IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 12.06.2026

Pronounced on: 25.06.2026

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.A.No.832 of 2016

K.Suresh ... Appellant

Vs.

The Inspector of Police,
Central Bureau of Investigation,
Anti-Corruption Wing,
Shastri Bhavan, Chennai-6
RC MA 1 2009 A 0053 ... Respondent

Prayer:

Criminal Appeal filed under Section 374 of Cr.P.C. against the judgment dated 30.11.2016 passed in CC.No.33 of 2012 on the file of the learned XII Additional Special Judge for CBI Cases, Chennai.

For Appellant : Mr.L.V.Rohith

For Respondent : Mr.K.Srinivasan,
Special Public Prosecutor
(CBI Cases)

JUDGMENT

This criminal appeal is arising out of the judgment passed in CC.No.33 of 2012 dated 30.11.2016 on the file of the XII Additional

Special Judge for CBI Cases, Chennai thereby convicting the accused for the offence punishable under Section 11 of the Prevention of Corruption Act, 1988.

2. The case of the prosecution is that while the accused was working as Chairman, Chennai Port Trust during the period from 01.09.2003 to 04.08.2009, he dishonestly and fraudulently obtained admission for his son into the course of Bachelor of Engineering (Civil Engineering) in Anna University with connivance of PW2, who turned as approver, under industrial quota sponsored by M/s.Vijayashanthi Builders. PW2, who is the proprietor of M/s.Vijayashanthi Builders dishonestly paid a sum of Rs.12,00,000/- by way of demand draft dated 08.07.2009, to obtain the said admission without any consideration from the accused. The accused and PW2 had official dealings in the matter of renewal of lease agreement for weigh bridge of M/s.Vijayashanthi Builders Limited within the premises of Chennai Port Trust. Therefore, the case was registered for disproportionate assets. After completion of investigation, the respondent filed final report and the same was taken cognizance by the trial court.

3. In order to prove the charges, the prosecution had examined PW1 to PW10 and marked Ex.P1 to Ex.P18. On the side of the accused, he had examined DW1 and marked Ex.D1 to Ex.D3. On perusal of oral and documentary evidences, the trial court found the accused guilty for the offence punishable under Section 11 of Prevention of Corruption Act and sentenced him to undergo two years of rigorous imprisonment with fine of Rs.10,000/- in default, to undergo simple imprisonment for three months. Aggrieved by the same, the present criminal appeal has been filed by the accused.

4. The learned counsel for the accused submits that according to the prosecution, the accused was the Chairman of Chennai Port Trust from 01.09.2004 to 30.06.2009, whereas the demand draft was given to Anna University by M/s.Vijayashanthi Builders on 08.07.2009. Therefore, the accused was Chairman of Chennai Port Trust only till 30.06.2009 and thereafter he ceased to be the Chairman. After his tenure, one Subash Kumar took over the charge as Chairman of Chennai Port Trust from 01.07.2009. He sanctioned to prosecute the accused and he deposed as PW1. Therefore renewal of lease of weigh bridges happened subsequent to 30.06.2009 when the accused ceased to be the Chairman of Chennai Port Trust. Therefore, the offence under Section 12 of Prevention

of Corruption Act would not be attracted against the accused. Further the person who turned as approver had deposed as PW2. PW2 is the proprietor of M/s.Vijayashanthi Builders Limited. He categorically admitted the fact that he knew the accused and that he was not the Chairman of the Chennai Port Trust from 01.07.2009. PW2 sponsored the candidate and as per memorandum of understanding between PW2 & Anna university, the candidate has to work in their company after completion of five years. Thus, the provision under Section 11 of Prevention of Corruption Act would not be attracted against the accused as there was consideration in the sponsorship. Further, for the purpose of expansion of the port, the weigh bridges run by PW2 were shifted to another place inside the port and the lease agreements were renewed periodically once in 11 months. One, Mohana Sundaram was an employee in PW2 company and is also a close relative of the accused and the candidate and as such the son of the accused was eligible for the sponsorship by PW2. In such circumstances, the prosecution has failed to examine the said Mohana Sundaram as witness and the same is fatal to the case of the prosecution. Therefore, the accused examined the said Mohana Sundaram as DW1 and marked Ex.D1 to Ex.D3. The said evidences clearly establish that the said Mohana Sundaram worked for M/s.Vijayashanthi Builders till 2011 and the student is also a close relative of the said Mohanasundaram and as such, PW2 sponsored his studies. The experience certificate issued by PW2 was marked as Ex.P5, which does not contain the signature of the accused, Mohana Sundaram or the son of the accused.

