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Cr1.A(MD)No.230 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reserved	18/10/2024
Date of Pronounced	10/01/2025

CORAM

THE HONOURABLE MR. JUSTICE G.ILANGO VAN

Cr1.A(MD)No.230 of 2019

S.Soosai Michael : Appellant/Sole Accused

Vs.

State rep. by
The Inspector of Police,
Vigilance and Anti-Corruption Wing,
Kanniyakumari Detachment
at Nagercoil.
(Crime No.9 of 2005)

: Respondent/Complainant

Prayer: This Criminal Appeal is filed under Section 374(2) of the Criminal Procedure Code, to set aside the conviction and sentence passed by the Special Judge-cum-Chief Judicial Magistrate, Nagercoil, Kanniyakuari District in Special Case No.5 of 2007, dated 26/04/2019 and acquit the appellant/accused.

For Appellant : Mr.M.Suri

For Respondent : Mr.R.Meenakshi Sundaram
Additional Public Prosecutor

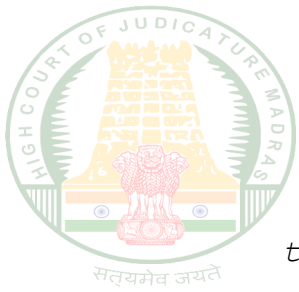
J U D G M E N T

This Criminal Appeal is filed against the conviction and sentence passed by the Special Judge-cum-Chief Judicial Magistrate, Nagercoil, Kanniyakumari District in Special Case No.5 of 2007, dated 26/04/2019.



2.The case of the prosecution in brief:-

The Accused was serving as Head Constable in Thuckalay Police Station from 13/06/2003 to 17/11/2005. The de-facto Complainant applied for Passport through District Collectorate, Nagercoil, on 19/10/2005. The said application was received by the Thuckalay Police Station for verification and handed over to Soosai Michael for report. On 15/11/2005 at about 10.00 am, he went to the house of the de-facto complainant and enquired his Aunt about him. As per his direction, de-facto complainant met the accused Soosai Michael at about 10.00 am on 16/11/2005. The accused demanded Rs.350/- as bribe. Not willing to bribe, he lodged a complaint before the respondent police. Based upon that complaint, trap was laid. Case in Crime No.9 of 2005 was registered for the offence under section 7 of the Prevention of Corruption Act. The accused was arrested in the trap. After completing the formalities of the investigation, filed final report. It was taken on file by the Special Judge-cum-Chief Judicial Magistrate, Nagercoil, Kanniyakmari District, in Special CC No.5 of 2007 for the offence under sections 7 and 13(2) r/w 13(1) (d) of the Prevention of Corruption Act, 1988. After completing 207 Cr.P.C proceedings, framed the following charges against the accused persons:-



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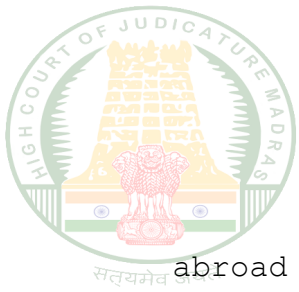
(1)On 15/11/2005 at about 11.00 am, when the de-facto complainant gave an application seeking verification for Passport, at that time, the accused demanded Rs.350/- as bribe amount to make arrangement for passport verification and thereby, the accused committed an offence punishable under section 7 of the Prevention of Corruption Act, 1988; and

(2)In pursuance of the same transaction, the accused by using his position as a public servant, obtained Rs.350/- as pecuniary advantage for himself from the complainant and thereby the accused committed an offence punishable under section 13(2) r/w 13(1)(e) of the Prevention of Corruption Act, 1988.

3.To that charges, the accused pleaded not guilty and claimed to be tried.

4.During the trial process, on the side of the prosecution, 19 witnesses have been examined and 28 documents were marked. Apart from that, MO1 to MO4 were also marked. On the side of the accused, no oral or documentary evidence was adduced.

