Criminal Appeal No.776 of 2017

D.BHARATHA CHAKRAVARTHY. J.,

The matter is listed under the caption for being mentioned.

2. Even though the sentence of imprisonment is correctly mentioned in the operative portion of the order in paragraph No.6(c), however, in paragraph No.5.11 alone it is mentioned as if it is reduced to six months in respect of the offence under Section 13(2) r/w Section 13 (1)(d) of the Prevention of Corruption Act, 1988.

3. As such the word six months have to be corrected as one year simple imprisonment and the Registry to upload the corrected order.

4. This apart the learned counsel also submits that instead of four (4) weeks time granted some more time can also be extended. Therefore, twelve (12) weeks time be granted accordingly and the words four (4) weeks found in para 6(g) shall be altered as twelve (12) weeks.

28.08.2025

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D.BHARATHA CHAKRAVARTHY. J.,

rap

Criminal Appeal No.776 of 2017

28.08.2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

JUDGMENT RESERVED ON: 24.06.2025

JUDGMENT PRONOUNCED ON: 25.08.2025

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Criminal Appeal No.776 of 2017

S.A.Murali .. **Appellant/Accused**

Vs.

State by:Inspector of Police
Vigilance and Anti-Corruption Department
Salem at Namakkal.
(Crime No.10/AC of 2001) .. **Respondent/Complainant**

Prayer: Criminal Appeal filed under Section 374 (2) of Code of Criminal Procedure, to set aside the conviction and sentence passed in Spl.C.C.No.54 of 2002 on the file of the Special Judge / Chief Judicial Magistrate, Namakkal, by Judgment dated 28.11.2017.

For the Appellant : Mr.V.R.Balasubramaniam

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

J U D G M E N T

A. The Appeal:

This appeal is filed against the judgment of the learned Special Judge / Chief Judicial Magistrate, Namakkal, dated 28.11.2017, made in Special C.C.No.54 of 2002.

1.1 The appellant – *S.A. Murali,* was the sole accused tried in the case. By the judgment, he was found guilty of an offence punishable under Section 7 of the Prevention of Corruption Act, 1988, and was sentenced to two years of simple imprisonment and a fine of Rs.1,000/-. In default of payment, he was to undergo one month of simple imprisonment. He was also found guilty of an offence punishable under Section 13 (2) read with 13 (1) (d) of the Prevention of Corruption Act, 1988, and sentenced to two years of simple imprisonment and a fine of Rs.1,000/-, and in case of non-payment of the fine, he would undergo one month of simple imprisonment.

B. Case of the Prosecution:

2. On 03.12.2001, P.W.2 – *Maharishi Arulgnana Jothi* visited the Vigilance and Anti-Corruption Unit in Salem and lodged a complaint – Ex.P4, stating that he is the Correspondent of NRT Maarappan Matriculation School at

Kuppampalayam, Namakkal Taluk. The school building was constructed by *Maarappan,* and later, P.W.2 took over the same on lease on behalf of the Saptharishi Ashram, and has been running the school. The school offers classes from L.K.G. to 6th standard. P.W.2 applied for approval to start 7th and 8th standard classes. Meanwhile, the license to operate the school in the existing building had expired. Therefore, he applied for renewal of the license on 13.09.2001, along with a chartered engineer's certificate confirming the building's stability. The application was sent via courier.

2.1 Thereafter, when he visited the office of the Tahsildar twice, the Tahsildar was not present. Finally, he met the Tahsildar / the accused, *Murali,* on 26.11.2001 at about 11.30 am in his office and requested the license. He replied that he would come for inspection the next day. Accordingly, on the following day, 27.11.2001 (Tuesday), at about 5.30 pm, the accused arrived in a jeep and inspected the school premises. At that time, the accused demanded a bribe of Rs.6,000/- for granting the license. P.W.2 responded that, since the school was run for a service motive, they did not have the money and requested him to grant the license without demanding a bribe. The accused replied that the license would be issued if at least a sum of Rs.2,000/- was paid and then he left.

2.2 On 03.12.2001, when P.W.2 met him at 11:30 am in the office of the Tahsildar and requested a license, the accused again demanded the bribe amount of Rs.2,000/-. P.W.2 replied negatively. However, the accused directed P.W.2 to come with Rs. 2,000/- to his quarters on 04.12.2001 in the morning around 09:30 am, and if he was unable to make it before 09:30 am, instructed P.W.2 to come to the office and hand over the bribe, after which the licence would be given. P.W.2 did not want to pay the bribe to the accused and therefore approached the police.

