

Crl.A(MD)No.18 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved On	:	17.12.2024
Pronounced on	:	15.05.2025
	&	03.06.2025

CORAM

THE HONOURABLE MR.JUSTICE **K.K.RAMAKRISHNAN**

CRL.A.(MD)No.18 of 2018

The State rep by
The Inspector of Police,
Vigilance and Anti Corruption,
Dindigul.
Crime No.6 of 2010

...Appellant

vs.

Tr.V.S.Rajeswaran

...Respondent

PRAYER: Criminal Appeal filed under Section 378(1) of Criminal Procedure Code to set aside the judgment of acquittal of the respondent/accused passed in Special Case No.15 of 2014, dated 25.10.2016 by the Chief Judicial Magistrate cum Special Judge, Special Court for trial of cases under Prevention of Corruption Act, Dindigul and convict the respondent/accused for the offence against the respondent/accused under Sections 7 and 13(2) r/w 13(1)(d) of the Prevention of Corruption Act, 1988.



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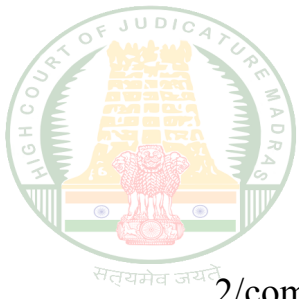
For Appellant :Mr.R.Meenakshi Sundaram
Additional Public Prosecutor

For Respondent :Mr.C.Arulvadivel @ Sekar
Senior Counsel

JUDGMENT

This appeal has been filed by Vigilance Department challenging the acquittal judgment passed in Spl.C.C.No.15 of 2014 on the file of learned Chief Judicial Magistrate cum Special Judge, Special Court for trial of cases under Prevention of Corruption Act, Dindigul, wherein, there is an allegation by prosecution that the respondent while working as a surveyor has demanded and accepted a sum of Rs.8,000/- as a bribe to send the report to Tahsildar for giving patta to the complainant/P.W.2.

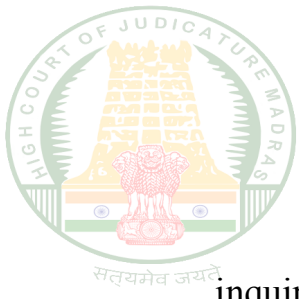
2.P.W.2 submitted an application on 20.08.2009 in the special camp conducted by the Tahsildar to transfer the patta in his name. On 29.10.2009, the Tahsildar had forwarded to the respondent and asked to measure and submit report. The respondent measured the property on 17.05.2010, and thereafter, on 30.05.2010 he asked to meet P.W.



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2/complainant at his place, where he was staying namely, Balakrishna Lodge, and he demanded Rs.8,000/- to send a report to the Tahsildar. Thereafter, he reiterated the said demand on 06.06.2010 and asked to give the said amount on 09.06.2010. Therefore, on 09.06.2010, P.W.2 made a complaint before P.W.10/TLO, and TLO, after verifying the above facts, registered the case under Section 7 of the Prevention of Corruption Act, 1988, against the respondent and called P.W.3 and another official witnesses and demonstrated the phenolphthalein test to P.W.2 and others with the amount brought by P.W.2. After the demonstration, he prepared the entrustment mahazar, noting the numbers of the bribe amount, and directed P.W.2 to hand over the amount if the respondent demanded the bribe amount. P.W.3 was directed to observe the transaction happening between PW.2 and the respondent. P.W.2 was further directed to give a signal upon receipt of a bribe of Rs.8,000/-. After that, P.W.2 and P.W.3 met the respondent in Balakrishna Lodge. The respondent reiterated the said demand and received the amount. Upon receipt of bribe amount, P.W.2 gave the signal. P.W.10 and his team went to the Balakrishna Lodge and conducted tests on the hands of the appellant. The wash turned into pink in color. Therefore, P.W.10



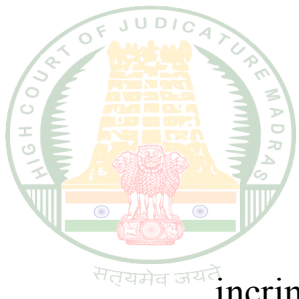
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inquired about the receipt of the bribe amount, and the respondent replied that he received the amount and picked up the amount from the place nearby TV stand. Thereafter, P.W.2 prepared a recovery mahazar and arrested the respondent and recovered the documents relating to P.W.2's land and he completed the recovery proceedings and arrested the accused and remanded the accused and entrusted the entire documents to P.W.11, who conducted the remaining part of the investigation and filed a final report after obtaining the chemical analysis report, the sanction, apart from collecting all official records relating to the entire transaction. The said final report was taken on file by the learned Special Judge, Dindigul in Spl.C.C.No.15 of 2014.