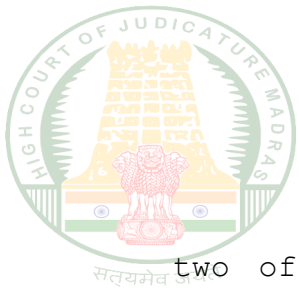
5.**The case of the prosecution, as narrated through the prosecution witnesses:-**



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PW2 is living in Thiruvithancode. He wanted to go abroad for job. On 19/10/2005, he applied for Passport with the Regional Passport Office, Nagarcoil. On 15/11/2005, one Soosai Michael, the accused herein came to the house and informed his Aunt that he must appear before the Thucukkalay Police Station, On the next day; he gave a slip mentioning his name as Soosai Michael HC No.535; He must bring the Ration Card with slip. It was informed to him by his Aunt at about 2.00 pm. On the next day, he went to the Police station and met the accused. He asked him to come on the next day with Ration Card with Rs.350/-. The accused told him that after getting the money only, he can verify the certificate. So, PW2 went to the Vigilance and Anti-Corruption Department and informed the Inspector Ramasamy about the demand, gave a complaint. Along with the complaint, he handed over the slip given by the accused. Thereupon the case was registered.

6.PW17 recorded the statement of PW2 and registered a case in Crime No.9 of 2003 under section 7 of the Prevention of Corruption Act, submitted the original records to the court and copies to the concerned higher authorities. He requested the Government Departments to depute two responsible persons for assisting in the trap proceedings.

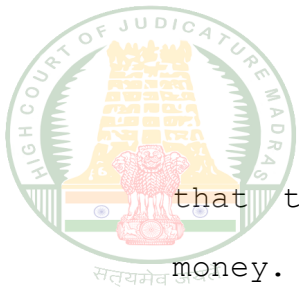


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7. At his request, on 17/11/2005 at about 07.00 am, two officials came to the office. At that time, PW2 was also present. He introduced PW2 to the witnesses and vice versa and explained about the demonstration to be conducted and the importance of the same. PW2 handed over Rs.350/- to him. It was counted and entered into the mahazar. He asked the Constable Arumugam to prepare the sodium carbonate solution and asked the official witness Ramasamy to dip his hands. When he dipped his hands, there was no colour change. Later phenolphthalein powder was applied to the currency notes. Again Ramasamy counted the same and dipped his hands in the other solution prepared. At that time, it turned pink. The entire event was recorded in the form of mahazar, in which all the witnesses signed.

8. He instructed PW2 to have the money and hand over the same to the accused if it is demanded by him and give signal; he instructed the official witnesses to accompany PW2, watching the event. Along with the police team, they went to the office of the accused. On 17/11/2005 at about 08.30 am, near the police station, the trap team was hiding in a nearby place and PW2 and other officials witnesses went inside the office of the accused.

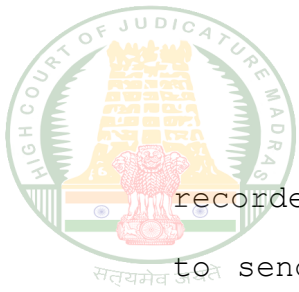
9. The further event is spoken by PW2. At about 09.30 am, they entered into the office of the accused. At



that time, the accused demanded whether he brought the money. He gave the money. The accused received the same, put his left shirt pocket. At that time, the official witnesses were also present along with him. After that, they came out of the office of accused and give the signal. PW17 and other team of police people came to the office and he narrated the events. He identified the accused and went away.

10.PW17 spoken about the further events. They made enquiry. After making enquiry, sodium carbonate solutions were prepared, in which the accused was instructed to dip his hands. It turned pink. Both were collected in separate bottles, labelled and sealed. On further enquiry, the accused admitted the acceptance of money and handed over the same. The currency note numbers mentioned in the mahazar were compared with the currency notes handed over by the accused. It found tallied. It was seized and prepared recovery mahazar, in which the accused and the official witnesses signed. He prepared rough sketch and observation mahazar. The accused was arrested. Search was made in his house. He submitted the material objects as well as the records prepared to the court.

