IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 20.3.2024

Delivered on : 20.6.2024

CORAM

THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Criminal Appeal No.639 of 2017

N.Damodaran ... Appellant

vs.

State rep. by
Inspector of Police,
Vigilance and Anti-Corruption,
Coimbatore.
(Crime No.6/2007) ... Respondent

Criminal Appeal filed under Section 374(2) Cr.P.C. against judgment of conviction in Spl.C.C.No.13 of 2011 dated 21.9.2017 by the Special Court for the cases under Prevention of Corruption Act, Coimbatore.

For Appellant : Mr.V.Parthiban for
Mr.N.Naganathan

For Respondent : Mr.S.Udayakumar,
Government Advocate (Crl. Side)

JUDGMENT

Challenging the judgment of conviction and sentence rendered by the Special Court for the cases under Prevention of Corruption Act, Coimbatore in Spl.C.C.No.13 of 2011, the accused has come up with the present Criminal Appeal.

2. The appellant stands convicted and sentenced as under:-

Legal provision	***Sentence imposed***
Section 7 of the Prevention of Corruption Act, 1988	2 years rigorous imprisonment and a fine of Rs.5000/- in default to pay the fine, to undergo simple imprisonment for a period of four months
Section 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988	2 years rigorous imprisonment and a fine of Rs.5000/- in default to pay the fine, to undergo simple imprisonment for a period of four months
The sentences shall run concurrently.	

3. The appellant, was serving as Junior Engineer Level-1 in Tamil Nadu Electricity Board, Coimbatore at the relevant point of time and thereby a Public Servant as defined under Section 2(c) of the Prevention of Corruption Act, 1988. The allegation levelled against the appellant/accused is that he had demanded a sum of Rs.10,000/- from the de facto complainant/PW2 R.Sinraj towards illegal gratification for providing electricity service connection on the basis of the the application submitted by one Seethalakshmi, wife of the de facto complainant and obtained the same.

4. The case of the prosecution, in brief, is as under:-

i) The defacto complainant/P.W.2 is doing a contract business for fixing marble for 24 years. He constructed a house in Edayarpalayam, Thiyagaraya Street in S.No.334/2 in the name of his wife viz., Seethalakshmi. After the completion of the contrcution work, for getting temporary electricity connection for fixing marble, he gave an application on 15.10.2007 at 10.00 a.m., in the office of the accused. In this connection, apart from the deposit of Rs.1600/-, the accused had demanded a sum of Rs.10,000/- as bribe for providing the service connection. When P.W.2 along with his friend P.W.3 went to the office of the accused on 17.10.2007 at about 9.00 am, the accused had insisted for the bribe amount to provide electricity connection. Since the accused did not receive the application without payment of bribe amount, P.W.2 went to the office of the Vigilance and Anti Corruption Wing, Coimbatore at about 2.00 pm and gave a complaint (Ex.P.2) to the Inspector (P.W.10).

ii) Based on the said complaint, P.W.10 had conducted a preliminary enquiry about the genuiness of the complaint and about the accused and registered a case in Crime No.6/2007/AC/CB for the offence under Section 7 of Prevention of Corruption Act, 1988. The FIR was marked as Ex.P.13. Thereafter, P.W.10 insisted P.W.2 to appear on 18.10.2007 in the office of Vigilance and Anti Corruption Wing, Coimbatore at 6.00 a.m., along with the requested bribe amount of Rs.10,000/- and deposit amount of Rs.1,600/- and the requisite application form. Thereafter, P.W.10 gave requisition letter for official witnesses to the Tashildar, Coimbatore (South) and Inspector of Labour.