2.3 By translating and summarizing Ex.P.4 into English, P.W.15 – *Nachiappan*, Inspector of Police, V & AC, the Trap Laying Officer – registered a case in Crime No.10 of 2001 for an alleged offense under Section 7 of the Prevention of Corruption Act, 1988, after verifying the truth of the complaint and the conduct of the accused. Since P.W.2 consented to a trap procedure, P.W.15 recorded his statement and directed him to come to his office the next morning at 6.30 am. P.W.15 also sent a requisition letter to the Executive Engineer, Agricultural Engineering Department, Salem, and the Divisional Manager, Rural

Roads Scheme, Highways Department, Salem, requesting them to send group 'B' and Assistant grade officers from their respective organizations. Accordingly, M. Shanmuga, Assistant Engineer from the Agricultural Engineering Department, and Balasubramaniam, Superintendent from the Highways Department, were sent as witnesses.

2.4. As directed, on the next morning, P.W.2 arrived at the office of P.W.15 around 6:15 am with Rs.2,000/- to be given as a bribe. After the official witnesses arrived, the complaint was examined, and they also went through the First Information Report and the entire episode was explained to them. In the presence of the official witnesses, P.W.2 handed over Rs.2,000/-, consisting of one Rs.500/- note and fifteen Rs.100/- notes. Immediately, a mahazar was prepared, and the serial numbers of the notes were recorded. Subsequently, the phenolphthalein test was demonstrated to the decoy witnesses and the official witnesses. The notes were then smeared with phenolphthalein powder by Constable *Singaravelu* and handed back to P.W.2, who was instructed to give the bribe only if the Tahsildar demanded it, either at his house or at the office. He was also instructed to give a signal if the bribe was accepted by the accused.

2.5. P.W. 2 received the specified amount and kept it in his black rexine bag. P.W. 2 was instructed to tell the accused that the official witness, or shadow witness, who is with him is a teacher at his school, if the accused asks about him. A mahazar regarding this was prepared around 07:45 am. Subsequently, the trap parties, along with the decoy witness and the shadow witness, started for the accused's quarters at about 08:15 am, they stopped near the hospital on the Namakkal to Mohanur Road and directed P.W.2 and the shadow witness to proceed to the accused's quarters.

2.6. They went inside the quarters at about 09.35 am. They were followed by P.W.15 and the other official witness, who stopped at a distance. When they entered the quarters, the accused was sitting in a chair, with two to three persons nearby. After seeing P.W.2, the accused made them wait so that the persons already in his quarters would leave. Once they left, the accused called P.W.2 and the shadow witness to come inside his quarters and asked whether he was prepared, to which P.W.2 responded affirmatively. The accused then inquired about the shadow witness, whom P.W.2 introduced as a teacher in his school.

Subsequently, the accused demanded Rs.2,000/-, which P.W.2 handed over to him. After receiving the bribe, the accused counted the money and kept it in his right side pant pocket. At about 09:50 am, the decoy witness, P.W.2, came out and signaled to P.W.15 – Trap Laying Officer. P.W.15, along with another official witness, *Balasubramaniam*, approached P.W.2 and the shadow witness, *Shanmugam,* and entered the accused's quarters. The accused was still sitting in a chair, looking at some files. P.W.2 identified him, and when the Trap Laying Officer confronted the accused, he stood up and stated he received Rs.2,000/- from P.W.2 only for a small saving scheme. The officer then started proceedings around 10:15 am, performed a phenolphthalein test, and dipped the accused's hands into sodium carbonate solution and they turned pink. Samples were drawn and sealed. The accused then handed over the Rs.2,000/- notes from his right pocket, which were verified as tainted rupee notes and recovered with their serial numbers by a mahazar. An additional Rs.50/- note was also found in the pocket, which the accused claimed was his personal money; therefore, it was not recovered. Later, the accused was given a lungi, and his pant was seized. When the relevant portion of the pocket was dipped into sodium carbonate solution, it turned pink; a sample was taken and sealed with a mahazar. When asked about the file related to P.W.2, the accused said it was with the B6 seat – Assistant. He handed over the monthly diary from his almirah, a covered notebook titled '*Monallisa,*' which recorded his daily duties from 07.06.2001 to 31.10.2001 on pages 1 to 44. Regarding the log book of the official jeep, Registration No. TN 28 G 0032, the accused said it was with his driver, *Panneer Selvam*. The vehicle was parked near the quarter's entrance, and the d*river,* standing nearby, produced the logbook when asked. Further inquiry revealed his personal diary, titled '*Monallisa Sachin* 2001,' where he recorded trips until 03.12.2001, including a trip to NRD School, Kuppampalayam, on 27.11.2001, for inspection. All these were recovered under the mahazar.