11.The further investigation was undertaken by PW19. He took up the further investigation on 18/12/2005,



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recorded the statement of the witnesses, made arrangements to send the material objects for chemical examination. He recorded the statement of the accused and asked his specimen handwriting and signature in the presence of the witnesses. On 31/05/2006, the specific signatures were taken through proper mahazar. He submitted a request to the trial court to send the specimen signature and admitted signature of the accused for expert opinion; recorded the statement of the further witnesses, received the report from FSL and handwriting expert report. After obtaining the sanction from the competent authority, filed the final report on 28/03/2003 charge sheeting the accused for the offences stated.

12.PW3 is the official witness, who corroborated PW2 and Trap Laying Officer regarding the trap, etc.

13.PW4 and PW6 spoken about the duty assigned to the accused on that date.

14.PW5 has spoken about the duty allotment and quarters allotment. He is not the material witness.

15.PW7 has spoken about the follow up action in the verification report.



16.PW8 and PW9 spoken about the trap events.

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17.PW11 was the Scientific Assistant attached to the Chennai FSL. She has spoken about the test conducted by her on the materials submitted by the court; send the report under Ex.P8.

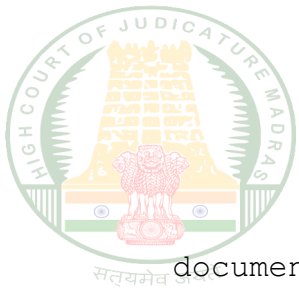
18.PW12 is another witness, in his presence the hand writing as well as the signature of the accused were taken.

19.PW14 has spoken about the process to be followed in processing the passport verification.

20.PW15 has spoken about the trap events.

21.PW16 is the Handwriting Expert attached to the Signature Department in TNFSL. He and others compared the disputed and admitted signature of the accused. He submitted the report under Ex.P20.

22.After completing the prosecution side witness, the accused were put on 313 [Cr.P.C](#) question. He denied the allegation. On his side, as mentioned above, no witness was examined.



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23.After considering the evidence, both oral and documentary, the accused was found guilty for the offences under section 7 and 13(2) r/w 13(1)(d) of the Prevention of Corruption Act and sentenced him to undergo 3 years RI and to pay a fine of Rs.5,000/- in default to undergo 9 months SI for the offence under section 7 of the PC Act and further convicted him under section 13(2) r/w 13(1)(d) of the Act and sentenced him to undergo 3 years RI and to pay a fine of Rs.5,000/- in default to undergo 9 months SI and directed to run the sentences concurrently.

24.Against which, this criminal appeal is preferred by the appellant.

25.Heard both sides.

The background facts:-

26.PW2 is the de-facto complainant. He made an application on 19/10/2005 for the passport. As per the usual procedure, it was forwarded to the concerned police station for verification of the antecedents of the applicant and report. In pursuance of the above said passport application, on 15/11/2005, it is the case of the prosecution that the accused made a visit to the house of PW2. At that time, he was not present. But his Aunt, Nabisha was present. The accused alleged to have handed



over a chit, which is marked as Ex.P3 to Nabisha to hand over the same to PW2 and ask him to come on the next day.

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In the slip, some writings were made as to the name as Soosai Michael, probably the name of the accused and his number as HC 535. He made some instructions to Nabisha to inform PW2 to bring Ration Card and other relevant records on the next day. In pursuance of the above said, PW2 went to the police station on 16/11/2005 at about 09.00 am. At that time, the accused alleged to have demanded Rs.350/- as bribe amount and asked him to come on the next day along with the Ration Card and other records. On 16/11/2005 itself, PW2 went to the Vigilance Department and lodged the complaint, thereupon the proceedings were initiated. In pursuance of the above said complaint, trap was laid and the accused was arrested red handed, while accepting the bribe amount of Rs.350/-. That is the story of the prosecution and the background facts.

