IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on:08.03.2023 Pronounced on:20.03.2023

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.A.No.423 of 2014

S.P.Balakrishnan .. Appellant

/versus/

State Rep.by
Deputy Superintendent of Police,
Prevention of Vigilance and Inspection Section,
Villupuram,
Villupuram District.
Crime No.7 of 2001 .. Respondent

Prayer : Criminal Appeal has been filed under Section 374(2) of Code of Criminal Procedure, praying to call for the records in Spl.Case No.1 of 2013 on the file of the learned Special Judge, Prevention of Vigilance, Villupuram and set aside the conviction and judgment dated 24.07.2014.

For Appellant :Mr.A.Saravana Kumar

For Respondents :Mr.S.Udaya Kumar
Government Advocate(crl.side)

JUDGMENT

The appellant herein is the former Deputy Tahsildar. He was convicted by the Special Court (Anti-Corruption Cases), Villupuram in S.C.No.1 of 2013, dated 24.07.2014, for the offence under Sections 7 and 13(2) r/w 13(1)(d) of the Prevention of Corruption Act, 1988. Aggrieved, this Criminal Appeal is preferred.

2. The brief facts of the case:-

Shanmugam(defacto complainant), who was running Meera Driving School at Thirukovilur to get Driving School License was in need of solvency certificate. Hence, made application to the Tahsildar, Villupuram for solvency certificate on 24.09.2001. The said application was forwarded to the Revenue Inspector for further action. When Shanmugam (PW-2) approached the Revenue Inspector, he directed him to fill up certain forms and hand over to the Deputy Tahsildar, Balakrishnan, who is the accused/appellant herein. Accordingly, he submitted the form and chalan for payment of fee Rs.125/- on 25.09.2001. On that day evening, when the defacto complainant contacted the accused, he demanded Rs.1000/- and also to pay another Rs.50/- in the Treasury and hand over the receipt. Accordingly, he paid Rs.50/- on

26.02.2001, gave the receipt to the accused and waited for solvency certificate. Next 3 days, he did not receive any information. So, he again went to the office of the accused. That day, the accused directed him to get encumbrance certificate, 'A' register copy and guidelines value in the property, which he had shown as solvency. When he arranged for those certificates and handed over to the accused, again the accused demanded bribe of Rs.1000/- to process the application. The defacto complainant was not willing to pay the bribe, hence, lodged a complaint to the Vigilance and Anti-Corruption Unit at Cuddalore, Inspector of Police registered the complaint and arranged a trap and in the presence of the shadow witnesses viz., Kanagasabai and Gopinath. Before proceeding to the office of the accused, they demonstrated the significance of phenolphthalein-sodium carbonate test. Bribe money of Rs.1000/- (one Rs.500/- note and 5 Rs.100/- notes) were smeared with phenolphthalein powder. Entrustment mahazar carrying the denomination of the bribe money smeared with phenolphthalein was recorded. Thereafter, the team proceeded to the Tahsildar Office at Villupuram. The defacto complainant along with one of the shadow witnesses Kanagasabai went inside the Tahsildar Office at about 3.00 p.m. The accused asked defacto complainant whether he has brought the money as demanded. In response, the defacto complainant gave the tainted money to the accused. The accused, on receiving the money, counted it and kept in his left side shirt pocket. Thereafter, the defacto complainant and Kanagasabai came out and gave the pre-arranged signal to the trap team. On receiving the signal from the defacto complainant, Mr.Balasubramanian, Inspector of Police and his team went to the office of the accused. The defacto complainant and Kanagasabai identified the accused and the accused was asked to dip his left hand fingers in the colourless sodium carbonate solution. On dipping the colourless solution turned light red. Sample was collected from that, sealed and labelled. The right hand fingers of the accused was also dipped in the colourless sodium carbonate solution. On dipping the colourless solution turned light red and the sample was collected, sealed and labelled. When the accused was asked where he kept the money, he took the money from his pocket and handed over it to the trap laying officer Mr.Balasubramanian. After verifying the numbers in the currency and the numbers noted in the entrustment mahazar, are being satisfied and they are same, it was recovered, in addition to Rs.1000/- the money obtained from the defacto complainant smeared with the phenolphthalein, the accused was having his personal money of Rs.407/- and that was returned back to the accused. After providing an alternative shirt to the accused, the pocket portion of the shirt was dipped in the colourless sodium carbonate solution. On dipping the colourless solution turned light red