iii) As per the requisition letter, one V.Ravichandran, Deputy Tashildar-P.W.4 and one Palanisamy, the Deputy Inspector of Labour Welfare Department appeared before P.W.10 at 06.00 p.m on 17.10.2007 and they were asked to appear at the office of Vigilance and Anti Corruption Wing, Coimbatore, on 18.10.2007 at 06.00 a.m. and accordingly, they had reported and thereupon, P.W.2 was introduced to P.W.4 and Palanisamy and vice versa. The complaint given by P.W.2 and the FIR made thereon were furnished to the official witnesses to get acquainted with the case. When P.W.10 asked for the bribe amount, P.W.2 produced the currency notes in the denomination of Rs.1000 x 10. The serial numbers of such currency notes were entered in the Entrustment Mahazar, Ex.P3.

iv) Thereafter, a demonstration was made for conducting the trap with the assistance of one Sriram, Police Constable and thereby the witnesses were apprised of the significance of the test and thereafter, the chemical content used for demonstration of trap was destroyed.

v) Then, PW10 had handed over the phenolphthalein power smeared money to PW2 with the instruction to give it to the appellant only if he demands for the same and in the event of his acceptance of the money, PW2 was instructed to give a signal by shaking out his kerchief and wiping his face with it. Recording the events, the Entrustment Mahazar was made ready from 6.30 am to 7.30 am, which was marked as Ex.P.3 and the same was signed by the official witnesses PW4 and Palanisamy along with PW10 and PW2.

vi) Thereafter, at about 8.00 am, PW2 and Official witness PW4 had department from the office of the Vigilance and Anti Corruption Wing, Coimbatore, in the two-wheeler of PW2 and PW10 and the other official witness and other police officials have departed in a Police Vehicle following the two-wheeler of PW2 and they went to the office of the accused. The Police Vehicle was part at a distance from the office of the accused. PW2 and PW4 parked the two-wheeler in front of the office of the accused and went into the office of the Electricity

Board at around 9.00 am. The members of the trap team were waiting near the office of the accused by hiding themselves.

vii) At about 9.25 am, PW2 and PW4 came out of the office of the accused and PW2 gave the prearranged singal to the trap team and thereupon, the trap team rushed towards PW2 and PW4 and enquired them. PW2 had narrated the events as under:-

When PW2 and PW4 had entered into the office of the accused and PW2 had presented the application form, the accused had inquired whether PW2 had brought the previously requested bribe of Rs.10,000/- along with the deposit amount of Rs.1,600/-. PW2 had confirmed that he brought the bribe amount and retrieved the marked currency note (treated with phenolphthalein) from his shirt pocket. The same was handed over to the accused Dhamodharan, who took it in his right hand, counted it with both hands, and then placed it in his left trouser pocket. These events transpired at approximately 9.15 am. PW2 had submitted the application(Ex.P.4) to the accused, who signed it on the left side, marked as Ex. P8 and returned it. The accused then instructed PW2 to go to the nearby office room and give the signed application to the Commercial Inspector viz., Mr.Chandrakumar, PW6. The accused further explained that PW6 would register the application in demand register and then require the signature of the accused again and, PW6 will issue another form. PW2 had followed the instructions, submitted the application to PW6. PW6 had registered it and obtained the brief signature of the accused in the Demand Register. Finally, the accused had instructed PW2 to pay the Application Fees of Rs.1,600/- in the Velandipalayam Office along with the application viz. Ex.P4 and the form and to submit the receipt provided by them to the accused again. Thereafter, at 9.25 am, PW2 and the official witness PW4 came out of the office of the accused and gave the prearranged signal to the trap team. Following PW10's instructions, P.W. 2 wiped his face with his handkerchief after shaking it out, signalling PW10.