3.After appearance of the accused, the copies under section 207 of Cr.P.C., were served upon him. Proper charges were framed and the accused was questioned and he pleaded not guilty and he stood trial.

4.The prosecution to prove the case examined P.W.1 to P.W.11 and marked Ex.P1 to Ex.P29 and marked M.O.1 to M.O.4. The learned trial judge questioned the accused under section 313 of Cr.P.C. by putting the



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incriminating material available against him in the evidence of prosecution witnesses and the prosecution documents. The accused denied the same as false and gave explanation that he was falsely roped in this case. The respondent marked, Ex.D1 and Ex.D2 on his side and no witness was examined.

5. The learned trial judge after considering the evidence of both prosecution and defense acquitted the accused by impugned judgment dated 25.10.2016. Challenging the said acquittal judgment, the Vigilance Department has preferred this criminal appeal before this Court.

6.The learned public prosecutor made the following detailed submissions

The learned Additional Public Prosecutor would submit that the evidence of P.W.2 and P.W.3 clearly proved the demand and the acceptance of the bribe amount, and there was no explanation on the side of the respondent. The receipt of the amount and the recovery of the amount and positive result of the phenolphthalein test in his hand, would prove the charges and therefore, the acquittal judgment passed by the



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learned trial Judge is not correct, and the same, according to the learned Additional Public Prosecutor, is perverse.

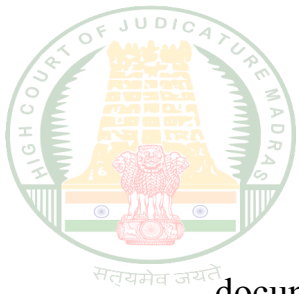
6.1.The learned Additional Public Prosecutor would submit that the learned trial Judge has taken into consideration the irrelevant contradictions and irrelevant omissions to disbelieve the evidence of P.W.2 and also the learned trial Judge failed to consider the recovery mahazar property in which it is specifically stated that the document relating to P.W.2 was recovered from the custody of the respondent. The evidence of P.W.10, who deposed after the number of years that he has not recovered the documents which is against the record and the same should not have been given much credence by trial court. Further, when the evidence of P.W.2, P.W.3 was cogent and also trustworthy. the learned trial Judge had placed much reliance on the number of the circumstances which are immaterial in this case. The further finding of the learned appellate judge that the appellant was already transferred and there was no chance for demanding the amount is a false one. According to the respondent, he stated that he was on transfer leave. The same was clearly deposed by P.W.5, who is the immediate superior of the



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respondent. The learned trial judge has also held that there was total compliance of Vigilance Manual Rule 42, 46, and 47. The learned trial Judge has stated that the same casts serious doubt over the entire trap. The learned trial Judge failed to consider the law laid down by this Court in various judgments that noncompliance of procedures of with vigilance manual is not a ground to disbelieve the evidence of P.W.2, P.W.3, and P.W.10 and contemporaneous records, which clearly proved the demand and acceptance on the part of the respondent. The learned trial Judge also placed reliance on the immaterial contradiction and stated that the prosecution failed to prove the case beyond reasonable doubt. The learned trial Judge has given a erroneous finding that the appellant already transferred and hence, he has no reason to hand over the amount. The learned trial Judge's further erroneously placed reliance on the belatedly created Ex.D1 which contained the objection raised by one Kuppusamy, more particularly when the respondent made the measurement on the basis of the measurement on 17.05.2010 itself. The learned trial Judge also committed an error in holding that the challan for the payment of the measuring of the property was not stated in the complaint, and hence, there was a chance for the forgery of the said



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document, which is unacceptable, when the amount of the payment was made only after the allotment of the said work with the respondent. It is not the case that the application was submitted for subdivision in the routine manner; This is the application submitted during the special camp conducted by the department, and when the application was remitted on 20.08.2009 and the work was allotted on 29.10.2009 and thereafter, he was called to make the payment, and the payment was submitted, and in the said circumstances, the said finding is erroneous. Similarly, the learned trial Judge gave much importance to the irrelevant fact and irrelevant circumstances in order to overcome the cogent and trustworthy evidence of P.W.2 and P.W.3 relating to the demand and acceptance of the bribe amount. In all aspects, the prosecution clearly proved the case, and therefore, the learned trial Judge's judgment is perverse and the same is liable to be set aside.

