



Crl.A.No.272 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Judgment reserved on: 20.06.2025

Judgment pronounced on: **05.08.2025**

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Crl.A.No.272 of 2017

V.Venkatachalam

.. Appellant

Versus

The State by Inspector of Police,
Vigilance & Anti-Corruption,
Namakkal,
Crime No.12/AC/2002,
Namakkal District.

.. Respondent

Prayer : Criminal Appeal filed under Section 374(2) of Cr.P.C., to set aside the conviction and sentence imposed in judgment, dated 04.05.2017 made in Special C.C.No.56 of 2002 on the file of the learned Special Judge/Chief Judicial Magistrate, Namakkal by allowing this Criminal Appeal.

For Appellant : Mr.N.Manokaran



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For Respondent : Mr.A.Gokulakrishnan,
Additional Public Prosecutor

JUDGMENT

This Criminal Appeal challenges the judgment dated 04.05.2017 in Spl.C.C.No.56 of 2002 on the file of the learned Special Judge/Chief Judicial Magistrate, Namakkal. By that judgment, the appellant and sole accused, *V.Venkatachalam*, was found guilty of an offence punishable under Section 7 of the Prevention of Corruption Act, 1988 (hereinafter referred to as 'P.C. Act') and was sentenced to two years of Simple Imprisonment along with a fine of Rs.1,000/-. In case of default in paying the fine, he was to undergo one month of Simple Imprisonment. For an offence under Section 13(2) read with Section 13(1)(d) of the P.C. Act, he was sentenced to two years of Simple Imprisonment and a fine of Rs.1,000/-, with defaulting to undergo one month of Simple Imprisonment.

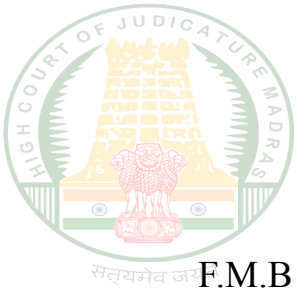


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2. On 09.05.2002, *P.W.2, Selvam*, appeared before the District Vigilance and Anti-Corruption Wing, Salem, and gave an oral statement, which was reduced to writing in Tamil. In his statement, he stated that he has agricultural lands in Patlur village, Tiruchengode taluk. He applied for an electricity connection for the well situated on the said lands in the name of his father on 31.01.1995. Since obtaining a free connection would incur further delays based on seniority, they decided to get a paid connection by paying Rs.25,000/-. The complainant and his father approached the Divisional Engineer on 22.04.2002 and informed them of the details. They received an application from the complainant's father. They paid a sum of Rs.500/- and received a receipt for the payment.

3. Thereafter, they conducted an inspection of their land on 26.04.2002. After taking measurements, the EB authorities asked him to obtain a new ownership certificate, chitta, patta, adangal, kisth receipt, and



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F.M.B copies from the Village Administrative Officer. Only upon
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production of these fresh copies could they prepare the estimate. Therefore, on 30.04.2002, a Tuesday, at about 1:00 P.M, he went to the Village Administrative Officer's office and met the appellant, *V.Venkatachalam*, the Village Administrative Officer, and made the request. The appellant demanded Rs.1,500/- as a bribe for providing the copies. *P.W.2* replied that he could not pay that much money, to which the appellant responded that nothing could be done unless he paid a minimum of Rs.1,000/-.

4. Thereafter, on 03.05.2002, when he and his father were away from home, the Village Assistant, *Arokyasamy*, visited their house and told her mother, *Pavayi*, that the Village Administrative Officer demanded money. He informed her that *P.W.2* and his father should come with the money to the R.D.O. office, Tiruchengode. As per the instructions, *P.W.2* went to the R.D.O. office, Tiruchengode, around 2:00 P.M and demanded the copies. At that time, the Village Administrative Officer was handing over the F.M.B. to



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the Village Assistant, *Arokyasamy*, to make photocopies, and was preparing the other copies. He asked whether *P.W.2* had brought the money. *P.W.2* replied that he could not gather that much money. The appellant/accused kept the written copies with himself. Later, when the Village Assistant brought the F.M.B. copies, they were also kept with the other copies. Subsequently, the appellant/accused reportedly informed him that the copies were ready and that he would be present only at the R.D.O's office, Tiruchengode, during the Jamabandi days. He told *P.W.2* that on any day, he could come with at least Rs.500/- and get the copies. After receiving this information, *P.W.2* went to work in his lorry. He only returned home on 08.05.2002. He planned to meet the Village Administrative Officer on 09.05.2002 to get the copies but decided not to pay the bribe. Therefore, he came to the police to seek action against him.