27.Now the defence would say that there was motive between himself and the DSP attached to the Vigilance Department by name Malluk Mudhali. At his instance and instigation, such a false complaint has been lodged. Apart from that, it is also stated that PW2 had some enmity with police officials, since PW2 was involved in several cases and that too in criminal cases. So, he was not residing in the address given in the Passport Application Form. The



police were under search, used to visit his Aunt frequently and give warning to the accused. Because of the frequent visit made by the police officials to the Aunt, PW2 developed enmity with the accused. This is one of the motives suggested by the defence.

28. Another defence that was taken is that when the accused was writing something, PW2 alleged to have put the money in his pocket, thereupon the police team entered and made recovery. This is the another defence taken by the accused.

29. Third defence is that nothing has happened as alleged by the prosecution inside the police station.

30. Now with this in mind, let us straightaway go to the materials available on record.

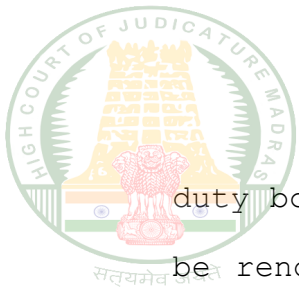
31. Before entering into the factual issue, one important aspect that was brought to the notice of this court by the learned counsel on record for the appellant must be addressed.

32. A preliminary point that was raised by the appellant is that PW2 who was examined by the prosecution in chief on 17/04/2008, later failed to appear before the



trial court. So, the trial court, by order, dated 26/02/2010 eschewed his evidence. Later the prosecution filed Cr1.MP No.1301 of 2014 to recall PW2 for the purpose of cross examination on the side of the accused. Which means that no application was filed by the accused for recalling PW2 for the purpose of cross examination. But the prosecution itself has taken out the application. That application was objected by the accused stating that once the evidence is eschewed, there is no question of recalling PW2 again for the purpose of cross examination. For all practical purposes, the chief examination itself is out of the case and cannot be restored to file.

33. But when that point was raised before me, I put a question to the learned counsel for the appellant as to whether the procedure adopted by the trial court in eschewing the evidence of PW2 due to his absence for cross examination is legally permissible. For which the learned counsel for the appellant has fairly submitted that no such power or procedure is available to eschew the evidence. It was rightly held by the trial court, by order, dated 22/01/2015 and allowed the application filed by the prosecution for enabling the accused to cross examine. In effect, the prosecution has done its duty in a proper manner. For rendering a just decision not only the court, but also the parties whether the prosecution or defence is



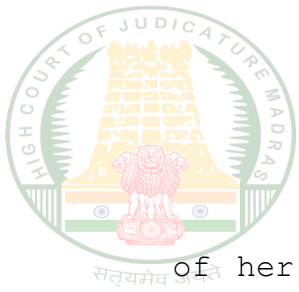
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duty bound to cooperate with the court. A just decision can be rendered only proper cross examination is made to the witness and if omitted to be done for any reason whatsoever the ultimate affected will be the just decision. So, on that account, the trial court has allowed the application and permitted the cross examination of PW2. In this regard I find that no exception can be taken by the accused in this regard. So, that preliminary point raised by the learned counsel for the appellant merits no consideration and accordingly, it is rejected. I hold that the procedure adopted by the trial court is perfectly correct and there is no illegality or irregularity.

34.Now we will go to the evidence available on record.

35.As stated above, PW2 is the de-facto complainant. He would say that on 15/11/2005 when he was not available in the house, the accused visited his Aunt's house and informed her about the procedure. But the Aunt of PW2 was not examined by the prosecution. This was greatly commented by the appellant at the time of argument stating that the visit of the accused to the house of Aunt is not established because of the non examination of Nabisha.

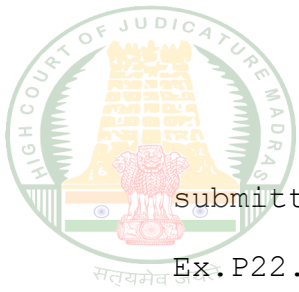
36.Now we will go further as to whether the visit to the house is proved by circumstantial evidence.



