

**HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

Criminal Appeal No.14 OF 2008

Between:

P.Parthasaradhi

... Appellant

And

The State of A.P,
rep. by Spl. Public Prosecutor,
ACB.

..Respondent/Complainant

DATE OF JUDGMENT PRONOUNCED :27.03.2024

Submitted for approval.

THE HON'BLE SRI JUSTICE K.SURENDER

- | | |
|--|--------|
| 1 Whether Reporters of Local newspapers may be allowed to see the Judgments? | Yes/No |
| 2 Whether the copies of judgment may be marked to Law Reporters/Journals | Yes/No |
| 3 Whether Their Ladyship/Lordship Wish to see their fair copy of the Judgment? | Yes/No |

K.SURENDER, J

*** THE HON'BLE SRI JUSTICE K. SURENDER**

+ CRL.A. No.14 of 2008

% Dated 27.03.2024

P.Parthasaradhi

... Appellant

And

\$ The State of Telangana
rep. by Spl.Public Prosecutor, ACB

Respondent/Complainant

! Counsel for the Petitioners: Sri C.Sharan Reddy

^ Counsel for the Respondent: Sri Vidyasagar Rao Chitneni

>HEAD NOTE:

? Cases referred

¹(2015 (10) SCC 152

²(2022) 4 Supreme Court Cases 574

HON'BLE SRI JUSTICE K.SURENDER**CRIMINAL APPEAL No.14 OF 2008****JUDGMENT:**

1. The appellant/A1 is aggrieved by the conviction recorded by the Principal Special Judge for SPE & ACB Cases, City Civil Court at Hyderabad for the under Sections 7 and Section 13(1)(d) r/w 13(2) of the Act of 1988 of the Prevention of Corruption Act, 1988 (for short "the Act of 1988") and sentenced to undergo rigorous imprisonment for a period of one year under both counts, vide judgment in CC No.49 of 2004 dated 20.12.2007, the present appeal is filed. A2 was also tried along with the appellant/A1 and convicted. However, due to his death, the appeal filed by A2 was dismissed as abated.

2. Briefly, the case of the prosecution is that the appellant was working as Mandal Revenue Officer, Penubally Mandal, Khammam District. The father of P.W.1/defacto complainant died in the year 1999. P.W.1 was going around the office for three years to mutate his name in the revenue records in the place of his father. The application was also filed. However, he approached A1 on 07.08.2002 requesting him to process his application for mutating

his name in the revenue records. The appellant demanded bribe of Rs.5,000/- to mutate his name in the revenue records. On the next day, i.e., on 08.08.2002 P.W.1 again met the appellant and he asked P.W.1 to file another application Ex.P1 for mutation. Since he was not inclined to give bribe, PW1 approached the Deputy Superintendent of Police, ACB on 12.08.2002 and filed complaint Ex.P2 in the ACB office. The DSP informed that the ACB personnel will visit Khammam on 16.08.2002 for taking appropriate action.

3. The DSP along with independent mediators went to Khammam and pre-trap proceedings were conducted in Sridhar Lodge near Khammam Bus Stand. The said pre-trap proceedings were drafted, which is Ex.P5. Having concluded the pre-trap proceedings, the trap party started to the office of the appellant and reached at 5.00 p.m. P.W.1 went into the office and found that the appellant was not present and waited for him in his office room. Thereafter, A1 entered into the room and asked P.W.1 to wait outside. Meanwhile, the appellant called A2 and after A2 arriving into the room, P.W.1 was called inside. A1 instructed A2 to take the money from P.W.1. A2 took P.W.1 to a room by the side of appellant's room and there

A2 accepted money from PW1. The passbooks were also handed over to A2. P.W.1 came out of the office and gave signal to the trap party indicating the acceptance of bribe. The DSP and other trap party members entered into the room and on questioning A1, he denied having received any bribe amount. Then P.W.1 was called inside the office and when questioned, P.W.1 stated to the DSP that at the instance of the appellant, he handed over the amount to A2. A2 was caught and test on his hands proved positive. Bribe money was recovered from A2. However, test on the hands of the appellant remained negative.

4. Learned Special Judge examined P.Ws.1 to 9 and marked Exs.P1 to P13 on behalf of the prosecution. On behalf of the appellant, Exs.D1 and D2 were marked. Learned Special Judge found both the appellant/A1 and A2 guilty and accordingly convicted them.