5. *P.W.14, Nachiappan*, reduced the complaint (***Ex.P-2***) into writing in Tamil, which *P.W.2* signed. Upon such complaint, *P.W.14* ascertained the



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genuineness of the complaint and then registered a case in Crime

No.12/AC/2002 for an alleged offence under Section 7 of the P.C. Act. It

should be noted that the complaint was on a computer-generated form

maintained at *P.W.14*'s office. In column No.12 (contents), *P.W.14* translated

and summarised the contents of the complaint in ***Ex.P-1*** in English, and the

case was registered. He then organised a trap and requested the Tamil Nadu

Civil Supplies Corporation and the Chief Educational Officer to send one

witness each; accordingly, *Kumaresan*, Junior Assistant (*P.W.3*), and

Ganesan (not examined) from the Regional Manager's office were deputed.

After introducing *P.W.2* to these official witnesses, a mahazar for handing

over was prepared, and *P.W.2* handed over ten 50-rupee notes. After

verifying and noting their serial numbers, the Sodium Carbonate solution

test was demonstrated. Subsequently, Phenolphthalein powder was smeared

on the notes through Police Constable, *Perumal*, and the notes were again

handed to the official witness, *Ganesan*. When the test was repeated, the

solution turned pink. The significance was explained to the decoy and



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official witnesses. Then, the test solution was destroyed. The notes, smeared with Phenolphthalein powder, were handed over to *P.W.2, Selvam*, who was instructed to hand over the money only if demanded by the accused at the R.D.O. office, Tiruchengode, and to signal the trap party afterwards.

6. Thereafter, at 3:30 P.M., the entire party proceeded to Trichengode and reached there by 4:00 P.M. The trap-laying party dropped *P.W.2* and the official witness, and were watching from a distance. At about 4:20 P.M., *P.W.2* and the official witness came out and signalled. Thereafter, *P.W.14* confirmed from *P.W.2* and the official witness that the accused *Venkatachalam* had accepted a bribe of Rs 500/-. Immediately afterwards, he went inside the office and apprehended the accused. The accused became anxious and pleaded that he did it unknowingly, requesting forgiveness once. The complainant was directed to wait at the Town Panchayat Office. The accused was taken to a nearby thatched structure, made to sit in a chair, and after preparing the mahazar, the test was conducted. Both of the accused's

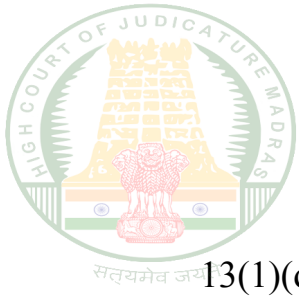


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hands turned pink, and the solution also turned pink. The solution was then sealed, labelled, and ten Rs.50/- notes, handed over by the accused, were recovered. The serial numbers were verified, and after giving another shirt to the accused, his shirt was also immersed in the solution, which turned pink. That was again sealed and labelled, and the shirt was recovered under the recovery mahazar. Upon inquiry, the accused admitted that besides the Rs.500/-, he had another Rs.900/-, which was his personal money. Subsequently, he was arrested at about 6:15 P.M, and the mahazar proceedings were completed by 6:20 P.M, with the particulars sent to the Court. Around 7:45 P.M, the following day, his house was searched, he was produced for remand, and afterwards, the file was handed over to *P.W.15* for investigation.

7. *P.W.15, Periyasamy*, thereafter took up the case for investigation, completed the same, and filed a Final Report proposing the accused as guilty of an offence punishable under Section 7 and Section 13(2) read with



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13(1)(d) of the P.C. Act. The case was registered as Spl.C.C.No.56 of 2002.