2.7. Thereafter, a request to search the house of the accused was made before the Court. Upon the request of P.W.15, the Deputy Tahsildar of Namakkal, *Manickam,* came to the Tahsildar's quarters and handed over the relevant file, which included the application made by P.W.2 concerning the licence of NRD Maarappan Matriculation School and the current papers bearing No. 12150 dated 14.09.2001, among others, along with other relevant registers of the Tahsildar's office, which were recovered by P.W.15 through issuing a receipt. Subsequently, he searched the house of the accused and prepared a search memo. A rough sketch was also prepared by P.W.15, who then returned to his office and instructed all witnesses to come back for further inquiry. The accused was produced before the Court for judicial custody, with all documents and material objects submitted using the proper Form – 95. Additionally, he handed over the entire case file to the Investigating Officer.

2.8. Upon receiving the file from P.W.15, P.W.16 – *Periasamy*, Inspector of Police, DVAC Salem, examined the witnesses, completed the investigation, and submitted a final report proposing the accused be found guilty of offences under Section 7 and Section 13 (2) read with Section 13 (1) (d) of the Prevention of Corruption Act, 1988.

C.The Trial:

3. The case was taken on file as C.C.No.54 of 2002. After the accused appeared and copies were furnished, on 27.01.2003, two charges were framed against the accused.

3.1. The first charge alleges that on 27.11.2001, at about 5:30 pm, in the office of NRD Maarappan Matriculation School, Kuppampalayam, the accused demanded Rs.6,000/- for issuing the building license for the school to the school's correspondent, P.W.2, and then reduced the amount to Rs.2,000/-. On 03.12.2001 at 11:30 am, in the Namakkal Tahsildar's Office, the accused reiterated and demanded the bribe amount, and on 04.12.2001, at his residence, he demanded and received Rs.2,000/- as bribe, in the presence of P.W.2 and shadow witness *Shanmugam,* and thus, his actions amounted to an offence punishable under Section 7 of the Prevention of Corruption Act, 1988.

3.2. For the same facts, it is proven that being a public servant, illegally he has abused his office and obtained a pecuniary benefit of Rs.2,000/-, which amounted to criminal misconduct, punishable under Section 13 (2) r/w Section 13 (1) (d) of the Prevention of Corruption Act, 1988 and hence the second charge. The accused denied the charges and stood trial.

3.3. The Competent Officer who granted sanction vide Ex.P1 was examined as P.W.1. The said officer was cross-examined in detail regarding the directives to the Tahsildar to collect the amount for small saving schemes, as well as for Flag Day and the targets imposed on them. The first informant, or decoy witness, was examined as P.W.2. He spoke about submitting an application on 13.09.2001 and identified the accused. He spoke about the first demand but deviated from the original complaint regarding the demand on 27.11.2001. Instead, he stated that the demand was first made on 03.12.2001, and he also described the lodging of the complaint, the setup of the trap, and the handing over of tainted money during the second demand, along with the applications he submitted for a license. The Public Prosecutor treated him as hostile and cross-examined him. During cross-examination, he mentioned the demand date of 27.11.2001. He also admitted all facts aligning with the prosecution case during his cross-examination, which took place eight months after the initial examination in 2019. He was further cross-examined after seven years, in 2015. The cross-examination focused on defects in his application and issues with the school building, and he denied handing over money only for the small savings scheme during the cross-examination. In the cross-examination, it was further suggested that he wantonly paid the money towards the flag day, which he denied.

3.4. The official witness *Shanmugam*, who shadowed the decoy witness, was examined as P.W.3. He deposed about the entire process of setting up the trap, being a witness to the demand and acceptance of the bribe amount, and the recovery made thereafter. Although he was examined in 2008, he was cross-examined in 2015 and again in 2017.