7.Mr.C.Arulvadivel @ Sekar, learned Senior counsel
appearing for the respondent/accused made the following
submissions:

Mr.C.Arulvadivel @ Sekar, learned senior counsel, reading



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through the entire evidence and the documents, comprehensively would submit that the transfer order was passed on 02.06.2010, and it is an admitted case of all the official witnesses that the transfer order was served and the custody of all the documents were directed to be handed over to the succeeding officer, namely, “Thillainadhan”, on 07.06.2010. Therefore, the alleged demand said to be made on 06.06.2010, and 09.06.2010 is false. The learned senior counsel further submitted that the conduct of P.W.2 that he did not mention about the payment of Rs.2,440 as legal fee for the measurement made on 28.01.2010, in the complaint, and therefore, there is a doubt over contents of the complaint. He further submitted that when the measurement was taken on 17.05.2010 and as he was transferred on 02.06.2010, the case of the appellant that he did not send the file to the higher official cannot be accepted, when the trap laying Officer /P.W.10 specifically admitted that he did not receive any document on the date of the trap, the case of the prosecution the trap was proved through circumstances is not acceptable one and therefore, he seeks to confirm the acquittal and he relied number of judgments of the Hon'ble Supreme Court to show that when there was an acquittal by the learned trial Judge on appreciation of facts and on the law, this Court has

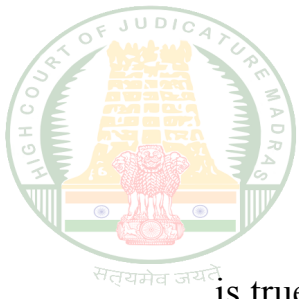


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no jurisdiction to reverse the finding of the learned trial Judge unless there is perversity, when two views are possible, there is no need to interfere with the judgment of the learned trial Judge. Therefore, he seeks to confirm the judgement of the trial court.

7.1.He further submitted that the learned trial judge had correctly appreciated the facts and also the other circumstances to disbelieve the evidence of P.W.2. In the said circumstances, it is not fair on the part of this Court to upset the said finding in the appeal against acquittal. The learned senior counsel further submitted that the respondent is not an authority to issue patta and therefore, the case of the appellant is not legally maintainable. The learned senior counsel further submitted that the measurement was taken on 17.05.2010, and the complaint was made on 09.06.2010, and there was no explanation for the delay in lodging the complaint. Even though the first demand was made on 30.05.2010, there was no explanation for making the complaint belatedly on 09.06.2010. Therefore, the delay would cause prejudice to the respondent, and creates doubt over the trap. According to the learned senior counsel, an illegitimate trap was conducted, and hence, he seeks to confirm the judgment passed by the learned trial Judge. Finally, he submitted that it



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is true that there is a failure on the part of the TLO and the Investigating Officer to follow any of the procedures stated in the vigilance manual, is not a circumstance to disbelieve the evidence of P.W.2 and P.W.3. But, in the peculiar circumstances of the case, in view of the above inconsistency and improbability of the evidence of P.W.2, the above failure of the compliance of the Vigilance Manual is material in this case. He places following precedents and seeks to dismiss this appeal:-

1. P.Meganathan Vs. State of Tamil Nadu and Ors – MANU/TN/3754/2010.
2. R.Venkatraj Vs. State, rep by Inspector of Police- CDJ 2012 MHC 2421.
3. L.Venkadeshnan Vs. State – MANU/TN/0210/2013.
4. P.Satyanarayana Murthy Vs. D. Inspector of Police, state of A.P. 2015 (10) SCC 152.
5. V.Sejappa Vs. The State by police Inspector Lokayutha, Chitradurga – 2016 (12) SCC 150
6. K.P.Kolanthai Vs. State – MANU/TN/6220/2019.
7. Neeraj Dutta Vs. State (Govt. of N.C.T. Of Delhi) 2023 Livelaw (SC) 211

8.This Court considered the rival submission made by the learned Additional Public Prosecutor appearing for the appellant and the learned Senior Counsel appearing for the respondent and perused the materials available on record and the precedents relied upon by them.