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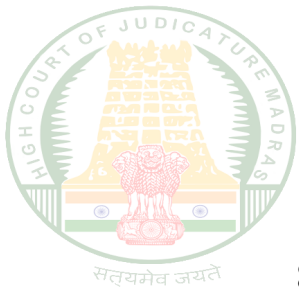
On 19.02.2003, two charges were framed against the appellant/accused.

Firstly, the accused demanded a sum of Rs.1,500/- as a bribe on 30.04.2002, when *P.W.2* approached him for copies of the documents, and then reduced the amount to Rs.1,000/-. Again, on 03.05.2002, when *P.W.2, Selvam*, was not present, he sent for *P.W.2* to meet him through the witness *Arokyasamy*.

When *P.W.2* met him on the same day at about 2.00 P.M, he again reduced the bribe to Rs.500/- and instructed him to hand it over on any day during the week, as he would be present in the R.D.O's office due to Jamabandi.

Subsequently, on 09.05.2002, between 4.10 P.M and 4.20 P.M, he obtained illegal gratification of Rs.500/- from *P.W.2* in the presence of the witness

Kumaresan, thereby committing an offence punishable under Section 7 of the P.C. Act. Secondly, for these reasons, abusing his position by demanding and obtaining a bribe of Rs.500/-, he also committed an offence punishable under Section 13(2) read with 13(1)(d) of the P.C. Act.

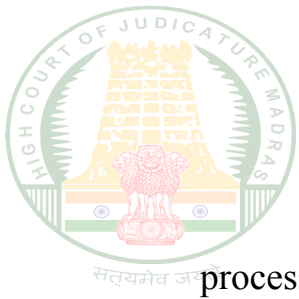


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8. The accused denied the charges and stood trial. In order to bring home the charges, one *Venkatachalam*, the then Revenue Divisional Officer, who went through the files submitted by the prosecution and issued a sanction order (**Ex.P-1**) dated 08.10.2002, and who spoke about the said process, was examined as *P.W.1*. The decoy witness/*de facto* complainant was examined as *P.W.2*, who talked about the first demand of Rs.1,500/-, which was reduced to Rs.1,000/- and the second demand on 03.05.2002 and reduced the demand on 04.07.2002 and the fact that he approached the Police on 09.05.2002 and about setting up of the trap and the appellant/accused, taking him to a lane behind the B.D.O's office and demanding and accepting the bribe of Rs.500/-, being the tainted money and thereafter, signalling to the Trap Laying Officer and party that caught the accused red-handed.

9. *P.Kumaresan*, who was the official witness, who accompanied the decoy witness, was examined as *P.W.3*, who explained about the trap laying



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process and the fact about he accompanying *P.W.2* to the R.D.O's office, Tiruchengode and the demand and acceptance of the tainted money. One *Muthuswamy*, father of *P.W.2*, was examined as *P.W.4*. *Pavayi*, the mother of *P.W.2*, was examined as *P.W.5* and she spoke about the Village Assistant coming to her office and requesting *P.W.2* to meet the appellant/accused. *Ponnusamy*, the TANGEDCO official, was examined as *P.W.6* and he spoke about *P.W.2* and his father making the application and that they were directed to produce the copies of the relevant documents in respect of the same. *Marimuthu*, the Commercial Assistant of TANGEDCO, was examined as *P.W.7*, who spoke about the inspection carried out in the field and the request for copies.

10. *Arokyasamy*, the Village Assistant, who was supposed to have gone to the house of *P.W.2* and demanded the payment of money, was examined as *P.W.8*, and he turned hostile, and he was cross-examined on behalf of the prosecution. One *Kandasamy*, the Tahsildar of the concerned