3.5. The Principal of NRD Maarappan School viz., one *Jhansirani* who was witness to the inspection conducted by the accused and to whom the P.W.2 immediately confided that the accused is demanding a sum of Rs.6,000/- as bribe, was examined as P.W.4. The Watchman of the school who opened the gate for Tahsildar's jeep for inspection was examined as P.W.5. The Chartered Engineer who gave the stability certificate for the building was examined as P.W.6. One *Valarmathi*, who was working as the Junior Assistant in the Tahsildar's office during the relevant time was examined as P.W.7. One *Mohan*, who was working as Assistant at the relevant point of time in the Tahsildar's Office was examined as P.W.8.

3.6. One *Appan Raja,* who was working as a Junior Assistant in the office of the Tahsildar at the relevant time, was examined as P.W.9. *Panneer Selvam,* the Jeep Driver of the accused, at that time was examined as P.W.10. One *Kadhir*, who was the Deputy Tahsildar, Headquarters, at that time, was examined as P.W.11. One *Manickam*, who was the Deputy Tahsildar In-Charge during that period, was examined as P.W.12. One *Balasundaram*, who took charge after the arrest of the accused, was examined as P.W.13. The Forensic Expert who analyzed the samples and provided an opinion was examined as P.W.14. The Trap Laying Officer was examined as P.W.15. The Investigating Officer was examined as P.W.16.

3.7. When questioned about the incriminating materials and circumstances on record, the accused denied them as false. No evidence was presented on behalf of the defense. During the trial, Ex.D1- G.O.Ms.No.155 dated 26.10.2010 was marked.

3.8. The Trial Court then considered the arguments of the learned Public Prosecutor and the learned counsel for the accused, and framed seven questions.

It held that the demand of Rs.2,000/- from P.W.2 was proven beyond doubt. The trap procedure, demand, and acceptance of a sum of Rs.2,000/- on 04.12.2001 were also proven beyond doubt. The recovery of the tainted amount was established by the prosecution. The sanction order was deemed valid. The accused did not rebut the presumption under the Act, and it was further held that any defects in the application of the decoy witness would not affect the prosecution case. The Trial Court concluded that the accused was guilty of both offences and sentenced accordingly.

D. The Arguments:

4. Heard, *Mr. V. R. Balasubramanian,* the learned counsel appearing on behalf of the appellant.

4.1. The learned counsel would first point out that although the charge is framed as if the accused demanded a sum of Rs.6,000/- on 27.11.2001, P.W.2, in his chief examination, did not say so and stated as if the demand was only on

03.12.2001. Secondly, although it is the prosecution's case that P.W.2 lodged a complaint on 03.12.2002 at about 04:30 pm, P.W.2 in his evidence stated that he lodged the complaint in the morning itself. Therefore, there is a contradiction in the prosecution's case regarding the events on the second day, i.e., 03.12.2001. Further, P.W.2 in the chief examination stated that he entrusted 20 x Rs.100/- notes, whereas the recovery was of 1 x Rs.500/- note and 15 x Rs.100/- notes. Thus, there are contradictions in the prosecution's case concerning the material facts.

4.2. The learned counsel for the appellant submits that, in this case, the accused has admitted accepting the amount, but it is the clear version of the accused that it was received by him solely for the small savings scheme. The evidence of P.W.1, the sanctioning authority, clearly proves that there was a practice and a mandate on the part of the Tahsildar to collect money for the small savings scheme. P.W.1's evidence is also supported by P.W.11 – Tahsildar and P.W.15 – Trap Laying Officer, who also accept the same.

4.3. The learned counsel would submit that the purpose for which the alleged demand was made was not proved by the prosecution, as the application said to have been lodged by P.W.2 in Ex.P2 was sent through courier and received by P.W.9 on 14.09.2001. An entry was made only in the distribution register – Ex.P14, and not in the personal register of the accused in Ex.P15. The knowledge of the Tahsildar came only after the entry was made in Ex.P15. This aspect was also discussed by P.W.1. It is evident from the evidence that all the papers were in B6 seat as per P.W.9 and Ex.P14, not in the personal register – Ex.P15. The testimonies of P.W.11 and P.W.6 support this fact. The detailed procedure followed in the Tahsildar's office was also explained by P.W.12. Therefore, the appellant / accused's claim that he never received the application appears plausible.

