneously convicted the appellant. Therefore, the Judgment of the trial Court is liable to be set aside and the appeal has to be allowed. In order to substantiate his contentions, the learned counsel placed reliance of the Judgments of this Court as follows;

1. S.P.Paulraj Vs. State reported in 2009 (1) MWN (Cr.) 324
2. Arokiaraj and Another Vs. State by Inspector of Police,
Vigilance and Anti Corruption, Chennai City-II, Detachment,
Chennai reported in (2014) 3 MLJ (Crl) 122
3. S.Venkatappa Chetty Vs. State reported in (2011) 1 MLJ
(Crl) 348
4. T.M.Shanmughavelu and Another Vs. State reported in
(2011) 3 MLJ (Crl) 481
5. Sankaralingam Vs. Deputy Superintendent of Police
(V&AC) Tirunelveli reported in 2010 (3) MWN (Cr.) 51
6. A.V.Vijayarangan and 2 others Vs. State reported in 2010
(1)
MWN (Cr.) 235



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7. State Vs. Magalingam reported in 2009 (3) MWN (Cr.) 356

8. The learned Additional Public Prosecutor would submit that the appellant was working as a Sub Inspector of Police in the Prohibition Enforcement Wing in the Kangeyam Police Station and during her tenure, the defacto complainant used to extract Toddy from his coconut trees and sell the same. Therefore, the respondent police registered a case against the defacto complainant and in order to release the defacto complainant on bail without remand, the appellant demanded a sum of Rs.10,000/- from the defacto complainant. Since the defacto complainant did not want to give bribe to the appellant, he approached the respondent police and P.W.14/Trap Laying Officer, arranged for trap proceedings and on 19.06.2009, they also conducted the proceedings of pre-trap demonstration and subsequently, trap was conducted during which, the appellant made demand of bribe from the defacto complainant and also accepted the same through the 2nd accused since the appellant had got bandage in her hand. The Trap Laying Officer/P.W.14 who followed the



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defacto complainant, on seeing the pre-arranged signal from the defacto complainant, approached the appellant. Though the appellant initially did not accept, subsequently she admitted that she received money from the defacto complainant. The Phenolphthalein test conducted in the hands of the appellant/A1 and the 2nd accused showed positive results. Thereafter, the money was recovered from the appellant and the case was registered against the appellant and the 2nd accused through whom she received the money of the defacto complainant. In order to substantiate the evidence of the defacto complainant/P.W.2, the shadow witness who all along accompanied with the defacto complainant/P.W.2 was examined as P.W.3 and he has corroborated the evidence of P.W.2. The Trap Laying Officer was examined as P.W.14 who has also corroborated the evidence of the defacto complainant/P.W.2 and P.W.3. Therefore, the prosecution proved its case beyond all reasonable doubt with the basic ingredients of demand, acceptance and recovery for the offence under Sections 7, 13(2), 13(1)(d) of Prevention of Corruption Act against the appellant/A1 and therefore, the trial Court rightly appreciated the evidence and convicted



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the appellant/A1. Since the trial Court found that the charges against the 2nd accused was not proved by the prosecution, the trial Court rightly acquitted him. Therefore, there is no merit in the appeal. He would further submit that the Judgements relied upon by the counsel for the appellant are not applicable to the present case on hand. In this case, the demand, acceptance and recovery of bribe by the appellant/A1 were proved with cogent and corroborative evidence and therefore, there is no perversity in the Judgment of the Court below and there is no merit in the appeal and the appeal is liable to be dismissed.

9. Heard the learned counsel for the appellant and the learned Additional Public Prosecutor appearing for the respondent police and also perused the materials available on record.

10. As already stated, the specific case of the prosecution is that the appellant who was working as a Sub Inspector of Police in the Prohibition Enforcement Wing in Kangeyam Police Station during the



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relevant period of time, registered a case against the defacto complainant under the Prohibition Act and in order to release the defacto complainant on bail without remand, the appellant demanded and accepted bribe from the defacto complainant and the same was also recovered from the appellant during trap proceedings through recovery mahazar. Hence, the case.