3. Based on the evidence collected, Final Report filed and the trial Court framed charges under Section 7 and 13(2) r/w 13(1)(d) of the Prevention of Corruption Act, 1988.

4. The prosecution to prove the case of demand and acceptance of illegal gratification, has examined 13 witnesses and marked 28 exhibits and six material objects. PW-1 (Mohammed Aslam) is the sanctioning authority, who has accorded sanction to prosecute the accused. The said sanction order dated 14.05.2002 is marked as Ex.P1 dated 14.05.2002. In his deposition, he has deposed that he has the authority to appoint the Deputy Tahsildar and therefore, he is the competent person to issue sanction to prosecute and being satisfied that the accused is liable to be prosecute issued the sanction order.

5. PW-2 (Shanmugam) is the defacto complainant, who has set the law into motion. Since his application dated 24.09.2021 for solvency certificate was delayed by the accused expecting illegal gratification, he has lodged the complaint on 15.10.2021. He has been cross examined by the defence counsel

and certain contradictions has been elucited. Particularly, it has been suggested to him that he being the office bearer in a political party, he in order to create fear in the mind of the government servants has given a false complaint. However, PW-2 has been denied the suggestion.

6. PW-3 (Kanagasabai) is the shadow witness to work in the Co-operative Department as Sub Registrar, Cuddalore. He has deposed about the instruction of his head of the department to attend the Vigilance office on 14.10.2021 evening. The request of the Inspector to come on the next day (15.10.2021) of the demonstration of phenolphthalein-sodium carbonate test and entrustment of phenolphthalein smeared currency to PW-2 and the preparation of entrust mahazar. Further, he has deposed about the visit to the accused office along with PW-2, witnessing the demand of the money by the accused and receipt of the money. The contradictions about the word uttered by the accused, while demanding money been highlighted. In the cross examination.

7. PW-4 (Mr.Sundararajan) Assistant at Villupuram office, had spoken about the receipt of the application from PW-2 (Mr.Shanmugam) for issuance

of solvency certificate. He after examining the application, asked the applicant (PW-2) to bring encumbrance certificate and copy of the title deed. On the same day, the complainant handed over those documents, which are marked as Ex.P13 and Ex.P14 in the trial. He has recorded the statement of PW-2 (Shanmugam) as part of the enquiry and the same is marked as Ex.P15. He went to the village and recorded the statements of villagers and the Village Administrative Officer. Thereafter, he forwarded a report (Ex.P17) to the Tahsildar. On receiving the report marked as Ex.P17, the Tahsildar has sent a memo on 01.10.2001 pointing out deficiencies in the solvency application. On receiving the memo Ex.P18, on 06.10.2001. The defects pointed out was rectified and sent back his report on 09.10.2001 to the Tahsildar and the same is marked as Ex.P20.

8. PW-5 (Mr.Ramesh) is the Junior Assistant working in the Tahsildar Office at the relevant point of time. He was maintaining the attendance register of the staff in the Tahsildar office and the attendance register is marked as Ex.P8. He has deposed that on 24.09.2001 the accused has attended the office and thereafter, he has handed over the in charge to the Zonal Deputy Tahildar and gone to the Collectorate to attend the grievance day.