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37.What was told by the accused to Nabisha, because of her absence no finding can be recorded. But Ex.P3 is available in favour of the prosecution to show the visit was made by the accused. Wherein we find, as mentioned above, the name of the accused and his roll number. Apart from that a writing to bring the Ration Card. Whether the handwriting in Ex.P3 is that of the accused, steps were taken by the Investigating Officer to send the sample handwriting and the writings in Ex.P3 for expert examination. And for that purpose, his specimen handwriting of the accused was taken in the presence of PW12. He would say that he was working as Village Administrative Officer of Vadiveeswaram village. At the request made by the Investigating Officer, he went to the office of the Vigilance Department on 31/05/2006 at about 11.00 am. At that time, another Village Administrative Officer by name Arjun and the accused Soosai Michael were present.

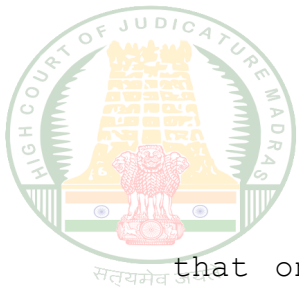
38.As mentioned above, in the presence of the Village Administrative Officer, sample handwritings of the accused were taken and it was submitted for handwriting examination. It was examined by PW16. He would say that in pursuance of the request made by the Investigating Officer through the Court, he marked the disputed signature as 'Q' and the admitted signature as 'A' and the sample signature as 'S1' series. After comparing the handwritings, he



submitted a report under Ex.P20 and reasoning sheet as Ex.P22. In Ex.P20, it has been stated that the admitted signature, sample handwriting matches with that of the disputed handwritings. It was suggested to PW16 by the accused that one Muralikrishna was not permitted to compare the handwritings. It is only a bald suggestion made that he has not made comparison and his evidence must be rejected.

39. But absolutely, this sort of defence cannot be taken. Unless the defence is able to find out the defects in the expert report, he must hold that the writings available in Ex.P3 is that of the accused and none else. So, from the above said Ex.P3, it stands established on the side of the prosecution that the accused made a visit to the house of PW2's Aunt and handed over the chit.

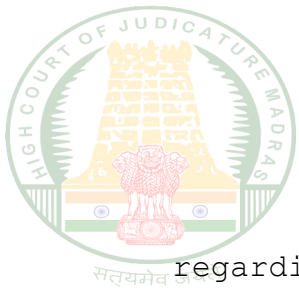
40. According to PW2, along with Ex.P3 he went to the police station and met the accused. At that time, he asked him to come on the next day with bribe amount of Rs.350/-. He lodged the complaint. For which, except the oral evidence of PW3, no other corroborative evidence is available. To find out, whether the evidence of PW2 can be relied on that point, we will take the complaint given by PW2 to the Trap Laying Officer.



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41.PW17 is the Trap Laying Officer. He would say that on 16/11/2005 at about 03.30 pm, PW2 appeared before him and gave a statement. That statement was reduced into writing and admitted by him, which was read over, PW2 admitted to be correct. PW2 signed in the complaint, upon which the case was registered. In the complaint as well as the oral statement, according to PW17, he has stated that the accused demanded Rs.350/- as bribe amount for the purpose of verification as to the antecedents for issuing the Passport. The oral evidence of PW2 is corroborated by his own statement as well as the complaint which need not be doubted.

42.Now on this demand issue, it is contended by the appellant that there is contradictory evidence regarding the demand of bribe amount. As per the charge, it is stated that as if demand was made to the Aunt of PW2 on 15/11/2005 at about 11.00 am and next on 17/11/2005 at about 09.40 am, PW2 went to the police station. Even at that time, the accused demanded Rs.350/- as bribe amount, accepting the same. So, no doubt that it is a mistake on the part of the trial court in mentioning the date. Actually, it is the evidence of PW2 that the accused demanded Rs.350/- as bribe amount on 15/11/2005 to his Aunt also. But his specific evidence is that on 16/11/2005, he demanded Rs.350/- and trap was laid on the next day.