11. In order to substantiate the charges against the accused, on the side of the prosecution, during trial before the trial Court, totally 17 witnesses were examined and out of the 17 witnesses, the defacto complainant was examined as P.W.2.

12. P.W.2/defacto complainant has stated that he is a member of Tamil Nadu Toddy Association and he used to extract Toddy from his Coconut trees and sell the same till April 2009. He used to extract Toddy with the help of one Palanisamy Nadar belongs to Kuppampalayam. On 11.06.2009, he got an information that the Kangeyam Prohibition Enforcement Wing Police are coming for raid to his area. Hence, he



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removed Toddy from the pots and kept the empty mud pots in the trees and left the place. Thereafter, the Kangeyam Police who came for raid, on finding that there was no Toddy in the mud pots, broken the mud pots. Next day, one Vasantham Govindasamy belongs to the neighbouring village, called the defacto complainant over his cell phone and informed that the Sub Inspector of Police, Kangeyam Prohibition Enforcement Wing Police asked him to come to police station and when the defacto complainant asked as to why she asked him to come to police station, he told that there is a case against the defacto complainant and one Nadar and in this regard, she asked to come. On 17.06.2009, at about 12.00 noon, one Thangavel/P.W.6 called him over cell phone and introduced himself as Head Constable from Kangeyam Prohibition Enforcement Wing and stated that the Sub Inspector of Police/appellant herein wanted to talk and subsequently, he gave his phone to the appellant. The appellant told that she had informed Vasantham Govindhasamy to ask the defacto complainant to come to the police station for 5 to 6 times and why he did not come to the police station for which, the defacto



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complainant replied that he was out of station and he would come on the next day for which, the appellant told that if he does not come on the next day, she would detain his mother. Further, she told that there was a case against him and one Nadar and if he gives Rs.10,000/-, she would release him on bail without remand. Hence, the defacto complainant told that he would come on the next day. On the next day i.e. on 18.06.2009, the defacto complainant called the number which he received on the previous day. But the same got cut. Subsequently, the appellant called the defacto complainant and asked him to come on the next day since she was going for Toddy raid and while coming, asked him to bring Rs.10,000/- for which, the defacto complainant told that he had only Rs.5,000/- and he would bring the same. Thereafter, since the defacto complainant did not want to give bribe, on 18.06.2009 after 5.00 p.m., he went to Vigilance Office and gave a complaint. Subsequently, on secret enquiry, the Trap Laying Team arranged trap proceedings. On 19.06.2009, after pre-trap demonstration, the defacto complainant called the appellant and talked through speaker. At that time, the appellant told that she would come



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around 12 noon and asked the defacto complainant to go to the police station with the money of Rs.10,000/- as demanded by her. After some time, the appellant called the defacto complainant and enquired as to whether he has reached the police station for which, the defacto complainant informed that he was standing in front of the police station. The appellant told him to wait and she would send the Writer. Subsequently, she called the defacto complainant and asked him to go inside the police station as she has informed to the Writer. Therefore, the defacto complainant and P.W.3 went inside the police station wherein, the Writer enquired and asked them to wait. Subsequently, the appellant came and asked for the defacto complainant and took him to the Inspector of Police wherein, the Inspector of Police told that there was a case against the defacto complainant and one Nadar and asked them to sit. Thereafter, the appellant called the defacto complainant and asked as to whether he has brought the amount as asked by her for which, the appellant stated that he has brought only Rs.5,000/-. But the appellant demanded to give Rs.10,000/- and asked him to pay the said amount of



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Rs.5,000/- for the present. Hence, the appellant gave the amount of Rs.5,000/- which was subjected to smear with Phenolphthalein during pre-trap demonstration. The appellant asked the defacto complainant to give the money to A2 who received the money, counted the same and gave it to the appellant. On receiving the money from A2, the appellant kept it in her hand bag. Subsequently, the defacto complainant under the guise of calling known person to bring the balance amount of Rs.5,000/-, went outside and showed pre-arranged signal to the Trap Laying Team and subsequently, the defacto complainant identified the appellant and A2 to them. After enquiry, the Trap Laying Officer asked the defacto complainant to wait outside the police station.