9. PW-6 (Mr.Illangovan) is an Assistant working in the Tahsildar office, who knew the accused, who his the superior officer. He has reiterated the version of PW-5 (Mr.Ramesh), regarding the process of solvency certificate application given by the defacto complainant (PW-2). He has recorded the statement of PW-2 (Shanmugam) and made his initial on it. The statement is marked as Ex.P22 and the initial of PW-6 (Ilangovan) is marked as Ex.P23. In the cross examination, he has specifically stated that the application for solvency certificate for PW-2 (Shanmugam) was received by him on 01.10.2001 and he made an endorsement and affixed his signature. He also denied that the solvency certificate was issued to PW-2(Shanmugam) on 10.10.2001 itself. The Office Assistant, Mrs.Geetha (PW-7) has identified the initial made by the accused in the application form and after receiving the endorsement of the accused, he forwarded it to the Zonal Deputy Tahsildar.

10. PW-8 (Sivapathasundaram) Tahsildar, under whom, the accused was working had spoken about the process the application given by PW-2/defacto complainant underwent. He has received the file from the Revenue Inspector on 10.10.2001. After perusing it, he has ordered to issue certificate and signed.

He has identified his signature which is marked as Ex.P21 with instructions to issue solvency certificate, he has forwarded the file to the accused.

11. PW-9 (Vaiyapuri), who is the staff working in the Karur Treasury has spoken about the remittance of Rs.50/- by PW-2 for issuance of solvency certificate. PW-10 (Sundararajan) is the Assistant Director attached to State Forensic Science Laboratory, Chennai. The left hand wash and right hand wash of the accused marked as M.O.1 and M.O.2 as well as the shirt pocket wash marked as M.O.3 were tested by him and he has reported that in all three solutions, both Phenolphthalein and Sodium Carbonate were present. His report marked as Ex.P25.

12. PW-12 (Ranganathan) has spoken about the encumbrance of the property, which he got from PW-2 on 25.09.2001 and the same is marked as Ex.P13.

13. The trap laying officer (Balasubramanian) examined as PW-13, who has deposed about the receipt of the complaint from PW-2; arrangement of shadow witnesses; preparation of entrustment mahazar, after demonstration of

phenolphthalein test, Recovery of tainted money from the accused; the procedure of phenolphthalein test conducted before preparation of the recovery of tainted money; the search and seizure of the accused house, and filing of the final report, after receipt of the report from the State Forensic Science Laboratory (Ex.P25).

14. The learned counsel appearing for the appellant/accused submitted that the trial Court has miserably misled. It wrongly convicted the accused. The date of demand has not been consistently spoken by PW-2. While in the chief examination, he has stated that on 25.09.2001, the demand of Rs.1000/- was made, but in the cross examination he has stated that the demand was on 24.09.2001, when he gave the application Ex.P2.

15. The case of the prosecution is that PW-2 gave the application for issuance of solvency certificate to the accused and at that time he demanded bribe of Rs.1000/- to process the application. Whereas, PW-6 has admitted in the cross examination that from PW-2 he received the application for solvency certificate. There is no consistency in the case of the prosecution, to whom and where the application for solvency certificate was given and who demanded

bribe. The application is addressed to the Tahsildar and he is the person competent to issue solvency certificate. While so, the case of the prosecution that the application was given to the accused and he demanded bribe is improbable. The accused has been maliciously prosecuted, as if he demanded and received bribe of Rs.1000/- for issuing solvency certificate.

16. Relying upon the judgment of the Hon'ble Supreme Court rendered in ***Neeraj Dutta v. State (Government of NCT of Delhi) reported in [2002 Livelaw (SC) 1029]***, the learned counsel appearing for the appellant submitted that, in order to bring home the guilt of the accused for demand and acceptance of bribe, the prosecution has to first prove the fundamental facts regarding the demand of illegal gratification as a matter of fact and no presumption to be drawn to the fundamental fact. The demand of bribe is the fact in issue and to be proved by direct evidence which can be in the nature of oral evidence or documentary evidence.