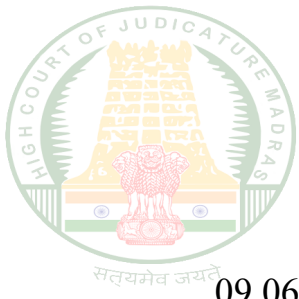
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9. Whether impugned acquittal judgment of trial court acquitting the respondent from charge under section 7, 13(1) r/w 13 CrPC PC Act needs interference?

10. Discussion on merits:

The case of P.W.2 is that he purchased the land on 02.03.2009. The department conducted a special camp for the transfer of patta on 20.08.2009. In the Special Camp, he submitted the application to get a separate patta under Ex.P2. The said application was forwarded to the respondent surveyor herein on 29.10.2009. Thereafter, the respondent was asked to make the payment for measurement and the same was paid on 28.01.2010. Thereafter, the respondent he measured the property on 17.05.2010. There was no dispute over the above events of the case. The above events were admitted. The respondent, after measuring the property, had demanded bribe on 30.05.2010 and on various dates to submit his report to Tahsildar and facilitate issue of patta. On 06.06.2010, finally asked to produce the bribe amount on 09.06.2010. It is also admitted that he was staying at Balakrishna Lodge. On

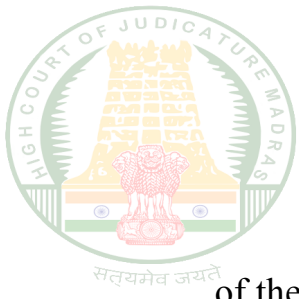


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09.06.2010, he reiterated the demand in the presence of P.W.3, who is the independent official witness. Upon making the demand, he received the bribe amount and placed it on the TV stand.

10.1. PW.2 is clearly deposed that Respondent demanded bribe of Rs.8,000/- to sent the report for issue of Patta on 30.05.2020 and on 06.06.2020 and reiterated the same with direction to give the amount on 09.06.2010. On 09.06.2010, he further reiterated the demand in the presence of PW3, an independent official witness and obtained the bribe amount of Rs.8,000/-. PW.3 cogently deposed in corroborative manner that respondent made demand and accept the bribe amount on 09.06.2010. Therefore, both evidence of PW.2 and PW.3 cogent and trustworthy in the above aspect. Hence, the prosecution proved the demand and acceptance as required under law. The case was registered in the year 2010 and the examination of witnesses was conducted in the year 2013 and therefore usual minor contradictions, immaterial discrepancies and irrelevant omissions would always occur and therefore the Hon'ble Supreme Court in the case of ***Vinod Kumar Garg vs. State (NCT of Delhi)*** reported in ***2020 (2) SCC 8*** in the para No.14

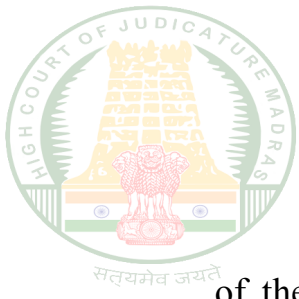


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of the judgement:-
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14. Given the time gap of five to six years minor contradictions on some details are bound to occur and are natural. The witnesses are not required to recollect and narrate the entire version with photographic memory notwithstanding the hiatus and passage of time. Picayune variations do not in any way negate and contradict the main and core incriminatory evidence of the demand of bribe, reason why the bribe was demanded and the actual taking of the bribe that was paid. Which are the ingredients of the offence under sections 7 and 13 of the Act. The as noticed above and hereinafter, have been proved and established beyond reasonable doubt. Documents prepared contemporaneously noticed above affirm the primary and ocular evidence. We, therefore, find no good ground and reason to upset and set aside the findings recorded by the trial court that have been upheld by the High Court.