4.4. Furthermore, the learned counsel argued that P.W.2's act of sending the application by courier violated the rules. The application seeks a renewal for three years, from 05.12.2000 to 04.12.2003, but it was reportedly submitted only on 13.09.2001. The original license was never produced. According to Section 8 of the Tamil Nadu Public Building License Act, 1965, the renewal application must be submitted at least three months before the expiry date. P.W.16, the

Investigating Officer, was questioned about this. Therefore, it appears that the very purpose of the prosecution claims can never be fulfilled, and in any case, P.W.2 could not have made a valid application at that time.

4.5. Furthermore, from the cross-examination of the prosecution witnesses, it appears that when *Subburamamurugan*, a relative of P.W.2, was arrested, they mistakenly believed that the accused had provided information to the police. Based on this mistaken belief, P.W.2 filed a false complaint. Consequently, since the entire case is motivated by this misconception, this Court should reject the prosecution's case. The FIR in Ex.P32 is invalid as it does not reflect the actual information received; however, it is written in English and is a summarized version. P.W.15, the Trap Laying Officer, is expected to conduct a preliminary inquiry to verify the accuracy of the information. Nevertheless, it is evident that the complaint was lodged at 4:30 pm, and the FIR was registered immediately without any verification. There is no written authorization from the superior officer to P.Ws.15 and 16, and therefore, the registration of the case by P.W.15 and the investigation by P.W.16 violate the mandatory provisions under Section 17(c) of the Prevention of Corruption Act.

4.6. In support of these contentions, the learned counsel for the appellant would rely on the judgment of this Court in ***D. Raghu vs. State, rep. by the Inspector of Police*** (Crl.A.No.833 of 2012), to point out that whether P.W.2 is entitled to get the license is also a relevant question for this Court to consider. The counsel argued that these officers are being targeted for amounts like Rs.30 Lakhs, Rs.40 Lakhs, etc., in small savings collection. Since they are in a position to receive that amounts, a genuine doubt is raised regarding the prosecution's case. The learned counsel also relied on this Court's judgment in ***Ranganathan vs. State, rep. by its Deputy Superintendent of Police*** (Crl.A.No.416 of 1995), where the Court believed that the target set for the small savings scheme would create a doubt in the case of the prosecution.

4.7. The learned counsel would further rely upon the judgment in ***Baby Saroja Vs. State, rep. by Additional Superintendent of Police*** (Crl.A.No.719 of 2004), where the Court also believed that the payment could have been involved in other purposes, such as land tax, etc. For the proposition that the demand should be proved without contradiction, the judgment of the Hon'ble Supreme

Court of India in ***V. Sejappa Vs. State, by Police Inspector Lokayukta, Chitradurga*** (2017) 3 SCC Crl 699, is relied upon. The learned counsel would also cite the judgment of the Hon'ble Supreme Court of India in ***State Inspector of Police, Vishakapatnam Vs. Surya Sankaram Karri*** (2006) 3 SCC (Crl) 225, to argue that the prosecution must prove that P.Ws.14 and 15 were authorized by the superior officers, as they were only Inspectors of Police. Such authentication must be in writing, and on the failure to produce the orders before the Court, this violates Section 17 (c) of the Prevention of Corruption Act, 1988, causing grave prejudice to the accused, and therefore, the conviction is liable to be set aside.

4.8. The learned counsel would also rely on the judgment of this Court in ***K.Selvadurai Vs. State, represented by Inspector of Police*** (Crl.A.No.567 of 2015), where the Court considered that if the explanation given by the accused is a possible explanation, coupled with the fact that the decoy witness turned hostile, then the Court normally acquits the person.

4.9. *Per contra,* the learned Public Prosecutor would submit that P.W.2 approached the accused for renewal of a license related to the school building and paid the license fee of Rs.150/-. Subsequently, a further request was made to process the application. It is evident that no action was taken for two months. This compelled him to meet the Tahsildar on 26.11.2001 at about 11.30 am, and later, when the Tahsildar came for inspection on 27.11.2001 at about 5.30 pm, a demand of Rs.6,000/- as bribe was made. The Rs.150/- fee was paid, and Ex.P2 – application dated 13.09.2001 was marked. The application was received by the Tahsildar's office on 14.09.2001, and Ex.P3 is the acknowledgment. On 18.09.2002, P.W.9 signed and received the tapal, and an entry was made in the distribution register, No.12150, which was then submitted to the Tahsildar for further action. P.W.9 has testified about this, and the distribution register in Ex.P24 has been marked. The accused has duly initialled the application.