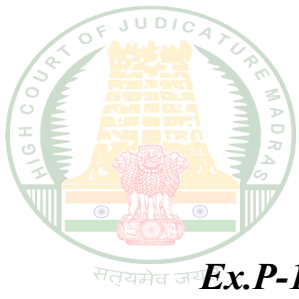


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taluk, who described that the meeting was taking place on a particular day and they all learned that the appellant/accused was arrested, received bribe, was examined as *P.W.9*. One *Periyasamy*, who was working as Assistant in the Tiruchengode taluk office, who witnessed the incident of arrest and who took *Arokyasamy* to the office of the Vigilance and Anti-Corruption Police, for examination on 11.05.2002, was examined as *P.W.10*. *Ramasamy*, the Court Clerk concerned, who sent the M.Os for Forensic Examination, was examined as *P.W.11*. *Sankari*, who was the Personal Assistant at the R.D.O office, Tiruchengode, who spoke about the particular hall that is being used by the Village Administrative Officer at the time of Jammabandi, etc., was examined as *P.W.12*. *Dr.Kamalakshi Krishnamoorthy*, the Forensic Expert, who examined the samples and gave a report in ***Ex.P-16***, was examined as *P.W.13*. The Trap Laying Officer, *Nachiappan*, was examined as *P.W.14*. The Investigating Officer, *Periyasamy*, was examined as *P.W.15*.

11. On behalf of the prosecution, the sanction order was marked as



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Ex.P-1. The oral statement that was reduced to writing was marked as

Ex.P-2. The mahazar prepared by the Trap Laying Officer for handing over

ten 50 rupee notes was marked as **Ex.P-3.** The recovery mahazar, which

detailed the recovery of the tainted notes and the accused's shirt, was marked

as **Ex.P-4.** The rough sketch was marked as **Ex.P-5.** The search memo,

filed by the Trap Laying Officer to conduct a search of the accused's house,

was marked as **Ex.P-6.** The file relating to the application made by P.W.2's

father to the E.B authorities was marked as **Ex.P-7.** The signature in the

mahazar was marked as **Ex.P-8.** The copies, including the ownership

certificate, chitta, adangal, and F.M.B sketch, were marked as **Ex.P-9** to

Ex.P-12. The recovery mahazar through which these copies were received

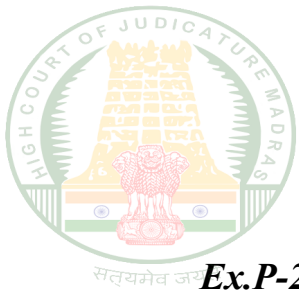
was marked as **Ex.P-13.** The request letters for sending the sample for

analysis were marked as **Ex.P-14** and **Ex.P-15.** The Forensic Report was

marked as **Ex.P-16.** The First Information Report was marked as **Ex.P-17.**

The advance information sent to the Court was marked as **Ex.P-18.** The

Remand Report was marked as **Ex.P-19.** The Form-95 was marked as



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Ex.P-20.
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12. The tainted ten 50 rupee notes were marked as **Ex.M.O.1** series.

The cover containing Phenolphthalein powder was marked as **Ex.M.O.2**.

The cover containing Sodium Carbonate powder was marked as **Ex.M.O.3**.

The solution in which the right hand was dipped was marked as **Ex.M.O.4**.

The solution in which the left hand was dipped was marked as **Ex.M.O.5**.

The solution in which the shirt was dipped was marked as **Ex.M.O.6**. The shirt itself was marked as **Ex.M.O.7**.

13. Upon being questioned about the incriminating evidence on record under Section 313 of the Code of Criminal Procedure, the accused denied it. Thereafter, no evidence was let in on behalf of the accused. During the trial, **Ex.D-1**, a letter written by the Trap Laying Officer to the Revenue Divisional Officer, was marked.



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14. The Trial Court then proceeded to hear the learned Special Public

Prosecutor for the prosecution and the learned Counsel for the appellant.

The Court found that the prosecution had proved that the lands were in the name of *P.W.4*, the father of *P.W.2*. *P.W.2* testified clearly about the demand, which *P.W.3* also confirmed, supporting *P.W.2*'s evidence. Hence, the Court held the demand was established. The relevant purpose was demonstrated by producing the relevant file, and the acceptance of the amount was proved through expert evidence, the evidence of the Trap Laying Officer, and the recovery mahazar. The Court rejected the arguments that the sanction order was invalid. It also dismissed the contention regarding the FIR, explaining that when *P.W.2* gave an oral statement that was reduced to writing in Tamil and marked as ***Ex.P-2***, it sufficed. The accused failed to show that the case was false or that the trap was stage-managed, and the Court held that the offences were proved beyond any reasonable doubt, sentencing the appellant as aforesaid.