17. As far as in this case is concerned, the prosecution has failed to prove the demand, since PW-2 evidence is inconsistent about the date on which the previous demand was made, even the final demand alleged to have made at the

time of trap, before trusting the tainted money to the accused, the evidence of PW-2 and PW-3 is contradictory to each other and it does not support the case of the prosecution that soon before receiving the money, the accused demanded bribe.

18. To buttress his argument, the learned counsel submitted that while PW-2 (complainant) had stated that when he met the accused on 15.10.2001 at 03.00 p.m., the accused was in his seat, on seeing him the accused enquired "whether he has brought the money". Whereas PW-3 has stated that when the accused saw PW-2, he said "certificate is ready, have you brought the money". The said inconsistency in the words alleged to have been uttered by the accused. These two witnesses not consistent regarding the words uttered by the accused, this would render their evidence unreliable. When the demand is not proved and the date of demand or nature of the demand is not proved by the prosecution, the presumption of demand followed by accepting the money, pursuant to the demand of illegal gratification cannot be drawn.

19. As far as the trap proceedings held on 15.10.2001 is concerned, the learned counsel appearing for the appellant submitted that, the acceptance of

bribe money on 15.10.2001 was alleged to be for issuance of solvency certificate. Whereas, the solvency certificate was issued on 10.10.2001 itself and in the certificate, PW-2 has made endorsement that he has received the certificate. While so, the case of the prosecution that the certificate was issued only after receiving the bribe money on 15.10.2001 is contrary to the endorsement made in Ex.P24. Further, the solvency certificate alleged to have been received by PW-2 after making the endorsement in the Register Ex.P24 has not been produced before the trial Court. Therefore, the alleged receipt of the money on 15.10.2001 for solvency certificate issued five days earlier on 10.10.2001 does not co-relate and improbabilise the fundamental fact put forth by the prosecution and therefore, it cannot be presumed that the money received by the accused/appellant is an illegal gratification. When the alleged demand for bribe and acceptance of the bribe as a speedy money to issue solvency certificate being doubtful, the conviction of the accused is liable to be set aside.

20. The learned counsel also submitted that apart from the tainted currency of Rs.1000/-, it is admitted that additional sum of Rs.407/- was recovered from the accused. However, the witnesses for prosecution contradict

each other about the fact from where the said Rs.407/- surfaced. While PW-3 the shadow witness says that Rs.1000/- received from PW-2 was kept in the front pocket of the shirt by the accused and at the time of recovery, a sum of Rs.407/- was kept and found separately in the inner pocket of the shirt. Whereas as per PW-13 the trap laying officer, Rs.407/- along with the tainted money kept in the front pocket of the shirt. The contradiction between PW-3 and PW-13 regarding the place from where the additional Rs.407/- recovered renders their evidence further doubtful.

21. The learned Government Advocate (Crl.Side), in response to the submissions made by the learned counsel appearing for the appellant submitted that, the accused was charged for the offence under Section 7 of the Prevention of Corruption Act, 2018 for demanding the illegal gratification and for Section 13(2) r/w 13(1)(d) of the Prevention of Corruption Act, 2018, for obtaining the illegal gratification of Rs.1000/- on 15.10.2001. The charges have been proved beyond doubt by the prosecution through it witnesses and exhibits. Firstly, PW-2 (defacto complainant) has spoken about the demand of illegal gratification by the accused on three occasions, first, on 25.09.2001, when he met the accused, after submitting his application for solvency certificate on the