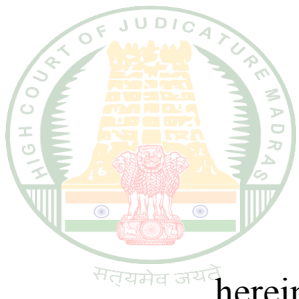
11. In this case, this court finds no material contradiction relating to the demand and acceptance. The learned trial Judge also did not discuss the evidence of P.W.3 relating to the demand and acceptance. P.W.3, an independent official witness who had no motive against the respondent, clearly deposed about the reiteration of demand and receipt



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of the bribe amount on the date of the trap. The phenolphthalein test conducted by P.W.10 also resulted into positive, and the material document was recovered from the custody of the respondent. The respondent has not given any explanation relating to the above-said positive result of the phenolphthalein test and the recovery of the recovery of the bribe amount and material documents. More particularly after his transfer order, he was keeping the document with report dated 17.05.2010. It is true that P.W.10 inadvertently admitted during his cross examination made 09.09.2014 nearly much after 4 years date of trap that no document was recovered. Examination of PW.10, trap officer was done after number of years. In mean time, they could have handled number of similar cases. Therefore, isolated inadvertent answer to the question in cross examination cannot be taken to discard and suspect the entire trap proceedings when the contemporaneous documents were prepared on the date of recovery speaks the about the recovery of the document and the appellant never denied it during U/s.313 CrPC proceedings. The same was clearly proved through the defence document Ex.D1. Ex.D1 was produced to show that subsequently patta was granted on the basis of the measurement made by the respondent

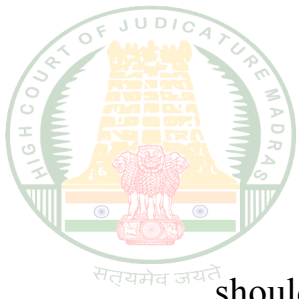


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herein. The said file contained another set of documents. The said document is entirely different. Therefore, P.W.10 inadvertently gave a deposition as if it was not recovered, but the consistent case of the prosecution from the documentary evidence is the file was recovered from the custody of the respondent on the date of the trap, which was also affirmed by the immediate superior, P.W.5. The recovery of the file was clearly spoken by P.W.3 independent witnesses and P.W.5 and the contemporaneous document, namely, the recovery mahazar. On perusal of the entire evidence of P.W.3 and recovery mahazar and also P.W.10 and P.W.5, it is clear that the file was recovered from the respondent on the date of the trap. Apart from that, Ex.D1 produced by the respondent himself, that he already forwarded the document is a circumstance to take into consideration. In view of the above fact, the inadvertent answer given by P.W.10 TLO is not a ground to disbelieve the evidence of P.W.2 and P.W.3.

12. Merely taking into account a sweeping statement is not the method of appreciation of evidence. The Hon'ble Supreme Court has repeatedly held that the entire evidence is to be considered. There



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should be a holistic reading and segmented/selective reading cannot be accepted. The same has been underscored by the Hon'ble Supreme Court about appreciation of the evidence in the following judgments;

<i>Mustak Alias kanio Ahmed Shaikh Vs. State of Gujarat reported in (2020) 7 SCC 237</i>	<i>Rakesh and antoher Vs. State of Uttar Pradesh and another reported in 20201 (7) SCC 188</i>
34. With the greatest of respect, the evidence of the witness have to be read as a whole. Words and sentence cannot be truncated and read in isolation.	14. One is required to consider the entire evidence as a whole with the other evidence on record. Mere on sentence here or there and that too to the question asked by the defence in the cross examination cannot be considered stand alone.

13.The learned trial Judge gave a finding that there was a suspicion around the receipt of amount of Rs.2,400/- on the ground that it was not stated in the application form submitted at the special camp. It is not the regular case, where the application is to be filed along with the payment of the charges on the basis of the application submitted in the Tahsildar Office. Here the special camp was conducted, and the said work was allotted to the respondent on 29.10.2009 and thereafter, he called to make the payment, and subsequently he made the payment on 28.01.2010. This is the subsequent event, and also when the case of the respondent himself is that he measured the property on the basis of the



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challan on 17.10.2010, the finding of the learned trial Judge that the non-mentioning of the said document creates a doubt, seems to be perverse. When he acted on the basis of the application, the Learned Judge's finding that there was objection from one of the rival parties and also that there was doubt over the payment of measurement charges dated 28.01.2010 is also perverse. The same was stage-managed defence taken by the appellant, when his specific case is that he already measured the property and submitted the file before his transfer order to the department.