5. Learned counsel appearing for the appellant would submit that as on the date of alleged demand which is 07.08.2002, no application of P.W.1 was pending with the appellant. Even the Investigating Officer stated that they could not trace the said

application and none of the officials in MRO office stated that any such application of P.W.1 was pending. P.W.1 also did not give any date or copy of such application, he had earlier claimed to have filed. When the application itself was made on 08.08.2002, the question of demanding bribe on 07.08.2002 does not arise. As on the said date, there was no official favour which was pending with the appellant. Further, the appellant had stated during the post trap proceedings that he did not accept or demand any bribe from P.W.1. The tests on the hands of the appellant remained negative. In the said circumstances, it cannot be said that there is any proof of alleged demand made by A1. The appellant as MRO booked two criminal complaints under Exs.D1 and D2 against son-in-law of P.W.1 and he was prosecuted in both the cases. For the said reason, P.W.1 was holding grudge against the appellant. He relied on the judgment of Hon'ble Supreme Court in the case of **P.Satyanarayana Murthy v. State of A.P(F.B)**¹ wherein the Hon'ble Supreme Court held that proof of demand is *sine qua non* for convicting a person under Section 7 of the Act and mere recovery of the amount is of no consequence. Similar view was

¹ (2015 (10) SCC 152

taken by the Hon'ble Supreme Court in the case of **K.Shanthamma v. State of Telangana**².

6. On the other hand, learned Special Public Prosecutor argued that the Trial Court has considered the evidence in its correct perspective. Both demand and acceptance were proved. Though recovery was made from A2, it is mentioned in the complaint that the appellant demanded the amount. Accordingly the findings of the trial Court needs no interference.

7. The case of P.W.1 is that he had been going around the office nearly three years for mutating his name in the revenue records. Though he stated that he had filed an application earlier, no specific date or any copy of such application was produced. Further, the Investigating Officer during his examination before the Court stated that his enquiries did not reveal that any application was earlier made by P.W.1 in the office of MRO.

8. P.W.1 is the only witness to state about demand being made by the appellant on both the dates when he allegedly met the appellant. Though it was alleged that demand was made on

² (2022) 4 Supreme Court Cases 574

07.08.2002, there was no application which was pending with the appellant. However, application was made on 08.08.2002 but the alleged demand made on 08.08.2002 is not mentioned in Ex.P2 complaint. As on the trap date, the DSP had not asked any of the trap party members to accompany P.W.1 to witness what transpires in between P.W.1 and the appellant. Even according to the prosecution case, the amount was recovered from A2 and the application and documents of P.W.1 were also recovered at the instance of A2. The test on the hands of the appellant had remained negative. There is no other witness who stated that P.W.1 met the appellant on the trap date.

9. According to P.W.4, A2 was working as Village Secretary and he did not receive Ex.P1 which was given by P.W.1 on 08.08.2002 and endorsed by appellant. As already stated, except the evidence of P.W.1, none of the witnesses have seen P.W.1 meeting the appellant in the office on the trap date. The immediate response to the question of DSP regarding any demand and acceptance of bribe, appellant denied having received any bribe and his hands were also tested negative. In the above circumstances, there arises any

amount of doubt regarding the alleged demand made by the appellant. It is the duty of the prosecution to prove the allegation of demand by the accused beyond reasonable doubt. Apart from the statement of P.W.1, there is no corroborating evidence by the prosecution to prove that there was a demand. In the absence of any corroboration either by oral or documentary evidence or circumstances such as handling the bribe amount or recovery from the appellant, the factum of demand is suspicious in the present facts of the case. This Court finds that the prosecution has failed to prove beyond reasonable doubt that the appellant had demanded the bribe amount. Admittedly, the said amount was recovered from A2 at A2's instance and also the documents pertaining to PW.1 were recovered from A2. Furthermore, the appellant had filed two criminal cases against the son-in-law of PW1, for which reason, false implication cannot be ruled out. In the said circumstances, benefit of doubt is extended to the appellant.

10. In the result, the judgment of trial Court in CC No.49 of 2004 dated 20.12.2007 is set aside and the accused is acquitted. Since the appellant is on bail, his bail bonds stand cancelled.

11. Criminal Appeal is allowed. As a sequel thereto, miscellaneous petitions, if, pending, shall stands closed.

K.SURENDER, J

Date: 27.03.2024

Note: LR copy to be marked

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