

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

CRIMINAL APPEAL No. 157 OF 2008

Between:

Paritala Sudhakar

...Petitioner/Appellant/
Accused

And

The State of Telangana rep. by Inspector of
Police, ACB, City Range, Hyderabad. Rep. by
Spl.Public Prosecutor for ACB Cases,
High Court of A.P., Hyderabad.

... Respondent/Complainant

DATE OF JUDGMENT PRONOUNCED: 06.03.2024

Submitted for approval.

THE HON'BLE SRI JUSTICE K.SURENDER

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|---|--|--------|
| 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 the fair copy of the Judgment? | Yes/No |

K.SURENDER, J

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

+ CRL.A. No. 157 OF 2008

% Dated 06.03.2024

Paritala Sudhakar

...Appellant / Accused

And

\$ The State of Telangana rep. by Inspector of Police, ACB, City Range, Hyderabad. Rep. by Spl.Public Prosecutor for ACB Cases, High Court of A.P., Hyderabad.

...Respondent/ Complainant

! Counsel for the Appellant: Sri H.Prahlada Reddy

^ Counsel for the Respondents: Sri Sridhar Chikyala, Spl.P.P. for ACB

>HEAD NOTE:

? Cases referred

1. 1974 CRI.L.J.307
2. 2006(1) ALD (CrI.) 436 (SC)
3. (2009) 6 Supreme Court Cases 587
4. (2009) 15 Supreme Court Cases 200
5. LAWS (SC) 2017 7 4
6. (2014) 13 Supreme Court Cases 55
7. 2023 (1) ALD (CrI.) 821 (TS)
8. 2023 (1) ALD (CrI.) 423 (TS)
9. 2023 (1) ALD (CrI.) 148 (TS)
10. 2023 (1) ALD (CrI.) 800 (TS)

THE HONOURABLE SRI JUSTICE K.SURENDER**CRIMINAL APPEAL No. 157 OF 2008****JUDGMENT:**

1. This appeal is filed by the appellant/accused officer, questioning the conviction recorded by the Additional Special Judge for SPE & ACB Cases, City Civil Court, Hyderabad, in C.C.No.19 of 2004, dated 29.01.2008, convicting the appellant/Accused Officer for the offence under Sections 7 and 13(1)(d) r/w.13(2) of the Prevention of Corruption Act, 1988, and sentenced to undergo one year Rigorous Imprisonment and a fine of Rs.1,000/- for the offence under Section 7 of the P.C.Act and further sentenced to undergo one year Rigorous Imprisonment and a fine of Rs.1,000/- for the offence under Section 13(1)(d) r/w.13(2) of the P.C.Act.

2. Heard the counsel for the appellant and also the Special Public Prosecutor for ACB.

3. Briefly, the case of the prosecution is that PW1 who is the defacto complainant is a farmer cultivating his 12 acres of land. Due to drought condition in the year 2002, 400 trees in his land dried up due to lack of water. PW1 came to know through paper publication that the government was giving compensation for

dried up trees. On 06.08.2003 PW1 made an application in the Office of M.R.O for compensation. The said application-Ex.P1 was forwarded to the appellant who was working as M.R.I (Mandal Revenue Inspector) for enquiry, verification and report. Accordingly, on the very same day, PW1 met the appellant and requested him to enquire into the issue. The appellant demanded Rs.2,000/- for making enquiry and reporting it to the M.R.O. On the next day again PW1 went to the house of the appellant and when asked for bribe, PW1 expressed his inability. However, the appellant insisted that Rs.2,000/- have to be paid and asked him to pay the said amount on 11.08.2003 in his house.

4. On 08.08.2003 PW1 went to the office of D.S.P and lodged a written complaint-Ex.P2. The D.S.P. having received the complaint asked PW1 to come back to the office on 11.08.2003 along with the proposed bribe amount and appropriate action would be taken on the said date.