4.10. The fact that P.W.2 met the accused on 20.06.2001 at 11:30 am, was confirmed by P.W.2 and Ex.P4 – the complaint, which also corroborates this. The first demand made on 27.11.2001 was discussed by P.W.2 during his cross-examination after he was treated as hostile. It was also explicitly stated in Ex.P4 – the Complaint. P.W.4, to whom P.W.2 immediately mentioned the demand, also spoke about it. P.W.5, the security guard of the school, testified about the accused's visit. P.W.10, the accused's driver, confirmed that the accused went to the school, and his diary, in which he noted all trips for preparing further trip sheets and logs, was marked as Ex.P25. Regarding the second demand on 03.12.2001, P.W.2 clearly testified about it. From Ex.P4 – the Complaint, Ex.P32 – the FIR, and the testimony of P.W.15, it is clear that the complaint was lodged on the same day at 04:30 pm, followed by the registration of the FIR.

4.11. The FIR was dispatched to the Court at 06:30 pm and received by the Court at 08:40 pm on the same day. The next morning, witnesses about the assembly of the decoy and other official witnesses were briefed regarding P.Ws.2, 3, and 15, with their requisitions marked as Ex.P33 and 34. The entrustment mahazar was properly prepared and marked as Ex.P10. P.W.3, the official shadow witness, reported that they started from the Vigilance Office around 08:15 am and reached the accused's quarters by about 09:25 am. P.W.2's testimony is thus corroborated by P.W.3 and P.W.15, the Trap Laying Officer.

4.12. The demand at the accused's house was explicitly confirmed by P.W.2 and P.W.3. Both also testified about the acceptance. Immediately after the signal, P.W.15 confirmed that he inquired with P.Ws.2 and 3, who verified receiving the bribe amount. The seizure mahazar in Ex.P3, along with the testimonies of P.W.15 and expert evidence from P.W.14, including his report Ex.P.31, establish that the trap was successful. The tainted money was seized from the pant pocket of the accused, and both the hands of the accused and a portion of his pant pocket turned pink; the relevant material objects, M.Os.1, 4, 5, 6, and 7, were all marked. P.W.15 also testified regarding the arrest, search, and seizure mahazar documented as Exs.P13 and 17, and the rough sketch was also marked. It is evident that the prosecution has proved beyond doubt that demands were made by the accused on three occasions: 27.11.2001, 03.12.2001, and 04.12.2001. The acceptance at about 09.40 am on 04.12.2001 has been established. The purpose has also been proven. The recovery was confirmed through the seizure mahazar – Ex.P13, along with testimonies from the official witness P.W.3 and the Trap Laying Officer P.W.15. Therefore, there is no basis to interfere in this case.

E. Discussion &Findings:

5. I have considered the rival submissions made on either side and perused

the material records of the case.

5.1. According to the prosecution, on 27.11.2001, the accused conducted an inspection following the application made by the complainant. He allegedly made his first attempt at about 05:30 pm, demanding Rs.6,000/-. When P.W.2 pleaded his inability to pay, the accused reduced the amount to Rs.2,000/-. It is true that during P.W.2's chief examination, although he spoke about the inspection, he omitted to mention that Rs.6,000/- was demanded during the inspection, and several other details were also left out. In fact, the part of P.W.2's evidence in which he was treated as hostile shows that his testimony lacked details. He also mis-described denomination of the notes handed over. After being declared hostile and cross-examined in detail by the Public Prosecutor, he accepted each fact related to the complaint, trap proceedings, recovery, etc. Overall, I find that P.W.2's evidence is trustworthy.

5.2. It is further argued that P.W.2 had a motive to file a false complaint against the accused. During cross-examination, two suggestions were made to P.W.2: first, that he is related to *Subburamamurugan*, and that the accused was a witness in a case against *Subburamamurugan* and refused to become hostile despite P.W.2's request. However, P.W.2 firmly denied the suggestion. Further, in the cross examination done in the year 2009, the said contention was not raised. The defense has not tried to establish any such existence of that person called *Subburamamurugan*, or the case against him, etc.,. Further, it is the case of the defense that a person with such an inimical background came to the house of the accused at 09.30 am, so as to give him Rs.2,000/- with reference to small saving scheme.