13. A reading of the evidence of the defacto complainant/P.W.2 shows that he has clearly spoken about the demand and acceptance of bribe by the appellant from him. Ex.P.17, P.18 and P.19 clearly show that there was a conversation between appellant and the defacto complainant for several times over cell phone as stated by the defacto complainant.



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But the appellant has not given proper explanation as to why she called the defacto complainant for several times.

14. The shadow witness who had accompanied with the defacto complainant/P.W.2 during the trap proceedings in order to find out as to whether the appellant makes demand of bribe from the defacto complainant, was examined as P.W.3 and he has also corroborated the evidence of the defacto complainant/P.W.2.

15. Though the learned counsel for the appellant contended that the evidence of the defacto complainant/P.W.2 was declared as hostile, a careful perusal of the entire deposition of the defacto complainant/P.W.2, would clearly show that there was a demand and acceptance of bribe by the appellant. Therefore, merely because a witness has turned into hostile, it cannot be stated that the entire evidence of the hostile witness has to be eschewed. It is settled proposition of law that if a witness turned into a hostile, the evidence of a such witness which was the base for the case to bring the accused into the commission of offence, need not be effaced



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fully. In other words, the evidence of a hostile witness can be relied upon at least to the extent, it supports the case of the prosecution. In his evidence, the defacto complainant/P.W.2 has clearly stated that in order to release him on bail without remand, the appellant demanded a sum of Rs.10,000/- from him and since the defacto complainant did not like to give bribe amount, he approached the respondent police and lodged a complaint.

16. Therefore, a careful reading of the evidence of P.W.2/defacto complainant clearly shows that on several occasions, through P.W.4, P.W.6 and also from her cell phone, the appellant has demanded money from the defacto complainant. The cell phone call details of the defacto complainant and appellant which were collected and marked before the trial Court as Exs.P.17 to P.19, clearly proved that there was a conversation between the defacto complainant and the appellant.

17. P.W.6 who was working as a Head Constable in the Kangeyam



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Police Station in which the appellant was working as a Sub Inspector of Police has stated that on 17.06.2009 at about 1.00 p.m., at the instruction of the appellant called the defacto complainant and stated that a case has been registered against him and the Sub Inspector of Police/the appellant wanted to talk to him in this regard and subsequently, he handed over the cell phone to the appellant and the appellant was speaking to the defacto complainant. Even the incoming call details of P.W.2/defacto complainant clearly proved that on 17.06.2009 at 13.06 hrs., there was an incoming call from the cell phone number of P.W.6.

18. P.W.7 in his evidence has clearly stated that during the relevant period of time, he was working as a writer in the said police Station in which the appellant was working as a Sub Inspector of Police and on 19.06.2009, at about 10.30 a.m., she called him over cell phone and enquired as to whether the defacto complainant had come to the police station and told him that if he comes, ask him to wait for her. Subsequently, the defacto complainant along with two other persons came



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and he asked the defacto complainant to sit. Again the appellant called P.W.7 over cell phone and enquired as to whether the defacto complainant has come. At that time, P.W.7 informed the appellant about the arrival of the defacto complainant. Thereafter, at about 12.00 noon, the appellant/A1, 2nd accused/A2 and the other police who had gone for raid, came to the police station. The appellant entered into the police station by calling the name of the defacto complainant as Mohanraj, Mohanraj. Hence, P.W.7 asked the defacto complainant to go and meet the appellant. After 5 to 10 minutes, the appellant asked P.W.7 to prepare PSR, arrest card and also bail bond and arrest memo. Since P.W.7 had some other work, he asked P.W.8/Grade I Police to prepare the same. Thereafter, at about 12.45 or 12.50 p.m., the Vigilance party arrived to the police station and enquire the appellant stating that that the appellant has received bribe.