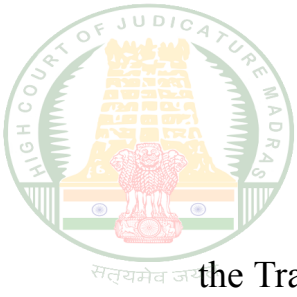


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15. Heard *Mr.N.Manokaran*, learned Counsel for the appellant and *Mr.A.Gopalakrishnan*, learned Additional Public Prosecutor for the respondent.

16. Firstly, pointing out the cross-examination of *P.W.2*, it was argued that *P.W.2* and his family had made constructions by encroaching on the pathway/street. When the encroachments on the said pathway were ordered to be removed by the Village Administrative Officer, the appellant had to take action. Therefore, there is a strong motive for *P.W.2* to seek revenge against the appellant. This is further supported by the fact that *P.W.15*, *Periyasamy*, the Investigating Officer, is a relative of *P.W.2*. *P.W.2* & *P.W.15* admitted this during cross-examination. Hence, if the entire complaint and the trap-laying process are motivated, it provides grounds to doubt the case of the prosecution. In this regard, the learned Counsel relies on the judgment of this Court, dated 24.10.2024 in *V. Radhakrishnan Vs. State* (*Crl.A. No. 282 of 2019*), specifically paragraph No.8.2, which states that if

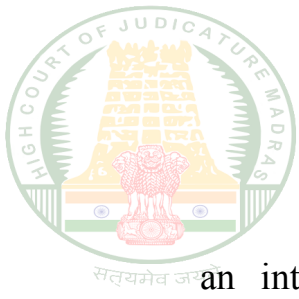


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the Trap Laying Officer approached his target like a predator, compromising all neutrality, fairness, and personal integrity, and acted ruthlessly, it could undermine the fairness of justice, and the Court should not accept the trap as valid.

17. The learned Counsel would then point out the circumstances under which the appellant/accused was caught red-handed at the R.D.O's office during the time of Jamabandi. It is highly unbelievable that a Village Administrative Officer, who wants to demand and accept bribe, would have asked *P.W.2* to come to the Revenue Divisional Office, especially when all the officers and Village Administrative Officers from all the villages were present at the Jamabandi. The learned Counsel would then highlight contradictions in the evidence of *P.W.2* and *P.W.4*, the official witnesses, and point out that the request sent to his office was never marked, nor is the timing when the official witness was deputed clear. Therefore, he would argue that in this case, it should be considered that the official witness was

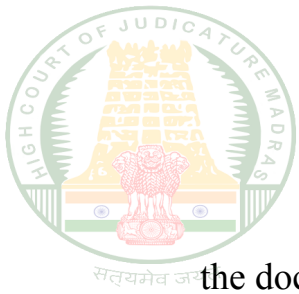


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an interested witness, and his deposition should not be regarded as trustworthy. In this regard, the learned Counsel would rely upon the judgment of this Court, dated 26.03.2024, in ***P.Narasimhan Vs. The Inspector of Police, Vigilance and Anti-Corruption, Vellore (Crl.A.No.805 of 2018)***, specifically, on paragraph No.13 of the said judgment.

18. The learned Counsel then argues that it was the obligation of *P.W.14*, the Trap Laying Officer, to record the accused's statement immediately after arrest, as required by paragraph No.47 of the V & AC Manual. This would have clearly revealed the accused's immediate response. He relies on the judgment of this Court in ***V. Subramani Vs. State (Crl.A. No.616 of 2018)***, especially paragraph No.10 of that judgment. The Counsel also points out the location from which the alleged copies of documents were recovered. Additionally, he highlights that although the prosecution claims the appellant/accused directed the *de facto* complainant to deliver the money at the R.D.O.'s office, there is no explanation for why