5.3. While, at one place it was suggested that P.W.2 gave the amount only towards small saving scheme, in another place, it was suggested that as if he gave the amount towards flag day. Thus, the two defences raised by the accused, one relating to the alleged motive of P.W.2 and the other regarding the amount being paid for some other purpose, are wholly unconvincing, raised in a routine manner, without any substance in support. Furthermore, P.W.2 has withstood cross-examination by the accused on three separate occasions. One on 27.08.2009, second on 26.02.2015 and third on 06.11.2017. Therefore, on the whole, the evidence of P.W.2 is believable and trustworthy.

5.4. The evidence of P.W.2 regarding the demand is corroborated by P.W.4 – *Jhansirani* and Ex.P4 – Complaint. The inspection of the school was duly proved. Besides the testimony of P.W.2, the evidence of P.W.10 – the accused's driver, and his diary, in which he recorded his trips, was also marked as Ex.P.25. Although an argument was made to discredit the diary, P.W.10 explained that he first notes down the trips in his diary, and later, after the relevant period, these are entered into the log book, trip sheet, etc., for claiming fuel and other purposes. P.W.10's testimony was further corroborated by P.W.5 – the school's watchman.

5.5. The further argument of the learned counsel for the appellant is that the application was not entered into the personal ledger; therefore, it did not come under the purview of the accused, which must also be rejected. It is evident from Ex.P2 that the challan for remittance of a fee of Rs.150/- was enclosed. A copy of the statement in Form – A, duly certified by the Chartered Engineer, was also included. Additionally, a copy of the expired license was enclosed. The tapal has been duly recorded in the distribution register – Ex.P24. Ex.P25 is the relevant page of the diary dated 27.11.2001, which explicitly mentions the inspection of NRD Maarappan School. Therefore, the argument of the learned counsel for the appellant that the accused never dealt with the application is rejected. As a matter of fact, the appellant has also duly initialed the application.

5.6. Yet another dispute was raised regarding the timing of filing the complaint. It is true that in the chief examination, P.W.2 stated that after the accused reiterated the bribe on 03.12.2001, the same morning, the complaint was lodged. However, during cross-examination by the Public Prosecutor, P.W.2 admitted to the registration of the First Information Report and being given a copy. This contradiction cannot be deemed material. P.W.3, the shadow witness, explicitly corroborated the demand, stating that the accused specifically asked whether P.W.2 had brought the bribe money. The entrustment mahazar, the complaint, P.W.2's cross-examination answers, P.W.3's testimony, and P.W.14's evidence all confirm that only one Rs.500/- note and fifteen Rs.100/- notes were involved. The initial statement by P.W.2 during chief examination, suggesting it was twenty Rs.100/- notes, does not invalidate the prosecution's case. In cross-examination, P.W.2 clarified that he delivered fifteen Rs.100/- notes and one Rs.500/- note. Accordingly, the argument concerning a material contradiction is dismissed. The evidence of the Trap Laying Officer, P.W.2, the decoy witness, and P.W.3, the shadow witness, conclusively establishes this.

5.7. The next issue to consider is the plea regarding the receipt of money for the small savings scheme. It is acknowledged that the sanctioning authority and P.W.11, the Deputy Tahsildar, admitted that a target was set for the Tahsildar under the savings scheme. In this context, it is noteworthy that, during the cross-examination, the defence claims the amount was received solely for the small savings scheme. When cross-examined on 26.02.2015, P.W.2 was questioned as follows:-

"மேற்படி பணம் சேமிப்பு பணம் தான் என்று எதிரி சொன்னார் என்றால் சரியல்ல."

Again when P.W.2 was recalled and cross examined in the year 2017, the following is the suggestion made,

"நானாகத்தான் வலியச் சென்று எதிரியிடம் கொடி நாள் நிதிக்காக பணத்தை கொடுத்தேன் என்றால் சரியல்ல"

5.8. During the relevant period, it is true that the Revenue Officials, including the Tahsildar, were given a target for collection of deposits in the government sponsored small savings scheme and donation by selling of labels etc, in commemoration of flag day. Therefore, it is a ready-made defence that is taken in every case of receipt of bribe that the money is received only for those purposes. However stereotypic the defence may be, the Court has to objectively consider whether it could be a probability in the context and factual matrix of the case, so as to extend the benefit of doubt to the accused. The judgments cited by the Learned Counsel for the appellant have considered in the facts of the respective cases and accepted the probability.