4.1 The learned counsel for the appellant further submits that in fact PW6 deposed that six companies have sponsored one student each to Anna University and they are all the contractors. However, there was absolutely no investigation by the prosecution regarding the same. Therefore, the accused was not an employee of the Chennai Port Trust and he ceased to be the Chairman on 01.07.2009. Without considering the above facts and circumstances, the trial court mechanically convicted the accused.

5. Per contra, the learned Special Public Prosecutor(CBI Cases) appearing for the respondent submitted that though PW2 turned hostile, his statement was recorded under Section 164 of Cr.P.C and marked as Ex.P6. He categorically deposed that for the weigh bridge in the Chennai Port Trust, lease was issued under the accused's chairmanship. Thereafter, PW2 was ordered to shift the weigh bridge. Thereafter, he approached the accused and the accused demanded employment for his relative i.e.

Mohana Sundaram and he also demanded a seat for his son under the industrial quota in Anna University. Therefore, PW2 paid a sum of Rs.12,00,000/- to obtain admission for the accused's son in Anna University. However, he subsequently tendered pardon and turned into an approver and the same was accepted by the trial court. Thereafter, he deposed as PW2. Therefore, the prosecution proved the charge beyond any doubt and the trial court rightly convicted the accused and it does not warrant any interference by this Court. In support of his contention, the learned Special Public Prosecutor(CBI Cases) also relied upon the judgment of this Court rendered in Crl.Appeal No.566 of 2012 in the case of ***State rep. by Inspector of Police, CBI Vs. Ajaykumar Gupta and others***, in which this Court held that once it is proved that the first respondent therein is a public servant and the third respondent therein is a private person who was having business dealing officially, the public servant who gains pecuniary advantage or advantage either directly or through family members would attract the provision under Section 11 of the Prevention of Corruption Act would attract.

6. Heard the learned counsel appearing on either side and perused all the materials placed before this Court.

7. On perusal of records and also on the submissions of the learned counsel appearing on either side, it is revealed that the accused was charged for the offences under Section 11 of Prevention of Corruption Act and was convicted by the trial court as the prosecution proved the charge beyond reasonable doubt. The crux of the charge is that the accused, being a public servant, while working as Chairman, Chennai Port Trust during the period 01.09.2004 to 30.06.2009, fraudulently obtained admission for his son for BE (Civil Engineering) course in Anna University under industrial quota with active connivance of PW2 who is the Managing Director of M/s.Vijayashanthi Builders by paying Rs.12,00,000/-. The accused had official grievance in the matter of renewal of rental agreement for weigh bridge of PW2 within the premises of Chennai Port Trust. The sanctioning authority who sanctioned to prosecute the accused, had deposed as PW1. He categorically deposed that the accused was working as Chairman of Chennai Port Trust till 30.06.2009 and from 01.07.2009 Captain Subash Kumar took over the post of Chairman. In the month of July 2009, PW2 sponsored the accused's son for his Bachelor of Engineering studies at Anna University. However, he did not go through the memorandum entered between the PW2 and Anna University dated 08.07.2009. That apart, in view of retaining the weigh bridges in the same place, the accused allegedly

demanded sponsorship for his son's studies under industrial quota. But PW2 was asked to shift their weigh bridges from Adyar gate area in the port complex to a different place. Therefore, the prosecution failed to prove any consideration which was allegedly passed in favour of PW2 before the trial court .

8. The second accused turned approver and deposed as PW2. Further, admittedly PW2 had been holding the lease for the weigh bridges from the year 1995. Further PW2 categorically admitted that the son of the accused herein by name Yeshaswi was sponsored only by one, Mohana Sundaram who is an employee of PW2. Only because the said Yeshaswi is the son of the accused herein, prosecution charged the accused for the offence under Section 11 of Prevention of Corruption Act. On perusal of the memorandum of understanding and PW2's evidence, it is clear that the accused's son was sponsored only because he is a relative of one, Mohana Sundaram who was an employee of the PW2. It is also clear from the memorandum of Understanding dated 08.07.2009. The memorandum was marked as Ex.P2 and it revealed that the object of the memorandum of understanding is to admit suitable candidate sponsored by industries to the Bachelor's degree programme against the reserved seat and to throw open industry-related laboratory facilities at the