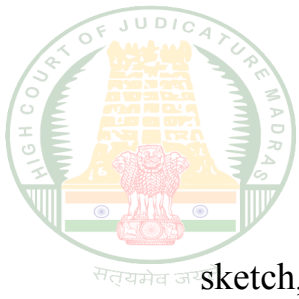


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the documents were not recovered in the presence of the accused. Therefore, he contends that the prosecution's case is filled with contradictions. Finally, the learned Counsel emphasises from **Ex.D-1** that the Investigating Officer explicitly alleges the Village Assistant's involvement in the entire episode. **Ex.D-1** clearly states this. Although the prosecution claims the Village Assistant fled the scene, the fact that he was not apprehended when he was again present to open the office of the Village Administrative Officer only exposes the falsity of the entire case. Essentially, the prosecution has manipulated the evidence and filed the Final Report. For all these reasons, he prays for the acquittal of the appellant/accused.

19. Per *contra*, *Mr.A.Gokulakrishnan*, learned Additional Public Prosecutor for the respondent, would submit that firstly, the purpose for which *P.W.2* approached the accused is proven by examining the relevant officials from the Electricity Board and by marking the entire file. *P.W.2* was in need of the certified copies of the patta, chitta, adangal, F.M.B.

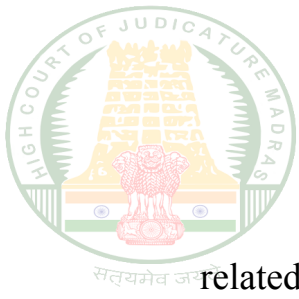


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sketch, etc., which are proved beyond doubt. *P.W.2* testified clearly without any confusion regarding the dates on which he approached the accused and the initial demand made by him, which was Rs.1,500/-, then reduced to Rs.1,000/-, and subsequently to Rs.500/-. The fact that the Jamabandi was being conducted is also proved by the prosecution through the examination of the Tahsildar and the Personal Assistant working in the Revenue Divisional Office, Tiruchengode. Additionally, the fact that the trap was laid in the Revenue Divisional Office is corroborated.

20. The learned Additional Public Prosecutor would submit that *P.W.4*, the official witness, who had no connection with *P.W.2* or the accused, clearly deposed about the demand made by the accused, the subsequent handing over of the tainted money, and its recovery from the accused. The trap was carefully set and all procedural formalities were properly followed. The sample was sent for analysis, and the expert report is marked as ***Ex.P-16***. Therefore, the demand, acceptance of the bribe amount, purpose, and



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related aspects are proved beyond doubt. Merely because the Village Administrative Officer took action against encroachment, it cannot be regarded as a motive in this case, as the same incident occurred due to the directions given, and all encroachments in the road were removed by the Village Administrative Officer. Even the allegations concerning *P.W.15*, a relative, cannot be taken seriously, since the complainant was given only to *P.W.14*, who examined him, verified the complaint, and was involved in setting up the trap. Accordingly, the argument regarding motive has to be rejected. The minor contradictions pointed out by the learned Counsel for the appellant are insignificant and do not undermine the prosecution's case.

21. I have considered the rival submissions made on both sides and reviewed the material records of the case. On behalf of the accused, certain circumstances and contradictions in the prosecution's case are highlighted. Therefore, the primary task of this Court is to examine these contradictions and to determine whether they create a doubt regarding the prosecution's



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22. First and foremost, the recovery of copies of the relevant documents that *P.W.2* sought from the accused/appellant, such as the ownership certificate, chitta, adangal, F.M.B. sketch, etc. According to *P.W.2* and the prosecution, after making a demand and reducing the amount, the accused had already begun preparing these documents, even in the presence of *P.W.2*, and was holding them at the R.D.O's office. However, without handing over or signing the photocopy of the F.M.B. sketch, he kept it with himself and asked the accused to come to the R.D.O's office in the following week with the money. After paying the money, he reportedly directed *P.W.2* to collect the documents.