previous day. Second, after three or four days when he again met him and produced the other necessary documents. On that day, the accused demanded the money and said, if the money is not paid, the application will be cancelled, Third, on 15.10.2001 at 03.00 p.m., when PW-2 went with the bribe money after lodging the complaint to the Vigilance and Anti Corruption Police. At that time, the accused on seeing the complainant (PW-2) enquired him, “whether he has brought the money”. Though for the previous two demands, there is no other direct witnesses, for the third demand, the shadow witness (PW-3) was present and he has corroborated PW-2 by deposing that on seeing PW-2, the accused told him that “the certificate is ready, have you brought the money. The additional statement that the certificate is ready, which is found in the deposition of PW-3 and absent in the deposition of PW-2 does not matters much to render the case of the prosecution unbelievable. Both the eye witnesses have clearly stated that the accused asked for money before handing over the solvency certificate indicating that for issuing the certificate, he has demanding payment of bribe as pre-condition. The conduct of the accused as spoken by PW-2 and PW-3, after receipt of the money, has also to be taken note, which is relevant under Section 8 of the Indian Evidence Act, 1872. The accused, after receiving the money, has handed over the solvency certificate and obtained the signature. Though the solvency certificate was ordered to be issued by the Tahsildar as early as 10.10.2001, the same was not issued to the complainant (PW-2) till 15.10.2001. Only after receiving the bribe money the certificate has been issued. Therefore, both the demand as well as the acceptance has been proved directly both by the oral evidence of PW-2 and PW-3 as well as through the documentary evidences, besides the chemical analysis report, which says that, the hand wash of the accused turned 'light red' indicating that he has contacted the currency smeared with phenolphthalein powder.

22. Considered the rival submissions carefully. Records perused.

23. Shanmugam (PW-2) is the defacto complainant in this case. He for starting a driving school at Thirukovilur, was in need of solvency certificate. Therefore, on 24.09.2001, he has given the application addressed to the Tahsildar, Villupuram, which is marked as Ex.P2. This application is dated 24.09.2001. On behalf of the Tahsildar, Thiru.Balakrishnan, the Deputy Tahsildar (Head Quarters) has received it and affixed seal for the Tahsildar of Villupuram stating forward to the Revenue Inspector for detail enquiry and report. The accused has signed in it with date as 24.09.2001.

24.This application, according to the complainant, was given back to him by the accused as the endorsement mentioned above to be handed over to the Revenue Inspector. When he handed it over to the Revenue Inspector, he asked him to produce the encumbrance certificate. Accordingly, he got the encumbrance certificate dated 25.09.2001 (Ex.P13). Thereafter, along with the Treasury challen for Rs.50/- dated 26.09.2001, PW-2 has handed over the application, challen and the other documents required by the accused, who after receiving the same, he has told the complainant to come by evening of that day. When he met him on 26.09.2001, evening and asked whether the solvency certificate is ready, he told the complainant that without paying bribe, the certificate will not be ready. When he enquired, how much money was to be paid the accused has demanded Rs.1000/-. Since he was not able to mobilise Rs.1000/- after two days, he again went to the accused and requested him to reduce the bribe money, but, he refused to reduce the amount. On 01.10.2001 when he met the accused again and told him that he is unable to mobilise the money to give him bribe, the accused has curtly said that if he failed to give the money, he will not get the certificate and he will close the application without processing. Realising that, without getting bribe they will not issue him solvency certificate and he is not interested to give bribe to get solvency certificate, he has given the complaint to the Deputy Superintendent of Police, Vigilance and Anti-Corruption Cell, Cuddalore on 15.10.2001.

25. Mr.Balasubramaniam, the Deputy Superintendent of Police, Vigilance and Anti Corruption, Cuddalore (PW-13) has registered the complaint as First Information Report No.7/AL/2001/CL and had arranged shadow witnesses viz., Kanagasabai (PW-3) and Gopinath (not examined). Thereafter, had arranged for phenolphthalein-sodium carbonate test in the presence of the shadow witnesses and the defacto complainant to explain the significance of the test. The currency smeared with phenolphthalein powder was entrusted to PW-2 and the entrustment mahazar (Ex.P5) was prepared at the office of the Directorate of Vigilance and Anti Corruption at Cuddalore between 12.00 p.m and 1.30 p.m. The trap team led by PW-13, reached Cuddalore Tahsildar Office at about 3.00 p.m., the defacto complainant and the shadow witnesses PW-2 and PW-3 (Kanagasabai) were asked to meet the accused and if he demands the money, then PW-2 should take out the money and hand over to the accused. After leaving the room of the accused should give the pre-arranged signal by wiping the face with kerchief to the trap team waiting out of the office.