5. On 11.08.2003, D.S.P. sent for independent mediators and in their presence and also in the presence of complainant and others, pre-trap proceedings were conducted under Ex.P4. The trap party then went to the house of the appellant. The house of the appellant was found locked and PW1 was informed by the

neighbours that the appellant went to the M.R.O office at Gundala. From there the independent witness-PW2 and PW1 went on scooter to the office when the D.S.P. and other trap members followed them in jeep. PW1 met the appellant in the office and appellant informed that he would come over to Ambala Village and meet him. PW1 and PW2 came out of the office and informed the D.S.P that the appellant would meet him at the Ambala Village. Again PW1 and trap party went to the Ambala Village and was waiting there.

6. Around 6.00 p.m., the appellant came on his motorcycle. PW1 approached the appellant on his motor cycle and both of them went to the house of PW1 at Ambala on their vehicles. Both the vehicles were parked in-front-of the house of the PW1. The appellant visited the garden/fields of PW1 and thereafter returned to the house of PW1. The appellant had tea and informed that he would conduct 'panchanama' in the presence of mediators in the garden and asked PW1 to keep the bribe amount in the rexine bag attached to the petrol tank of his motorcycle. Accordingly, PW1 kept the bribe amount in the said bag. PW1 then signaled to the trap party indicating acceptance of bribe by the appellant. The trap party then approached the appellant and questioned him regarding the bribe amount. Tests were conducted on the hands of

the appellant which proved negative. However, at the instance of the appellant, money was recovered from the rexine bag attached to the petrol tank.

7. After concluding the Post trap proceedings, Ex.P6 was drafted. The Investigating officer having examined other witnesses, collected evidence both oral and documentary and filed charge sheet.

8. The learned Special Judge examined PWs.1 to 8 and marked Exs.P1 to P13 on behalf of prosecution; DW1-wife of PW1 was examined in defence.

9. The learned Special Judge on the basis of evidence adduced by the prosecution and also considering the evidence of defence witness, concluded that the appellant was guilty of demanding and accepting the bribe and accordingly convicted him.

10. Learned Counsel appearing for the appellant would submit that PW1 is a wholly unreliable witness. According to the evidence of PW4 there was a fight in the office of M.R.O for which reason the appellant was falsely implicated. The prosecution has failed to prove the evidence of demand and acceptance by the appellant. In fact, the test of both the hands proved negative and it can only be

inferred that the said amount was planted by PW1 in the motor cycle bag attached to the petrol tank and there after the D.S.P and trap party has seized the same. At the time of post trap proceedings, the appellant had specifically denied that any bribe amount was accepted and also denied knowledge about the currency notes in the rexine bag of his vehicle. It only strengthens the case of the appellant that the amount was planted. In the absence of any other evidence corroborating the evidence of PW1 and the test on the hands of the appellant not being positive, the appellant has to be acquitted.

11. Counsel relied on the Judgment of Honourable Supreme Court in ***Darshan Lal v. The Delhi Administration***¹ wherein the Honourable Supreme Court held that there should be independent and trust-worthy evidence by way of corroboration to the evidence of complainant.

12. In ***T.Subramanian v. State of Tamil Nadu***² it was found that the complainant was inimically disposed against the accused officer. In the said circumstances, the Honourable Supreme Court held that guilt was not proved beyond reasonable doubt.

¹ 1974 CRI.L.J.307

² 2006(1) ALD (Cri.) 436 (SC)

13. In **A.Subair v. State of Kerala**³ the Honourable Supreme Court held that the quality and credibility of evidence of prosecution witnesses cannot be dispensed with and a close scrutiny of their evidence is required.

14. In **State of Maharashtra v. Dnyaneshwar Laxman Rao Wankhede**⁴ the Honourable Supreme Court held that demand is *sin qua non* for proving an offence under Section 7 of the Prevention of Corruption Act.

15. The counsel also relied on the Judgment of Honourable Supreme Court in **P.Satyanarayana v. The district Inspector of Police and Another** in CrI.A.No.31 of 2009 dt.14.09.2015, in **Mukhtiar Singh v. State of Punjab**⁵; in **B.Jayaraj v. State of A.P.**⁶ and also the Judgment in **Mohd.Fakruddin v. State of Andhra Pradesh**⁷; **K.Ranga Reddy v. State of Andhra Pradesh**⁸; **K.Raghunatha Rao v. State of Andhra Pradesh**⁹; **Atthar Hussain v. State of Andhra Pradesh**¹⁰.