viii) on such narration about the demand and acceptance of bribe by the accused, the trap team had entered into the office of the accused. The accused having been identified by PW2, PW10 had instructed PW2 to pay Rs.1,600/- deposit at the Velandipalayam Office and wait outside the office of the accused. Thereafter, PW10 had introduced himself and the team members to the accused and informed the superior of the accused about the incident. Then, PW10 had enquired the accused and after pacifying him, conducted the phenolphthalein test on both the hands of the accused and since the test proved positive, PW10 had collected the wash of the hands in separate glass bottles, sealed, labelled and signed by P.W. 10, the official witnesses (P.W. 4 and Palanisamy), and the accused, which were marked as M.O.1 and M.O.2. Thereafter, when enquired, the appellant/accused had produced the bribe money from his pant left pocket and finding that the serial numbers of the currency notes tally with the ones entered in the entrustment mahazar, the same had been seized by PW10 under M.O.1. After providing an alternate dress, the pant wore by the accused was seized and the left pocket of the same was dipped into the sodium carbonate solution and the content having turned pink, the said wash collected in a separate glass bottle, sealed, labelled and signed by the witnesses and PW10, marked as M.O.4. The said pant was recovered as M.O.5.

ix) When enquired by PW10, the accused had informed that the application submitted by PW2 was sent to Velandipalayam E.B. Office through PW2 for making necessary payment of fee. On further enquiry, the accused had produced his money purse, which had contained a sum of Rs.10,500/- and ATM card, PAN card, Identity card and IDBI VISA card claiming that the amount belongs to him having drawn from the Bank for making payment of EMI for his two wheeler and hence, the amount and the ATM card and other belongings were returned to the appellant/accused. The attendance register, which was produced by the accused was also seized under Ex.P9. Considering the scale of pay drawn by the accused, he was directed to appear before the Deputy Superintendent of Police. An observation mahazar was prepared for the events that had taken place from 9.45 to 1.00 pm on 18.10.2007 under Ex.P10, which was signed by the official witnesses, PW10, the superior officer of the accused by name Asokan and the accused.

x) Thereafter, PW10 had enquired PW2, who was waiting outside, who, in turn, had produced the receipts in evidence of payment of necessary fee to the Government under Ex.P5. Then PW10 had secured an extract of the demand register attested by Asokan, marked as Ex.P6. The recovery mahazar in respect of recovery of the documents is Ex.P7. A rough sketch has been prepared by PW10 as Ex.P14. Then PW10 had made a search at the house of the accused in the presence of the official witnesses and the accused after giving a pre-request under Ex.P15 and finding no incriminating materials, had prepared the Search Report, Ex.P11 and gave a copy of the same to the accused. Subsequently, PW10 had altered the legal provisions in respect of the office from one under Section 7 of Prevention of Corruption Act to one under Section 7 and Section 13(2) read with 13(1)(d) of the Prevention of Corruption Act and forwarded the alteration report to the court. Then, PW10 had handed over the accused and the materials collected to the Deputy Superintendent of Police, Mr.Girimurugan, who had enquired about the case and arrested the accused on 18.10.2007 at 3.15 pm and later, released him on bail. PW10, had, thereafter, arranged for sending the material objects under Form 91 for chemical analysis and ultimately, handed over the case records to PW11, Selvarajan, Inspector of Police, Vigilance and Anti Corruption on the instructions of the Deputy Superintendent of Police.

xi) Mr.Selvarajan, Inspector of Police, Vigilance and Anti Corruption, PW11, who took up further investigation on 19.7.2007, had enquired the prosecution witnesses viz., PW2 to PW10, Palanisamy, Babu, Seshagiri, the police constables Ravi and Balakrishnan and the accused and recorded their statements. PW11 had sent the material objections with a requisition, Ex.P16 to the court for subjecting the same for chemical analysis. The chemical analysis report is marked as Ex.P12. PW11 had also secured a Service Connection Format from the EB office and perused the same. PW11 having received the sanction order from PW1 on 5.8.2008 for prosecuting the accused, had enquired PW1 Balakrishnan, Superintending Engineer, who accorded such sanction and recorded his statement. Ultimately, PW11 had filed the final report against the accused for the offences punishable under Section 7 and Section 13(2) read with 13(1)(d) of the Prevention of Corruption Act.