26. The testimonies of PW-2 and PW-3 who went to the room of the accused disclosed without much contradictions which may be materials. According to PW-2 and PW-3, when they went to the office of the Deputy Tahsildar, the accused was in his seat, the accused, on seeing the defacto complainant, asked whether he has brought the money. Then, PW-2 has handed over Rs.1000/- (one number of Rs.500/- note and five numbers of Rs.100/- note) smeared with phenolphthalein to the accused, who has received it in his right hand and after counting it, kept it in his front shirt pocket. After obtaining signature from the defacto complainant (PW-2), the accused has handed over the solvency certificate. The demand as well as the receipt of the money had been witnessed by the shadow witness Kanagasabai (PW-3). After receiving the certificate, they both have come out from the room of the Deputy Tahsildar, PW-2 gave the pre-arranged signal by wiping his face with his kerchief. On receiving the signal, PW-13 and his team along with the other shadow witness (Mr.Gopinath) have entered into the room of the accused.

27. PW-13 has deposed that after entering the room of the accused on receiving the pre-arranged signal, he asked the accused to hand over the money,

which he has received form the defacto complainant (PW-2), the accused has handed over the money, on counting, they found Rs.1407/-. The accused said that Rs.407/- is his personal money and Rs.1000/- the money given by PW-2. Therefore, they returned back the excessive money to the accused. The left hand wash and the right hand wash of the accused were dipped in the sodium carbonate solution which turned into light red. Likewise, the shirt pocket portion was dipped in the sodium carbonate solution, which also turned into light red.

28. The narration of the above fact vividly in the testimony of PW-2 and PW-3 and PW-13, also supported by Ex.P2, the application given by PW-2 and the signature of the accused with seal on Ex.P2 established the fundamental facts required for the proof of demand and acceptance. Further, in the recovery mahazar, the accused has signed acknowledging the receipt of the mahazar copy.

29. The learned counsel appearing for the appellant referring the cross examination of PW-6 (Illagovan) that he has received the application of Shanmugam(defacto complainant) contended that Ex.P2 was received only by

PW-6 and not by the accused. But on close examination of PW-6 cross examination, this Court finds that no doubt, PW-6, has stated that he has received the application from the defacto complainant, it was on 01.10.2001, after the accused passed an order on the said application. He has received the application for processing as per the direction of the accused made in the application. He has deposed that as Assistant working in the Tahsildar Office, after receipt of this application, was first processed by the Revenue Inspector, Mr.Sundararajan, (PW-4), who has recorded the statement and forwarded it to the Tahsildar. He (PW-6) prepared a memo on 01.10.2001 on behalf of the Tahsildar and sought for "A" register extract of the land and valuation guild lines. The witness has referred about the receipt of the application along with the statement of PW-2 forwarded to him by the Revenue Inspector (PW-4). This could be seen from the evidence of the Revenue Inspector, (PW-4), who had stated that on 24.09.2001, the application of PW-2 for solvency certificate was received by him with an endorsement of the Deputy Tahsildar (deceased) from the Tahsildar Office to conduct detailed enquiry and report. This was handed over by PW-2, Shanmugam, directly on 24.09.2001 itself. After examining the application, he asked Shanmugam to furnish encumbrance certificate and copy of the title deed. On 25.09.2001, in the evening, Shanmugam handed over those two documents as requested. Those documents are marked as Ex.P13 and Ex.P14. PW-4 has examined those documents and forwarded his report on the same day. This fact found to be corrected from Ex.P17, which is dated 25.09.2001 signed by PW-4.