University to these candidates who would be committed to return to the sponsoring industry after training. The terms are also very clear that the contributions made to this corpus for Anna University is exempted from income tax under Section 80G(2)(a)(iiif) of Income Tax Act, 1993. Further, the candidate sponsored under the provisions of memorandum of understanding should be the sons / daughters or grandchildren inclusive of relatives of employers / employees of the said industry and should satisfy the eligibility criteria for admission as stipulated by Anna University. Admittedly, the accused's son is a close relative of the PW2's employee Mohana Sundaram. It is also categorically admitted by PW2. Therefore, on the strength of relationship of Mohana Sundaram, the accused's son was sponsored by PW2 under industrial quota for the admission of Bachelor of Engineering course and a sum of Rs.12,00,000/- was paid to that effect. It is also to be noted that the said amount is exempted from income tax. Therefore, PW2 voluntarily sponsored the accused's son under the industrial quota for his Bachelor of Engineering course. It is relevant to extract the provision under Section 11 of Prevention of Corruption Act hereunder:

> *11. **Public servant obtaining undue advantage without consideration from person concerned in proceeding or business transacted by such public servant***

Whoever, being a public servant, accepts or obtains or attempts to obtain for himself, or for any other person, any undue advantage without consideration, or for a consideration which he knows to be inadequate, from any person whom he knows to have been, or to be, or to be likely to be concerned in any proceeding or business transacted or about to be transacted by such public servant, or having any connection with the official functions or public duty of himself or of any public servant to whom he is subordinate, or from any person whom he knows to be interested in or related to the person so concerned, shall be punishable with imprisonment for a term which shall be not less than six months but which may extend to five years and shall also be liable to fine.

9. Thus it is clear that whoever being a public servant, accepts or obtains for himself or any other person, any undue advantage without consideration or for a consideration in connection with any official duty, shall be liable to be punished under Section 11 of Prevention of Corruption Act. Admittedly, the accused was ceased to be the Chairman of Chennai Port Trust from 01.07.2009. Further, the accused's son was

sponsored by PW2 after the accused's tenure as Chairman of Chennai Port Trust. In fact, PW2 entered into a memorandum of understanding with the Anna University only on 08.07.2009. The accused's son, who is being a close relative of one, Mohanasundaram who is an employee of PW2, was sponsored by PW2 under industrial quota in the course of Bachelor of Engineering at the Anna University and paid a sum of Rs.12,00,000/-. It is also exempted for income tax. The accused had examined the said Mohanasundaram as DW1. He deposed that his relative i.e. the accused's son was interested in joining engineering course at Anna University under industrial quota. Therefore, he requested PW2 to sponsor the accused's son and thereby claimed exemption benefits under Income Tax Act. The prosecution marked Ex.P5 i.e. experience certificate issued by PW2 in favour of DW1. It fulfills the twin requirement required for sponsorship of a candidate under industrial quota as per Ex.P2 i.e. memorandum of understanding and it confirms that DW1 was an employee of PW2 and he is a close relative of Mohana Sundaram, who was an employee of PW2. Therefore, the accused, being a former Chairman of Chennai Port Trust, he had not gained any undue advantage in his son's admission in the Anna University.

10. In fact, while the accused was working as the Chairman of Chennai Port Trust, the accused's son was only aged about 12 years old. Only after the completion of his tenure as Chairman at the Chennai Port Trust, his son became eligible for college admission. Further, the sponsorship was granted in favour of the appellant's son with the specific term that the said candidate would be committed to return to PW2 after industrial training. Therefore, it can be construed that the sponsorship was made with business intention on the part of the PW2. That apart, the trial court relied upon the statement recorded under Section 164 of Cr.P.C. of PW2 and convicted the accused. It is settled law that the statement recorded under Section 164 of Cr.P.C. is not a substantive evidence and it can be used only to corroborate the statement of a witness and to contradict a witness. Therefore, this Court is of the considered view that the prosecution failed to prove the charge under Section 11 of Prevention of Corruption Act. Hence, the benefit of doubt goes in favour of the accused and as such, the impugned judgment cannot be sustained and the same is liable to be set aside.

11. Accordingly, this criminal appeal is allowed and the judgment dated 30.11.2016, passed in CC.No.33 of 2012 on the file of the learned XII Additional Special Judge for CBI Cases, Chennai, is set

aside. The appellant is acquitted of all the charges in CC.No.33 of 2012. The appellant is directed to be set at liberty forthwith. Fine amount, if any paid, shall be refunded to the appellant forthwith. Bail bond, if any executed, shall stand cancelled.

25.06.2026

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order
lok

G.K.ILANTHIRAIYAN, J.

lok

To

1.The learned XII Additional Special Judge for CBI Cases, Chennai.

2.The Inspector of Police,

Central Bureau of Investigation,
Anti-Corruption Wing,
Shastri Bhavan, Chennai-6

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