23. In this regard, the evidence of *P.W.15*, the Investigating Officer, is that the trap-laying proceedings were completed on 09.05.2002. On 10.05.2002, the entire file was handed over to him by the Trap Laying



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Officer. On 10.05.2002, he examined *P.W.2* and *P.W.4*, and 11.05.2002, is the date on which he is said to have recovered these documents. It is the prosecution's case that, on 10.05.2002, he requested the Revenue Tahsildar, Tiruchengode, to produce the Village Assistant, *Arokyasamy*. In this connection, even in the Remand Report, marked as ***Ex.P-19***, the said *Arokyasamy* is shown as the second accused in the margin with an endorsement 'absconding accused'. It is also stated in the Remand Report that the Village Assistant, *Arokyasamy*, is absconding with the documents intended for the complainant.

24. On the same day, i.e., 11.05.2002, the Trap Laying Officer informed the Revenue Divisional Officer, Tiruchengode, that a case had been registered against the Village Administrative Officer, and he had been arrested. The F.I.R. was forwarded with a request to keep him under suspension. In the said communication, it is also mentioned in paragraph No.4 that '*Tr.Arokyasamy, Village Assistant of Patlur Village, was abetted by*

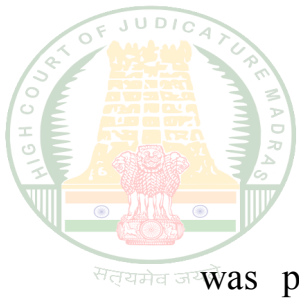


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the V.A.O. Tr.V. Venkatachalam in the demand for a bribe, and he is absconding with the documents required by the complainant, which were prepared and given to him by the V.A.O. Tr.V. Venkatachalam'. However, as seen from the evidence of P.W.9, Kandasamy, after absconding at the time of the apprehension of the appellant/accused on 09.05.2002, the Village Assistant, Arokyasamy, reappeared on 11.05.2002. Immediately thereafter, they inquired about the documents, produced him before the Investigating Officer, and he denied fleeing with the documents. He then took them to the office of the Village Administrative Officer. Since then, the documents could not be found. Subsequently, he brought them to the hall where all the Village Administrative Officers keep the entire village accounts during Jamabandi. The hall was opened, and in the bundle kept by the appellant/accused, the documents were found and recovered.

25. P.W.10, Periyasamy, who is also a witness to the recovery mahazar, **Ex.P-13**, stated in his chief-examination that the said Arokyasamy



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was produced before the police on 11.05.2002. Although his chief-examination notes that the recovery was made only on 16.05.2002, this was clarified during cross-examination, confirming that the recovery occurred only on 11.05.2002. Therefore, it can be seen that the letter in **Ex.D-1** was written on the morning of 11.05.2002, but *Arokyasamy* surfaced and was produced later that day. Upon examination, nothing incriminating was found, and he was not arrested, yet the recovery was duly completed. Apart from a minor contradiction in the evidence of mahazar witness *Periyasamy* (*P.W.10*), which was clarified by the accused side during cross-examination, I find no significant inconsistency regarding the recovery of the documents.

26. The second argument is with reference to the First Information Report. It is true that the First Information Report, in the relevant column, instead of extracting the information as such, *P.W.14* translates the same into English and writes a summary version of the information. Though it is ideal that the exact information should be contained in column 12, merely because

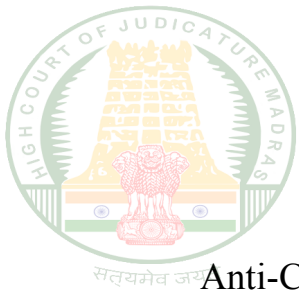


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the officer who is registering the case summarises the information and writes in his own language, the same cannot be invalidated. The same has to be considered in the context of the instant case, where *P.W.2* had approached *P.W.14* without any written complaint, and especially, when his oral statement is reduced into writing by *P.W.14* himself and the same is marked as **Ex.P-2**. Therefore, the same would not be fatal to the case of the prosecution.