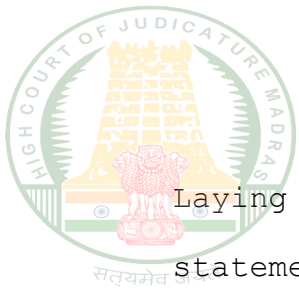


43. But nothing was cross examined by the accused regarding the date mentioned in the charge.

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44. But per contra, a specific cross examination was made by the accused himself with regard to the event that took place on 16/11/2005. It was suggested to PW2 as to whether he met the accused on 16/11/2005, either in the room of SI or in the room of the Inspector or in the room of the writer. It was even suggested to him that the complaint itself was given at the instance of the Malluk Mudhali, DSP. As mentioned above, this shows that because of the mistake committed by the trial court in mentioning the date of demand, the accused was not misdirected. He faced the charge taking the same as if the date of demand is only 15/11/2005 and not 16/11/2005.

45. Now it is submitted by the appellant that PW2 has not signed in the complaint. Because the signature found in Ex.P2 and the depositions given by him before the trial court as well as in the passport application completely differs. On comparison of these signatures, it is found that PW2 is not having the habit of putting the signature in the same manner. He is in the habit of putting the signature in different manner at different time. But from this alone, it cannot be concluded that Ex.P2 was not signed by PW2. In fact, as mentioned above, the Trap



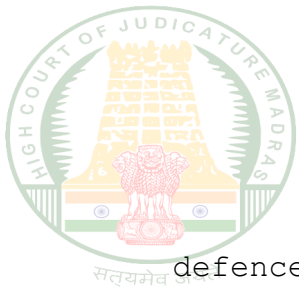
Laying Officer is very clear in his evidence that PW2 gave statement, it was reduced into writing by himself.

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Absolutely, there is no necessity for the Trap Laying Officer to register a false complaint, which was not signed by PW2. So, this simple issue need not be given any importance at all, more specifically in the light of the above said motive suggested by the accused.

46.Now another mistake committed by the trial court in framing the charges is the relevant penal provision. In the charge, the penal provision is mentioned as section 13(2) r/w 13(1)(e) of the Prevention of Corruption Act. But at the time of the judgment, it correctly recorded the penal provision as 13(1)(d) of the Act. Again whether by this mistake, the accused is seriously prejudiced. Absolutely, that was not the defence taken by the accused during the course of the trial. In fact, the accused having known the substance of the charges against him, participated in the trial proceedings and ultimately suffered conviction.

47.The learned Additional Public Prosecutor would submit that any error or mistake in the charge, unless a prejudice is caused to the accused will not vitiate the Trial. Any error or mistake in the charges will not vitiate the trial, unless a prejudice is caused to the accused.



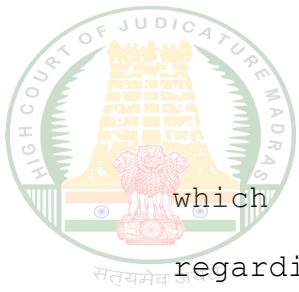
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48. Here, as stated above, absolutely it was not the defence taken during the course of the trial. In fact, the trial court has committed another mistake in the judgment in mentioning the charges as if it is framed under section 13(2) r/w 13(1)(e) of the PC Act. But actually, the charges read that it is the offence under section 13(2) r/w 13(1)(d) of the PC Act. So, apparently it is nothing, but a mistake it does not vitiate the entire trial process.

49. In this context, another argument advanced by the appellant is with regard to the seizure of Ex.P3. He would draw the attention of this court regarding the contradiction between the evidence of PW2 and PW17. PW2 would say that only he brought the chit to the police station on 16/11/2005. PW17 would say that PW2 himself handed over Ex.P2. Along with FIR, he send the above said chit to the Court. So, that particular document could not have been seized or recovered from any one other than PW2. So, I find absolutely no contradiction worth considering is brought on record by the defence. So, this argument advance on the side of the appellant is not worth considering.