5. The case was taken on file in Special Case No.13 of 2011 by the Special Court for the cases under Prevention of Corruption Act, Coimbatore. On summoning, the Appellant/accused appeared. Copies of relevant papers were furnished to the Appellant/accused under Section 207 of Cr.P.C. and charges were framed. The accused had denied the charges and sought for trial. In order to bring home the charges against the accused, the prosecution examined P.Ws.1 to 11 and marked Exs.P1 to P17 and Mos.1 to 7.

6. On completion of the evidence, the appellant/accused was questioned under Section 313 Cr.P.C. as to the incriminating

circumstances found in the evidence of prosecution witnesses and the accused had stated that he had been falsely implicated in the case and he had filed a written statement of defence contending that he had neither demanded nor obtained any bribe and a false complaint has been lodged against him due to the grudges PW2 had developed on the action taken by the accused on the application submitted by PW2 for shifting of electrical line passing through the plot belonging to his wife. On the side of the defence, the appellant had examined one K.Babu as DW1 and examined himself as DW2 and marked three documents as Exs.D1 to D3.

7. The Trial Court, on considering the entire materials, found the accused/appellant guilty and imposed punishments, as referred to above, which is under challenge in the present Criminal Appeal.

8. The crux of the submissions of the learned counsel Mr.V.Parthiban, appearing for the appellant are as under:-

i) The Trial Court has erred relying on the interested witness, PW2 and P.Ws.4 and 10 to render the judgment of conviction against the accused, especially, when there are many material contradictions in the evidence adduced by them.

ii) The evidence adduced by the prosecution witnesses discloses that no preliminary enquiry was conducted by the Trap Laying Officer before registering the case and it vitiates the case of the prosecution.

iii) The sanction order given by PW1 is defective and it is without application mind with regard to the facts of the case sofar as it is mentioned therein that the appellant/accused was arrested by the Inspector of Police when, in fact, he was arrested by the Deputy Superintendent of Police.

iv) The prosecution has failed to examine the Deputy Superintendent of Police, who had arrested the accused.

v) The Trial Court erred in rejecting the evidence adduced on the side of the appellant/accused without assigning any reason and by mechanically relying the evidence adduced by the prosecution witnesses had chosen to convict the accused and thereby it is liable to be set aside and the appellant/accused is entitled to be acquitted.

9. Per contra, Mr.S.Udayakumar, learned Government Advocate (Criminal Side) would submit that despite some minor contradictions and variation with regard to minute details in the evidence adduced by

the prosecution witnesses, the prosecution has proved its case against the accused with regard to demand and acceptance of bribe and recovery of the same with cogent evidence and thereby, the judgment of the Trial Court does not warrant any interference and the Appeal is liable to be dismissed.

10. Heard the learned counsel appearing for the parties and perused the materials available on record.

11. The allegation levelled against the appellant/accused is that he had demanded and obtained bribe for providing electricity connection on the basis of the application submitted by PW2 in respect of the property belonging to his wife. While claiming it to be a false case foisted against him by the de facto complainant on a grudge against him for the action taken on his application previously submitted for shifting the electric line away from the house of his wife as such action was not in his favour.

12. Though many grounds have been taken by the appellant, he is very specific in contending that focus is needed on the evidence

adduced by the prosecution witnesses viz., P.Ws.2 to 5 and 10 to analyse the material contradictions in their evidence and the admission made by them during the cross examination which would go to show that the case of the prosecution is surrounded by many suspicious circumstances.

13. The case against the appellant/accused being a trap case filed by the Vigilance and Anti Corruption, the proof of demand and obtainment of bribe and recovery thereof assumes more significance. Especially, it is a settled law that the proof of demand of illegal gratification is a gravamen of the offence under Sections 7 and 13(1)(d)(i) and (ii) of the Act and in absence thereof, unmistakably the charge there for, would fail.