14.Further, the learned trial Judge gave a finding that the respondent was already transferred and the transfer order was effected, and the said specific communication was marked **under Ex.P22**, that he was directed to hand over the charge to “Thillalnadhan”. On the basis of the said document, the learned trial judge has held that there is suspicion whether he was holding the duty on the date of the trap and also the date of the second demand. The said finding is also erroneous on the ground that he specifically admitted that he was “on transfer leave” upon receipt of the transfer order. The same was also clearly deposed by P.W.5.



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Therefore, the learned trial Judge's finding that he was already transferred and he has no official relationship is perverse.

15. The learned trial Judge's finding that there was non-compliance of procedures of Sections 42, 46 and 47 of the Vigilance Manual is immaterial when this Court in the case of ***K. Selvaraj and others vs. The State*** reported in ***2004 Crl LJ 3754*** and also the Division Bench of this Court in ***Duraimurugan vs. The State*** reported in ***2013 (2) MLJ Crl 2*** has specifically held that the non-compliance of the procedures of manual is not a ground to disbelieve the evidence of P.W.2 and P.W.3 and other material circumstances established. Case of the prosecution through the documentary evidence. So, the non-compliance of provisions of manual is not a ground to disbelieve the evidence, and acquit the respondent.

16. In view of the said circumstances, the learned trial Judge picked holes in every immaterial omissions and immaterial things; and acquitted the accused. This Court, finds that PW.2, PW.3 and PW.10 have already spoken about the demand and acceptance of the bribe.



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Apart from that, there was no explanation on the side of the respondent about the positive result of phenolphthalein and the recovery of the file. He has not disclosed anything about the same. On the contrary, he managed to get the file with the false particulars. I.e., after the receipt of the communication from the Tahsildar on 29.10.2009, he measured the property on 07.05.2010. This Court perused the documents relating to the measurement of the property, for which he specifically made the endorsement “ஏற்பு”.

17. In that event, now the plea that objection was by another person is false, and he has gone to the extent of preparing false documents and filed as the defence document. Therefore, this Court is unable to accept the case of the respondent, and therefore, the prosecution clearly proved the case against the respondent about the demand and acceptance, and this Court is inclined to set aside the judgment of the learned trial Judge in all angles. The prosecution clearly proved the charge against the appellant under Section 7, 13(1)(d) r/w 13(2) of the PC Act, ie., the charge is only to recommend to the Tahsildar to send a report, which is as follows:



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கிரையம் வாங்கிய சர்வேஎண் 15/2C, 2B & 2A யில் கண்ட புஞ்சை பரப்பு 0.61.0 ஹெக்டேர் நிலத்தினை ஆவண எண் 606 மூலம் பழனி இணை சார்பதிவாளர் அலுவலகம்-2ல் பதிவு செய்து மேற்படி நிலத்திற்கு அவர் பெயரில் தனி பட்டா பெற்று அரசாங்கத்தில் மானியமாக வழங்கும் சொட்டு நீர் பாசனத்தை பெறுவதற்காக சிறப்பு பட்டா மாறுதல் முகாமில் மனு கொடுத்ததன் பொருட்டு மேற்படியார் நிலத்தை அளந்து பட்டா பெறுவதற்கு ஏற்பாடு செய்வதற்காக பழனி பாலகிருஷ்ணா லாட்ஜில் தங்களை புகார்தாரர் அணுகிய போது தாங்கள் மேற்படி நிலத்தை அளந்து அறிக்கையை தாசில்தார் அலுவலகத்திற்கு அனுப்புவதற்காக.