50. Now we will go to the trap event.

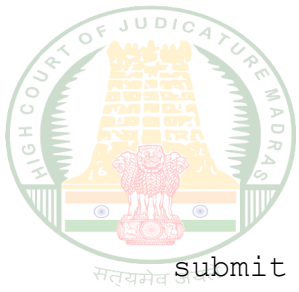
51. As mentioned above, PW2 was specific in his evidence to the effect that on 17/11/2005 trap was laid,



which was witnessed by the shadow witness PW3 Thangaraj regarding the pre-trap arrangement. Regarding the pre-trap arrangement, the accused could not have any say. Because in his absence only, the above said events took place. Those events were reduced into writing in the form of mahazar, which is also marked on the side of the prosecution. So, that portion of the evidence of the Trap Laying Officer, evidence of PW2 and PW3 need not be discussed in detail.

52.Now we will go to the main event of trap.

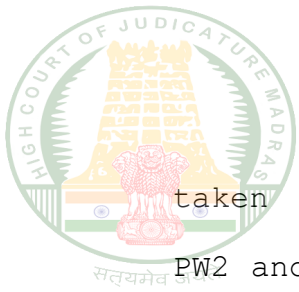
53.PW2 would say that they went to the police station at about 09.30 am and enquired the para namely the sentry police the whereabouts the accused. The sentry police informed him that he will be available in the SI room. He went to the SI room wherein the accused was found. At that time, the accused made enquiry whether they brought the money and Ration Card. Ration Card was handed over and the accused perused the same. Regarding the bribe amount, again he made the enquiry. He handed over the currency notes treated with phenolphthalein powder. The accused accepted, counted and put the same on his left shirt pocket. PW3 shadow witness corroborated PW2 with material aspect.



54.Now the Additional Public Prosecutor would submit that there is no much contradiction between the evidence of PW2 and PW3 regarding the acceptance of bribe amount by the accused.

55.Now the argument was advanced on the side of the accused is that absolutely there is no possibility for the trap to have taken place in the place mentioned by the prosecution. He is referring to the evidence of the sentry police namely PW15. He would say that he was on duty as sentry on 17/11/2005 in the police station. At about 09.00 am, the accused after finishing his work, came to the police station. At about 09.30 am, two persons came to the police station and made enquiry about the availability of the accused. He shown the SI room where the accused was present and the other vigilance enquiry followed.

56.The appellant was referring to the cross examination made by him. It was suggested to him that since because the persons, who visited the police station did not inform about their reason for visiting, they were not permitted inside. This runs quite contra to the chief examination, wherein he has clearly stated that he has shown the place where the accused was available to those two persons. After some time, the Vigilance people entered. So, a stray sentence in the evidence of PW15 cannot be

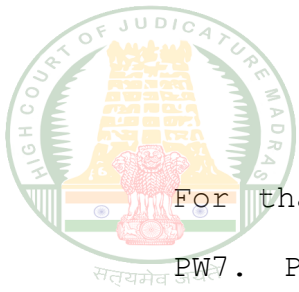


taken into consideration for the purpose of finding that PW2 and PW3 were not permitted inside the police station by the sentry.

57.We can also verify the stray sentence from the evidence of other witnesses. PW4 and PW5 have spoken about the trap events. PW4 would say that on 17/11/2005 at about 09.00 am, the accused came to the police station and at about 10.00 am, the Vigilance Department people made enquiry with the accused. To the same effect, PW5 has also given evidence, so also the evidence of PW4. So, the stray sentence spoken by the sentry during the course of cross examination cannot be given any importance at all, more specifically in the light of the evidence of PW4, PW5, PW8 and PW9. So, the event took place in the police station cannot be denied and disputed by the accused and the argument advanced on this point is also rejected.

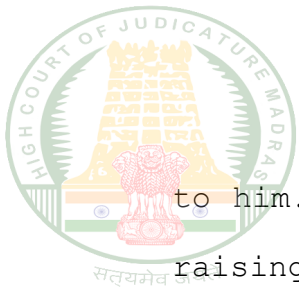
58.Now in this connection, we will go to the other aspect, whether any duty was assigned to the accused for making the enquiry regarding the passport application.

59.This point was raised by the accused to bring home his point that since no duty was assigned to him, there was no occasion for him to demand and accept the bribe amount. This must be cleared before going further.