19. Further, P.W.8 and P.W.9 who are Grade I Police in the said



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Police Station, have clearly stated that on 19.06.2009 at about 10.30 a.m., the defacto complainant had came to their police station and P.W.7 had asked him to wait. Thereafter, at about 12.00 noon, the appellant who was coming to the police station after raid, entered into the police station by calling the name of the defacto complainant. Thereafter, the defacto complainant met the appellant in her room and subsequently, they prepared arrest memo, arrest card and bail bond to the defacto complainant at the instruction of P.W.7. They have further stated that the appellant was using cell phone No.9976586190 at the relevant point of time.

20. P.W.12 who was working as Inspector of Police in the same police station in which, the appellant was working, has stated that on 19.06.2009 at 6.00 a.m., he along with the appellant/A1, A2 and other police went for raid at Vellakovil and returned to Kangeyam Police Station at about 12.00 noon. Thereafter, he was doing his work in his room. At about 12.30 p.m., the appellant/A1 produced the defacto complainant before him and explained about the offence committed by



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the defacto complainant for which, P.W.12 told the defacto complainant that already there was a case against him and one Nadar and therefore, asked him to sit.

21. Therefore, from the evidence of P.W.6 to P.W.9/co-workers of the appellant and P.W.12/Inspector of Police, it is clearly seen that there was a case registered against the defacto complainant in the police station in which the appellant was working as a Sub Inspector of Police.

22. P.W.3 is a shadow witness who accompanied with the defacto complainant on the date of occurrence to the police station of the appellant and he is also witness to the pre-trap demonstration. He has clearly stated that on 19.06.2009 at about 10.25 a.m., he along with the defacto complainant went to the Kangeyam Police Station. At that time, P.W.7 enquired them and thereafter, asked them to wait for the arrival of the appellant. Thereafter, at about 12 p.m., the appellant along with the other police, came to the police station and she asked who is Mohanraj



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and thereafter, took the Mohanraj/defacto complainant to the Inspector/P.W.12 and that the Inspector informed him that there was a case against him and Nadar for extracting Toddy and thereby, asked him to sit. When they were waiting, the Writer prepared some forms and obtained signatures from the defacto complainant and also prepared Bail forms and obtained signatures from P.W.3. Thereafter, the appellant asked the defacto complainant as to whether he has brought money of Rs.5,000/- as asked by her for not filing case regarding extracting Toddy. The defacto complainant said yes and took the money from his shirt pocket which was smeared with Phenolphthalein and gave and since, the appellant had bandage on her right hand, she asked to give the same to 2nd accused and hence, he gave the money to the 2nd accused. On receiving the money, the 2nd accused counted the same and gave to the appellant and the appellant obtained the same and kept in her hand bag. After the appellant accepting the bribe money, the defacto complainant came out of the police station and showed the pre-arranged signal to the trap team and on seeing the same, P.W.14 along with his team members came to the



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police station. Subsequently, the defacto complainant identified the appellant/A1 and the 2nd accused to the P.W.14/Trap Laying Officer and thereafter the defacto complainant was asked to wait out side the police station. During enquiry, the appellant accepted the receipt of bribe from the defacto complainant. The Phenolphthalein test which was conducted in the hands of the appellant and the 2nd accused showed positive. Thereafter, the money was recovered from the appellant through mahazar. Therefore, the evidence of P.W.3 has corroborated the evidence of P.W.2. Further, a careful reading of the evidence of P.W.14/Trap Laying Officer has also corroborated the evidence of P.W.2 and P.W.3.

23. Therefore, form the evidence of P.W.2 and P.W.3, the demand made by the appellant from the defacto complainant and acceptance of bribe money are proved. Further, from the evidence of P.W.3 and P.W.14/Trap Laying Officer and Ex.P.12/trap recovery mahazar, the recovery is also proved and the numbers of the recovered currency tallied with the entrustment mahazar/Ex.P.4. Therefore, in this case the basic



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ingredients for illegal gratification viz., demand, acceptance and recovery were proved by the prosecution against the appellant/A1 beyond all reasonable doubt in the manner known to law.