30. On perusing the report of PW-4 (Revenue Inspector), the Tahsildar has pointed out few more documents are required and sent back the file with a memo dated 01.10.2001 which was received by PW-4 on 06.10.2001. The said memo has been spoken by PW-6 (Illangovan), the Assistant in the Tahsildar office.

31. The role of the accused in processing the application could be seen from his endorsement with seal and date in the application, his initial found in Ex.P18 dated 01.10.2001 and Exs.P21 and P22 the proceedings for issuance of solvency certificate prepared on 10.10.2001. The solvency certificate (Ex.P24) signed by Tahsildar on 10.10.2001 and signed by the accused on the same day with an acknowledgement of the receipt of the certificate by the accused without date.

32. According to the learned counsel appearing for the appellant, the certificate made ready and given to PW-2 on 10.10.2001 itself. Whereas, the prosecution case is that the certificate is only on 15.10.2001 by the accused after receiving the bribe money. If really this certificate was received by the accused on 10.10.2001 as contended by the learned counsel appearing for the appellant, there was no necessity for PW-2 to lodge the complaint on 15.10.2001 five days after the receipt of the certificate alleging as if he is not able to get the certificate since the accused expecting bribe of Rs.1000/-. Contrarily, the case of the prosecution proves beyond doubt that even after furnishing all the documents and even after the solvency certificate was made ready on 10.10.2001, it was not given to the complainant when he met the accused earlier and was insisting for bribe to issue the certificate and also threatened that his application will be rejected if the money not given. This has prompted PW-2 to give complaint. Thus, it is clearly proved that the solvency certificate which was ready on 10.10.2001 and signed by the Tahsildar not been given to the complainant (PW-2) waiting for bribe money. Only on 15.10.2001 when PW-2 gave money to the accused, he has handed over the certificate. The final demand of bribe money was on the date of obtaining the money on

15.10.2001. Just immediately before the accused obtained the tainted money. It is correct that the exact word uttered before demanding money has not been consistently spoken by PW-2 and PW-3. Even if that addition is eschewed, the demand of money and the word used for demanding money has been spoken by PW-2 and PW-3 consistently. Therefore, even if there was no corroborative evidence for earlier two demands i.e on 26.09.2001 and 01.10.2001 for the third time demand on 15.10.2001, there is direct evidence with corroboration by PW3, who was witnessed the demand as well as the acceptance and there is no reason to disbelieve his evidence, when the consequential to the demand, the accused has received the money and the same has been recovered soon after he received the money.

33. For the said reason, this Court is of the view that the contradictions pointed out by the learned counsel appearing for the appellant to probabilise the defence does not really impeach the reliability of the prosecution witnesses, namely, PW-2, PW-3 and PW-13, coupled with the evidence of the other witnesses who had spoken about the role of the accused in processing the application given by PW-2 and the role of the accused in preparing the solvency certificate, which is marked as Ex.P24.

34. Therefore, this Court holds that the prosecution has proved both the demand which attracts punishment under Section 7 of the Prevention of Corruption Act, 2018 as well as the acceptance of the illegal gratification of Rs.1000/- from PW-2 which attracts punishment under Section 13(2) r/w 13(1)(d) of the Prevention of Corruption Act, 2018.

35. As a result, this Criminal Appeal is dismissed. The judgment of conviction and sentence passed by the learned Special Judge, Prevention of Vigilance and Anti-Corruption Act cases, Villupuram in Spl.C.No.1 of 2013 dated 24.07.2014 is hereby confirmed. The period of sentence already undergone by the accused is set of under Section 428 of the of Cr.P.C. The appellant/accused to be secured and committed to prison to undergo the remaining the period of sentence.

20.03.2023

Index:yes
Speaking order/non speaking order
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To:
1.The Special Judge, Prevention of Vigilance, Villupuram.
2.The Public Prosecutor, High Court, Madras.

Dr.G.JAYACHANDRAN, J.

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Crl.A.No.423 of 2014

20.03.2023