14. With regard to the pre-trap demand, the de facto complainant (PW2) alone could be the person to speak about the same. In the present case, a friend of him has been examined as PW3 to speak about the pre-trap demand. So far as the demand on the date of trap, the official witness (PW4 in this case), in addition to PW2, the de facto complainant, has been examined. So far as the

succeeding recovery is concerned, the Trap Laying Officer (PW10) is the right person to speak about the same with the corroboration of the official witness, PW4. A perusal of the the evidence adduced by those prosecution witnesses would reveal that though there are slight variation and minor contradictions, they have cogently spoken about the pre-trap demand, demand on the date of trap and recovery of the bribe money after the accused was caught red handed.

15. A conjoint reading of the prosecution witnesses with regard to the above aspects in the light of the documents marked on the side of the prosecution would disclose that on 15.10.2007, at about 10.00 am, the de facto complainant/PW2 went to the office of the accused to submit the application on behalf of his wife seeking for electricity connection and since the accused demanded Rs.10,000/- as illegal gratification apart from Rs.1600/- towards caution deposit and refused to receive the application, he returned and once again on 17.10.2007, PW2, accompanied by PW3, Daniel, a friend of him, met the accused and insisted for provision of service connection. Since this time also, the accused refused to receive the application and insisted for the bribe, they both had come out of the office of the accused. PW2 had proposed to lodge a complaint with the Vigilance and Anti Corruption

and when discussed with PW3, he had also acceded to that.

16. Accordingly, the complaint was lodged on the same day at about 2.00 pm and the same was registered as FIR under Ex.P13 by PW10, the Trap Laying Officer at about 2.30 pm. The Trap Laying Officer summons the official witnesses and accordingly, they appeared before him at about 5.30 pm on the same day. PW10, the Trap Laying Officer asked them and the de facto complainant to be present before him on the next day viz., on 18.10.2007 at about 6.15 pm and accordingly, they had appeared before him, whereupon, the pre-trap procedures were completed by him and later, the trap team had visited the office of the accused at about 9.00 am. PW2 and PW4 alone went inside the office of the accused and came back at about 9.25 am and on receipt of the pre-arranged signal from PW2, the trap team rushed into the office of the accused, conducts enquiry, recovers the bribe money, which was produced by the accused and considering the pay grade of the accused, he was enquired subsequently and arrested by the Deputy Superintendent of Police.

17. Thus, there is some cogency and linking chain among the

prosecution witnesses, the defence theory is two fold, one being the grudge developed by the de facto complainant on the response of the accused to the application previously submitted on behalf of wife of the de facto complainant for shifting the electrical line away from her house and the other being the material contradictions in the version of the prosecution witnesses.

18. With regard to the concept of grudge, no doubt, an application as contended by the accused appears to have been submitted about 1-1/2 months prior to the present application. In this regard, the evidence of PW2 in cross examination is relevant to note. Though he admits about such an application, it is his case that such an application was submitted by his wife taking the assistance of one Supervisor by name Afzal working with PW2 and in that regard, he also admitted that he came to know that his wife had paid Rs.7250/- and that work was done on 9.10.2007 for the application submitted on 3.9.2007. Of course, it is the case of the accused that there was some conflict with regard to the said work and wordy altercation between himself and PW2. But, the presence of the accused at the work spot while carrying out the work of shifting the electrical line was totally

denied by PW2. Whileso, in support of the case of the accused, he had examined DW1, K.Babu, one of his colleagues to contend that he was very much present at the spot alongwith DW1. Even during the chief examination, DW1 had limited himself to contend that the accused had accompanied him to the spot for carrying out the work where PW2 had insisted for more gap in shifting the electrical line for which the accused had refused. He had been very specific to contend that only such event had taken place in his presence. He had not spoken about any wordy altercation as contended by the accused. Further, during the cross examination, DW1 had admitted that during the preliminary enquiry by the police, he had not spoken about this. Therefore, the first fold of the contention of the appellant/accused cannot hold water.