24. A perusal of the records shows that the appellant alone has made the demanded and on the date of trap proceedings, since the appellant had got bandage in her right hand, she asked the 2nd accused to collect the money from the defacto complainant. Accordingly, the 2nd accused received money from the defacto complainant and after counting the same, handed over to the appellant. Though, the 2nd accused received the money from the defacto complainant, he never demanded any money and he never accepted any money from the defact complainant as illegal gratification. Only as per the instruction of the appellant who is superior Officer to him, the 2nd accused has received the money and soon after receiving and counting the same, he handed over the same to the appellant and the appellant who received the money from the 2nd accused, kept the same in her hand bag. Since the prosecution not proved that the 2nd accused demanded bribe and the prosecution also not proved that



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when the demand was made by the appellant, he was also present with the appellant. Therefore, the trial Court rightly acquitted the 2nd accused. Even the conduct of the appellant with the defacto complainant over cell phone was also ascertained by the evidence of P.W.6 to P.W.9 and P.W.12 and the cell phone call details have clearly proved that the appellant contacted the defacto complainant over the cell phone of P.W.6 and also from her cell phone.

25. Therefore, as stated above, from the evidence of P.W.2, P.W.3, P.W.6 to P.W.9, P.W.12 and P.W.14 and Exs.P.12 and P.17 to P.19, the prosecution proved its case beyond all reasonable doubt that there was a case registered against the defacto complainant in the Police station in which the appellant was working as a Sub Inspector of Police and in order to close the case without any further action, the appellant has demanded bribe from the defacto complainant and subsequently, on the date of trap proceedings, the appellant again demanded and accepted the bribe money from the defacto complainant. Subsequently, recovery was also effected by the Trap Laying team, the recovery mahazar Ex.P12

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proved the same. Therefore, the prosecution has proved the foundational fact in the manner known to law that the appellant has committed the charged offences.

26. Once the prosecution proved the demand, acceptance of bribe and the recovery of the money, Section 20 of Prevention of Corruption Act would come into play. It is a settled proposition of law that once prior demand, acceptance and recovery of money are proved, there is a presumption under Section 20 of the Prevention of Corruption Act that the accused accepted the gratification other than the legal remuneration and the accused has to rebut the presumption in the manner known to law and unless the contrary is proved by the accused, the Court can safely come to the conclusion that the accused has committed the offence under Section 7 of the Prevention of Corruption Act.

27. There is no quarrel with the decisions of this Court referred to by the learned counsel for the appellant. However, the facts and



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circumstances of those cases are not squarely applicable to the present case on hand. The opinion expressed by the Court in a particular case, is not a precedent to other cases especially in criminal cases. The rule of precedent would not be applicable to the criminal cases.

28. In this case, as stated above, the basic ingredients of obtaining illegal gratification viz., demand, acceptance and recovery have been proved by the prosecution beyond reasonable doubt against the appellant in the manner known to law. Therefore, the trial Court rightly appreciated the evidence and convicted the appellant. The prior motive as attributed by the defence has not been established in the manner known to law.

29. This Court as an appellate Court as a final Court of fact finding, while re-appreciating the entire evidence does not find any perversity in the appreciation of evidence by the trial Court. Therefore, there is no reason to discard the evidence of the prosecution witnesses and interfere with the Judgement of the trial Court and that there is no merit in the appeal and the appeal is liable to be dismissed.



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30. Accordingly, this Criminal Appeal is dismissed. The respondent police is directed to secure the appellant to undergo the remaining period of sentence if any.

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To

1. The Chief Judicial Magistrate cum Special Judge, Tiruppur
2. The Deputy Superintendent of Police
(Vigilance & Anti Corruption)
Erode
3. The Public Prosecutor Officer, High Court, Madras
4. The Section Officer, Criminal Section, High Court, Madras.



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