18.Till the date of trap, the file was with the appellant. Therefore, the above available evidence amply proved the demand and acceptance without any shadow of doubt. The learned trial Judge erroneously acquitted the accused. The evidence of P.W.2, P.W.3 and P.W.10 and the material documents recovered from the respondent/accused leans towards only possible view of conviction under Section 7, 13(1)(d) r/w 13 (2) of Prevention of Corruption Act, 1988.The learned trial Judge on the basis of the irrelevant material rejected the cogent and trustworthy evidence of the P.W.2 and P.W.3. There is no explanation on the side of the accused for the positive result of phenolphthalein test in the hands and recovery of the bribe amount. Cumulative consideration of all the



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evidence on record and established circumstances, this Court finds that the prosecution clearly proved the recovery of tainted currency with proof of demand and acceptance and hence, the presumption under Section 20 of the Prevention of Corruption Act 1988 comes and there was no evidence adduced to rebut the presumption and therefore, this Court holds that this Court finds no other view except to convict the respondent for the offence under Section 7, 13(1)(d) r/w 13(2) of the Prevention of Corruption Act, 1988. Further, from the perverse finding of the learned trial Judge in all aspect, this Court finds “substantial and compelling reasons” to interfere with the impugned acquittal Judgement as held by the “Hon'ble Constitution Bench of the Supreme Court”, in the case of *M.G. Agarwal v. State of Maharashtra*, reported in **1962 SCC OnLine SC 22** has held the same in the following paragraph:

16....But the true legal position is that however circumspect and cautious the approach of the High Court may be in dealing with appeals against acquittals, it is undoubtedly entitled to reach its own conclusions upon the evidence adduced by the prosecution in respect of the guilt or innocence of the accused.



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17. In some of the earlier decisions of this Court, however, in emphasising the importance of adopting a cautious approach in dealing with appeals against acquittals, it was observed that the presumption of innocence is reinforced by the order of acquittal and so, “the findings of the trial court which had the advantage of seeing the witnesses and hearing their evidence can be reversed only for very substantial and compelling reasons” : vide Surajpal Singh v. State [1951 SCC 1207 : (1952) SCR 193 at p. 201] . Similarly in Ajmer Singh v. State of Punjab [(1952) 2 SCC 709 : (1953) SCR 418] it was observed that the interference of the High Court in an appeal against the order of acquittal would be justified only if there are “very substantial and compelling reasons to do so”. In some other decisions, it has been stated that an order of acquittal can be reversed only for “good and sufficiently cogent reasons” or for “strong reasons”. In appreciating the effect of these observations, it must be remembered that these observations were not intended to lay down a rigid or inflexible rule which should govern the decision of the High Court in appeals against acquittals. They were not intended, and should not



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be read to have intended to introduce an additional condition in clause (a) of Section 423(1) of the Code. All that the said observations are intended to emphasise is that the approach of the High Court in dealing with an appeal against acquittal ought to be cautious because as Lord Russell observed in the case of Sheo Swarup, the presumption of innocence in favour of the accused “is not certainly weakened by the fact that he has been acquitted at his trial”. Therefore, the test suggested by the expression “substantial and compelling reasons” should not be construed as a formula which has to be rigidly applied in every case. That is the effect of the recent decisions of this Court, for instance, in Sanwat Singh v. State of Rajasthan [AIR 1961 SC 715] and Harbans Singh v. State of Punjab [AIR 1962 SC 439] and so, it is not necessary that before reversing a judgment of acquittal, the High Court must necessarily characterise the findings recorded therein as perverse.



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19.1. In the case of ***Rajesh Prasad v. State of Bihar***, reported in (2022) 3 SCC 471 the Hon'ble Three Judges Bench of Supreme Court has held as follows:

“31.2.2. Where acquittal would result is gross miscarriage of justice:

(a) Where the findings of the High Court, disconnecting the accused persons with the crime, were based on a perfunctory consideration of evidence”

19.2. It is the duty of the Criminal Court to plug the said immaterial loopholes to ensure the criminal justice system is vibrant as held by the Hon'ble Supreme Court in the case of ***Dinubhai Boghabhai Solanki v. State of Gujarat***, reported in (2018) 11 SCC 129 at page 154:

36. That apart, it is in the larger interest of the society that actual perpetrator of the crime gets convicted and is suitably punished. Those persons who have committed the crime, if allowed to go unpunished, this also leads to weakening of the criminal justice system and the society starts losing faith therein. Therefore, the first part of the celebrated dictum “ten criminals may go unpunished but one innocent should not be convicted” has not to be taken routinely. No doubt, latter part of the aforesaid phrase



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i.e. “innocent person should not be convicted” remains still valid. However, that does not mean that in the process “ten persons may go unpunished” and law becomes a mute spectator to this scenario, showing its helplessness. In order to ensure that criminal justice system is vibrant and effective, perpetrators of the crime should not go unpunished and all efforts are to be made to plug the loopholes which may give rise to the aforesaid situation.