19. Coming to the other fold of the contention, the materials contradictions/lapses pointed out by the appellant/accused are as under:-

i) There is a controversy of PW3's presence when the complaint was lodged by PW2. While PW2, in his chief examination contends that he alone went to the police station on 17.10.2007 at 2.00 pm, in the cross examination, he contends that PW3 accompanied him while lodging the complaint. Further, though PW2 contends that PW3 was enquired by the TLO, PW3 contends that he was not so enquired. PW3 contends that after visiting the accused on 17.10.2007, he went to his house and in his cross examination, he contends that PW2 alone had gone to the police station to lodge the complaint.

ii) The application, Ex.P4 submitted by PW2 carries the date 18.10.2007 and thus, there is no possibility for him to have met the accused on 15.10.2007 or 17.10.2007 as contended by him.

iii) There is controversy in the version of PW2 and PW4. While PW4 deposed that PW2 and himself departed at 8.30 am from DVAC office to the office of the accused and reached at 8.45 am, PW2 had deposed that the departure time was 8.00 am and reaching time as 9.00 am which are contrary to each other.

iv) The evidence of PW10, the Trap Laying Officer proves that no preliminary enquiry was conducted by him on receipt of the complaint. His evidence also ensures that PW3 was not present on 18.10.2007, while PW2 claims that PW3 was present on that date.

v) The evidence of PW4, the official witness to the effect that the bribe money was seized from the left side back pocket of the accused, contrary to the fact admitted by PW10/PW11 that there was no such left side back pocket.

20. Before going into the material contradictions pointed out by the appellant/accused, it is relevant to note that the trap having taken place on 18.10.2007, the chief examination of PW2 itself had been done only on 16.11.2011 after four long years. Therefore, there could have been every possibility of the prosecution witnesses getting stumbled while giving some statistical data, which they were required to recollect from their memory. In the circumstances, the minor contradictions in referring the timings and some minute details cannot be found fault and it cannot be taken advantage by the appellant/accused, especially, when such witnesses have cogently spoken about the pre-trap demand, demand and recovery of bribe from the accused raising a presumption against the accused.

21. So far as the dispute raised by the accused with regard to the presence of PW3 in the police station alongwith PW2 while lodging the complaint, it is relevant to note that except his presence with PW2 at the police station and accompanying with the trap team, PW3 has

clearly spoken that he had witnessed the pre-trap demand by the accused on 17.10.2007 when he had accompanied PW2 to the office of the accused. Such being the evidence of PW3, the contradiction in between the evidence of PW2 and PW3 with regard to PW3's presence even at the police station and proceeding with the trap team does not have any impact to take a view that it vitiates the entire case of the prosecution. The confused version in the cross-examination of PW2 or PW3 has not shattered the earlier portion of the evidence adduced by them in the chief examination to disbelieve their version. The attempts made by the appellant/accused appears to be nothing but fishing in the troubled water.

22. So far as the contradiction with regard to the date mentioned in the application, Ex.P4 submitted by PW2 to the accused, a perusal of the same would show that there is a correction of date by way of overwriting between **'15'** and **'18'.** The contention raised by the appellant/accused is that it is only '18' and thus, there was no possibility of PW2 to have met the accused on 15.10.2007 and consequently, the case of the prosecution with regard to pre-trap on 15.10.2007 has to fail.

23. A magnified view of the date handwritten in the application would show that it was originally written as 15.10.2007 and later, it was sought to be changed as 18.10.2007. In this regard, the evidence of PW2 has to be taken into consideration. His first attempt for submitting the application, Ex.P4 was on 15.10.2007, which failed on refusal of the accused to receive the same without bribe money and his second attempt was on 17.10.2007, which also failed due to the same reason and ultimately, he had approached the DVAC and thereafter, on 18.10.2007, he submitted the application, of course with the tainted money and thereby, the correction of date found in the application is quite natural and does not create any doubt with regard to the case of the prosecution.