27. The third argument related to the contradiction in the prosecution's case. It is true that during cross-examination, *P.W.2* stated that he received a written order from the Chief Educational Officer on the previous day, i.e., 08.05.2002, around 7:00 P.M., and claims that on the next day, at 11:15 A.M, he went to the Vigilance and Anti-Corruption office. Even though it can be seen that *P.W.2* was belatedly cross examined, his original version in the chief examination is that on the morning of 09.05.2002, around 9:00 A.M, the Chief Educational Officer orally instructed him to visit the Vigilance and



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Anti-Corruption office, and he went there between 9:30 A.M and 10:00 A.M.

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However, *P.W.2* would submit that he came to the Office of the Vigilance and Anti-Corruption much later. By cross-examination, the defence elicited the time taken for him to come over to Salem by bus and then to the office of the Vigilance and Anti-Corruption. Even for the sake of the prosecution taking that *P.W.2* arrived at their office at 9.00 A.M., things have moved in an hectic pace, that is, the preliminary verification of the complaint was made, First Information Report is registered, written communication was issued to two offices and the witness were summoned, Phenolphthalein test demonstrated, *P.W.2* had come ready with the bribe money, handing over mahazar was prepared and the Phenolphthalein powered was smeared and everything got ready and the left for Thirchengode by 2 P.M. Thus, the case as projected by the prosecution, was on 09.05.2002 morning only. *P.W.2* came over to their office is highly doubtful. The prosecution did not think it fit to examine the other official witness. *P.W.3* being the only official witness seriously contradicts the version of the prosecution.



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28. It assumes significance because *P.W.3* again would state that when the complaint was given by *P.W.2*, and instructions were made, it was done both by *P.W.14* Trap Laying Officer and *P.W.15* Investigation Officer, which runs counter to the case of the prosecution. This assumption gains significance as both *P.W.2*, the decoy witness, and *P.W.15*, the Investigating Officer, acknowledge they are related to each other. The relationship, the haste, and the contradictory version of the official witness certainly throws doubt on the fairness of the trap proceedings. It would be unsafe to rely on such trap proceedings.

29. However, the facts that can be safely held to be proven concern the demand made by the appellant. In this case, the defence attributes motive to *P.W.2*. It is evident that the appellant removed the portion of the superstructure put up by *P.W.2* and his family on the street. A review of the oral evidence shows that it is not only *P.W.2*'s encroachment that was



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removed; several encroachments along the pathway were cleared, and these actions were taken on orders from higher authorities. Conversely, *P.W.2*'s need for copies of the documents does not create any doubt in the Court's mind. *P.W.2* clearly spoke about the demand made. The recovery of the copies, done in the presence of official witnesses from the hall in the R.D.O's office from the bundle kept by the appellant, corroborates *P.W.2*'s version. Therefore, I believe that the Prosecution has proved the demand for a bribe amount by the appellant. However, the further trap proceedings are doubtful and do not inspire confidence. Thus, the appellant is still liable to be convicted under Section 7 of the Prevention of Corruption Act, 1988. However, he is liable to be acquitted under Section 13(2) read with 13(1)(d) of the same Act. With reference to the question of sentence, it is brought to the notice of this Court by the learned Counsel for the appellant that the appellant is completely paralysed and is not even able to move around at this age of 72 years. It is also stated that he has already undergone Imprisonment for a period of 20 days pending investigation and he has also paid a fine



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amount of Rs.2,000/- already.

30. In view thereof, the Criminal Appeal stands partly allowed on the following terms:

(i) The appellant's conviction for the offence under Section 7 of the Prevention of Corruption Act, 1988, is upheld, and the appellant is sentenced to undergo six months' Simple Imprisonment and to pay a fine of Rs.2,000/-;

(ii) It is stated that the appellant has already paid a sum of Rs.2,000/- as fine and the same shall be taken into account for the above. The period of imprisonment already undergone can be set off;

(iii) The appellant is acquitted of the charge under Section 13(2) read with 13(1)(d) of the Prevention of Corruption Act, 1988.

05.08.2025

Neutral Citation : yes
grs

To

1. The Special Judge/Chief Judicial Magistrate,
Namakkal.

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2. The Inspector of Police,
Vigilance & Anti-Corruption,
Namakkal.

3. The Public Prosecutor,
High Court of Madras.



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D.BHARATHA CHAKRAVARTHY, J.

grs

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