5.9. In the present case, it is evident that an inspection has been properly conducted by the appellant, which is proven beyond doubt. The relevant file pertaining to the application for a license has been marked. This purpose has been established beyond doubt. Firstly, it is the case of the accused that P.W.2 had a motive to falsely implicate him, as the accused was a witness in a relative's case. Secondly, it is not clearly shown whether the money was a deposit in a small savings scheme or a donation for Flag Day. If it was for the small savings scheme, no questions were asked about how receipts would be issued or whose name the decoy witness intended to invest in, etc. Therefore, the plea is raised without any conviction, in a casual manner, in this case. In this context, a dispassionate review of P.W.2's evidence, along with Ex.P4 – Complaint, and the testimonies of P.Ws.4, 7, and 10, all supported by the official witness P.W.3, will establish that the acceptance was solely for the receipt of a bribe and not for any other purpose.

5.10. The recovery was definitively established through the oral evidence of P.W.3—the official/shadow witness; P.W.15—the Trap Laying Officer; and Ex.P13 – Seizure Mahazar. The currency notes were presented as M.O.1, the solution related to the right hand as M.O.4, the left hand as M.O.5, and the right side pant pocket as M.O.6. The pant itself was also produced as M.O.7. The expert's report – Ex.P.31 – clearly proved that the accused had received the bribe amount.

5.7. Thus, the demand, acceptance, purpose, and recovery were all clearly established by the prosecution. The manner in which the demand was made during the inspection, along with the seizure of relevant documents from the accused's office and the timing of lodging the complaint, the written requisition letters given to the concerned officers (all marked as exhibits), as well as the planning and conduct of the trap, do not show any unfairness in the procedure and inspire confidence.

5.8. Regarding the further argument about the investigation being carried out by the Inspector of Police, it can be seen that Ex.D1 – G.O.Ms.No.155 came into effect only on 26.10.2010 and therefore, the same will not be applicable. This event occurred in 2001. It is evident that the position was as held by G.O.Ms . No.123 dated 27.02.1996. It is submitted that it granted the standing authorisation for the Inspectors of Police of the Directorate of Vigilance and Anti-Corruption to conduct investigations. Nothing to the contrary is pleaded or proved. Furthermore, absolutely no prejudice is demonstrated on account of the same. For all the above facts, both the charges against the appellant / accused proved beyond doubt.

5.10. Now, coming to the question of sentence, with reference to the offences punishable under Section 7 of the Prevention of Corruption Act, 1988, considering the present age of the accused, the sentence of imprisonment for two years simple imprisonment imposed by the Trial Court can be reduced as six months simple imprisonment and the fine amount of Rs.1,000/- shall remain the same.

5.11. With reference to the offence under Section 13 (2) r/w 13(1) (d) of the Prevention of Corruption Act, 1988, the sentence of imprisonment for two years simple imprisonment imposed by the Trial Court can be reduced as six months' simple imprisonment and the fine amount of Rs.1,000/- shall remain the same.

F. The Result:

6. In view thereof, this Criminal Appeal is partly allowed,

(a) The conviction of the appellant / accused for the offenses under

Section 7 and Section 13 (2) r/w 13 (1) (d) of the Prevention of Corruption Act, 1988 is upheld and the sentence imposed by the Trial Court is modified as below;

(b) The appellant / accused shall undergo the imprisonment of six months simple imprisonment in respect of the offence punishable under Section 7 of the Prevention of Corruption Act, 1988 and to pay the fine amount of Rs.1,000/-;

(c) The appellant / accused shall undergo the imprisonment of one year simple imprisonment in respect of the offence punishable under Section 13 (2) r/w 13 (1) (d) of the Prevention of Corruption Act, 1988 and to pay the fine amount of Rs.1,000/-;

(d) The fine amounts are already paid;

(e) The period of imprisonment already undergone by the appellant / accused shall stand set off;

(f) The sentences shall run concurrently;

(g) The appellant / accused is granted four weeks from today to surrender himself before the Trial Court concerned;

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(h) The appellant / accused also deposited a sum of Rs.1,00,000/- as directed by this Court at the time of suspension of sentence. The said amount shall be paid out to him along with accrued interest, if any.

25.08.2025

Neutral Citation : Yes
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To
1.The Special Judge / Chief Judicial Magistrate
Namakkal.

2.The Inspector of Police
Vigilance and Anti-Corruption Department
Salem at Namakkal.

3.The Section Officer
Criminal Section
High Court of Madras.

Criminal Appeal No.776 of 2017