24. With regard to the contention that there is some variation in the evidence of PW2 and PW4 in mentioning the timings of their departure from the office of DVAC and reaching the office of the accused, an analysis of the evidence adduced by both would make it clear. PW2's evidence is that he is a Marble fixing contractor by profession for about 24 years. On the date of giving evidence, he was

aged about 44 and hence, he must have been involved in such a profession at the age of 20. He contends during his cross examination that he studied only upto 4th standard. PW2 being a common man of with such literacy level, there is nothing wrong on his part in referring the timing with lack of accuracy. However, his version is that they had departed at about 8.00 am and reached the office of the DVAC at about 9.00 am. Whereas, PW4, was a Deputy Tahsildar at the relevant point of time. He speaks with some accuracy to the effect that they had departed from the office of the DVAC at about 8.30 am and reached the office of the accused at about 8.40 am. It appears that the distance between both the places is about 5 kms reachable within fifteen minutes. Therefore, this court does not find any controversy between their version.

25. With regard to the allegation that no preliminary enquiry was conducted by the Trap Laying Officer before registering the case, it is the evidence of PW10, Trap Laying Officer that on receipt of the complaint from PW2, he had conducted an enquiry about the genuineness of the complaint and only on ensuring about the correctness of the same, he had registered the FIR after apprising the

same to the Superintendent of Police.

26. One more discrepancy pointed out by the appellant/accused is that contradiction in the version of prosecution witnesses with regard to recovery of bribe money from the accused. It is the contention of the appellant/accused PW4 had deposed that it was seized from the left rear pocket of the pant while there is no left rear pocket at all creating a doubt in the case of the prosecution.

27. A perusal of the evidence adduced by PW4 would make it clear that he had deposed to the effect that on the demand made by the accused, PW2 had produced the tainted money to him which was received by the accused with his right hand, counted the same using both the hands and kept in the left pocket of the pant. He had also deposed that when PW10 had enquired for the bribe money, the accused had produced the same from his left pocket of the pant. He had further deposed that only the left pocket of the pant was removed and subjected to phenolphthalein test and thereby, nowhere PW4 had stated that it is a left **rear** pocket of the pant. The evidence of PW4 corroborates the evidence of PW2 on this aspect as PW2 also deposed

that the money received by the accused was kept in his left pant pocket. On this aspect, the evidence of PW10, the Trap Laying Officer also corroborates the version of PW2 and PW4. PW10 had deposed that when enquired about the bribe money, the accused had produced the same from the left pocket of the pant. He would also say that the inner material of the left pocket of the pant was subjected to phenolphthalein test. While all the three witnesses viz., PW2, PW4 and PW10 would speak in one voice that it is only the left pocket of the pant, the mentioning of **left rear pocket of the pant** in the recovery mahazar can only be a clerical mistake as spoken by PW10, the Trap Laying Officer and the appellant/accused cannot take shelter under such a minor clerical error to contend that it vitiates the entire case of the prosecution.

28. Considering the entire facts and circumstances, this court is of the view that while the prosecution has proved its case with cogent evidence and raised a presumption against the accused, the appellant/accused had merely harped on the minor contradictions in the evidence of the prosecution witnesses instead of rebutting the presumption raised by the prosecution. The reasoned judgment of conviction rendered by the Trial Court does not warrant any

interference.

29. In the result, the Criminal Appeal is dismissed confirming the conviction and sentence dated 21.9.2017 rendered by the Special Court for the cases under Prevention of Corruption Act, Coimbatore in Spl.C.C.No.13 of 2011. The Trial Court is directed to secure the accused to enable him to undergo the remaining period of sentence.

20.6.2024.

Index: Yes/No.
Internet: Yes/No.
ssk.

To

1. Special Judge for the cases
under Prevention of Corruption Act,
Coimbatore.

2. Inspector of Police,
Vigilance and Anti-Corruption,
Coimbatore.

3. Public Prosecutor,
High Court, Madras.

A.D.JAGADISH CHANDIRA, J.

ssk.

P.D. JUDGMENT IN
Criminal Appeal No.639 of 2017

Delivered on
20.6.2024.