For that purpose, we will go to the evidence of PW6 and PW7. PW6 would say that in the Passport Register, the application of PW2 was entered, that application was forwarded from the SP and in the Duty Register, the number of the Police Officer to whom it was assigned entry was made as 535. That was written in pencil and number 535 is relating to this accused. After verification, report was not submitted to SP. That column in the register was kept blank.

60. During the relevant time, the accused was performing or discharging several duties as mentioned in the duty register. The entry was made by PW7 in the duty register and he has stated that he only made the entry. In the file also, the accused made initials. So, the evidence of PW6 and PW7 clearly indicates that duty was assigned only to the accused for verification of the antecedents of PW2, now he cannot say that the duty was not assigned to him and entries were made in pencil, so, no authentication can be given. But this is the official record, which was maintained in the course and during the discharge of public functions. So, all the entries which are available might have been made by the competent person, who are authorised to make entry. The authorised person also given evidence in support of the prosecution case. Now it is too late for the accused to raise a plea that no such duty was assigned



to him. The belated attempt on the part of the accused by raising this point requires to be rejected and accordingly, it is rejected.

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61. Another ground of defence is that the power to issue the verification report lies only with the SP or Inspector as the case may be and not with him. But this also cannot be accepted for the simple reason that for making verification of the antecedents, power will be delegated to the Subordinates by the Inspector or SP as the case may be. As mentioned above, the duty was assigned to the accused for making the verification. So, this ground is also not available to him.

62. Before we go further, an argument was advanced on the side of the appellant regarding the presence of PW3 must be addressed.

63. According to the learned counsel appearing for appellant, PW3 was not able to give particulars about the other structures, buildings and offices available inside the campus where the police station was situated. For many of the questions regarding the above said points, PW3 was not able to give any proper answer and has given only negative or ignorance as the case may be. If really PW3 also went along with PW2 during the trap, he might have



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given clear particulars about all those things. No doubt that reading PW3's evidence during the course of the cross examination does indicate that for many of the questions regarding the offices alleged to have in the police office and other constructions, he claimed ignorance. But this is not sufficient to discard his evidence completely. He has spoken clearly about the event that took place during the trap. He has also signed in the relevant records. So, we must take his evidence only in respect of the above said trap event and not with regard to the presence or availability of the other buildings or offices as the case may be inside the premises wherein the police station is located. Except this, no other materials, which are capable of discarding the evidence of PW3 were brought on record. As mentioned above, PW4 has also spoken about the trap events. So, I find no reason to discard the evidence of PW3.

64.Now coming to the concluding portion about the trap, it stands established by the prosecution from the evidence of PW2 and PW3 that the accused demanded the bribe amount on the date of the trap also and accepted the same which is also evident. As mentioned above, the accused has not denied the recovery from him. What has been stated by him is that when he was writing something in his desk, PW2 stealthily put the tainted money in his pocket. This is



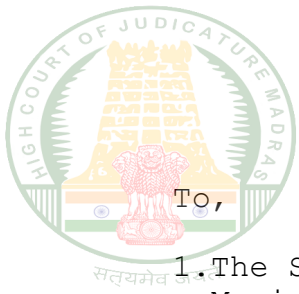
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unbelievable in nature as pointed by the trial court. I have full agreement with the finding recorded by the trial court in this regard. No possible explanation could be offered by the accused regarding the recovery. So, I am of the considered view that the prosecution has established the demand and acceptance by the accused from PW2.

65.For all the reasons stated above, this criminal appeal is dismissed. But however, the punishment imposed on the appellant is reduced to **one year RI** for each offence. Both the sentences are directed to run concurrently. The conviction is sustained.

10/01/2025

Index : Yes/No
Internet : Yes/No
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Crl.A(MD)No.230 of 2019

To,

1.The Special Judge-cum-Chief Judicial
Magistrate, Nagercoil,
Kanniyakumari District.

2.The Inspector of Police,
Vigilance and Anti-Corruption,
Kanniyakumar Detachment at
Nagercoil.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G. ILANGO VAN, J

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30/01/2025