20. Conclusion:

In view of the above discussion, this court inclines to allow this appeal filed by the Vigilance Department. The respondent is found guilty under Sections 7 and 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988. Therefore, the appeal filed by the Vigilance Department in Crl.A.(MD).No.18 of 2018 is liable to be allowed.

20.1. Accordingly, this appeal is allowed and the impugned judgment passed by the learned Chief Judicial Magistrate cum Special Judge, Special Court for trial of cases under Prevention of Corruption Act, Dindigul in Special Case.No.15 of 2014 dated 25.10.2016, is liable



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to be set aside and the respondent is convicted for the offences under

Sections as stated below:

<i>Sl. No</i>	<i>Charged offences under Section</i>	<i>Conviction</i>
1	7 of Prevention of Corruption Act, 1988	convicted
2	Section 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988	convicted

21. List this case for appearance of the respondent/sole Accused
for questioning the sentence on 03.06.2025.

15.05.2025

Index :Yes / No
Internet :Yes / No
NCC :Yes / No
sbn



Question of Sentence:

22.As per the direction of this Court dated 15.05.2025, the respondent/accused appeared before this Court. When the accused was questioned under Section 235 (2) of Cr.P.C., about the sentence of imprisonment to be passed, he has pleaded as follows:

Accused Name	Answer of the Accused
Tr.V.S.Rajeswaran	எனக்கு உடல் நிலை சரியில்லை. இரண்டு கண் பார்வையும் தெரியாது இரண்டு முறை நான் இருதய அறுவை சிகிச்சை செய்துள்ளேன். சிறுநீரகப் பிரச்சனை உள்ளது ஆகையால் எனக்கு குறைந்தபட்ச தண்டனை வழங்க கேட்டுக்கொள்கிறேன்.

23.Considering the present age old factor of the respondent and considering that the occurrence had taken place in the year 2009 and acquittal judgment passed in the year 2016, this Court is inclined to impose the following minimum sentence of imprisonment with fine and all the substantive sentence of imprisonments are to run concurrently. The period already undergone by the accused is ordered to be set off under Section 428 of Cr.P.C.



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<i>Sl. No.</i>	<i>Under Sections</i>	<i>Sentence of imprisonment</i>	<i>Fine amount</i>	<i>Default sentence</i>
1	7 of the Prevention of Corruption Act 1988	One year rigorous imprisonment	Rs.5,000/-	Three months of simple imprisonment
2	13(2) r/w 13(1)(d) of the Prevention of Corruption Act, 1988	One year rigorous imprisonment	Rs. 5,000/-	Three months of simple imprisonment

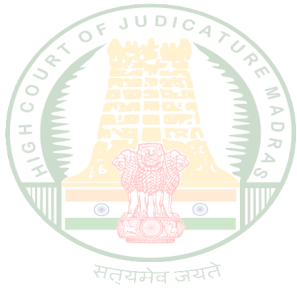
24.After passing the sentence of imprisonment, the learned counsel for the respondent sought for an interim suspension of sentence of imprisonment. Considering the age and that the judgment of the trial Court was passed in the year 2016 reversed by this Court by this judgment and also considering the request of the respondent to give sufficient time to prefer appeal, this Court is inclined to suspend the sentence of imprisonment up to 31.07.2025. The respondent is hereby directed to surrender before the trial Court on 01.08.2025.

25.List this case on 01.08.2025 for “reporting compliance”.

03.06.2025

NCC :Yes/No
Index :Yes/No
Internet :Yes/No
sbn

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- 1.The learned Chief Judicial Magistrate cum Special Judge,
Special Court for Trial Of Cases under Prevention of Corruption Act,
Dindigul.
- 2.The Inspector of Police,
Vigilance and Anti Corruption,
Dindigul.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- 4.The Section Officer,
Record Section (Criminal)
Madurai Bench of Madras High Court, Madurai.



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K.K.RAMAKRISHNAN, J.

sbn

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**15.05.2025
&
03.06.2025**