³ (2009) 6 Supreme Court Cases 587

⁴ (2009) 15 Supreme Court Cases 200

⁵ LAWS (SC) 2017 7 4

⁶ (2014) 13 Supreme Court Cases 55

⁷ 2023 (1) ALD (CrI.) 821 (TS)

⁸ 2023 (1) ALD (CrI.) 423 (TS)

⁹ 2023 (1) ALD (CrI.) 148 (TS)

¹⁰ 2023 (1) ALD (CrI.) 800 (TS)

16. On the other hand learned Public Prosecutor would submit that the bribe amount was recovered at the instance of the appellant. In fact, the said amount was accepted in the presence of the trap party which is evident from the deposition of PW2 and also the D.S.P.-PW7. Further, the factum of holding grudge against the appellant is taken for the first time during trial and not stated during post trap proceedings. In the background of both demand and acceptance being proved, the appeal has to be dismissed.

17. Though, PW1 supported the prosecution in chief-examination, however, during cross-examination, he stated that after the appellant inspected his trees in the garden and came back to the house, the appellant was sitting inside and taking tea. When appellant was inside the house, PW1 went out side and kept the amount in rexine bag attached to petrol tank of appellant's bike. However, immediately when examined by the public prosecutor in re-examination, he stated that the appellant was along with him when the tainted currency was kept in the rexine bag attached to the petrol tank.

18. DW1 is the wife of PW1. She deposed that on the date of trap, the appellant visited their house and while he was sitting

inside, her husband-PW1 went out side the house and again came back into the house. After taking tea, both of them went out side. Then the trap party entered into the house along with PW1 and the appellant. Though, PW1 had, for a moment, tried to help the appellant by stating that he had placed the amount in the rexine bag, in the absence of the appellant, however, immediately in re-examination, he stated that the appellant was present when the amount was kept. PW2 who is an independent witness and who acted as mediator to the pre and post trap proceedings, stated that while the trap party was standing nearly 20 yards away from the house of PW1, both PW1 and the appellant came out and PW1 kept the amount in the rexine bag. The D.S.P.-PW7 also stated that the trap party observed that the bribe amount was kept in the pouch attached to the motorcycle tank when both PW1 and appellant were present. Even in the second mediators report it is specifically mentioned that all the trap party members have observed that the amount was kept by PW1 in the motorcycle pouch after both PW1 and appellant came out of the house.

19. In the background of the evidence of PW1, PW2 and PW8, when it is specifically stated that the amount was kept in the pouch attached to the petrol tank of the two wheeler of the appellant when both appellant and PW1 were present the said

evidence would suffice to infer that the amount was kept at the instance of the appellant in the motorcycle tank. Admittedly, Ex.P2-complaint and the evidence of PW1 go to show that demand was made by the appellant for the purpose of conducting enquiry and filing a report on Ex.P1-application which was made seeking compensation.

20. Learned Counsel had tried to impress upon the court that there was a motive for PW1 to falsely implicate the appellant. The same is evident from the evidence of PW3 who was the then M.R.O. According to his evidence PW1 gave an application and on the same day there was a wordy duel in between PW1 and the appellant. In fact, PW3 scolded PW1 for the said disturbance in the office and also for shouting at the Accused officer. The learned Counsel submitted that this incident happened even prior to the application being entrusted to the appellant for the purpose of making an enquiry.

21. PW3 stated that there was some altercation in between the appellant and PW1 in the office. The question of PW1 asking the appellant to enquire into the issue even before the application being entrusted to the appellant cannot be believed. Admittedly, there was another Revenue Inspector in the office and it is not

known to whom application-Ex.P1 would be entrusted for the purpose of making enquiry. It is absurd to say that PW1 entered into a wordy duel with the appellant even before the said application was entrusted to the appellant for the purpose of making enquiry. The said ground of false implication also fails.

22. The prosecution has established the element of demand and acceptance by the appellant beyond reasonable doubt.

23. Accordingly, the appeal fails and dismissed. The trial Court is directed to cause the appearance of the appellant/Accused officer and send him to prison to serve out the remaining period of imprisonment.

Miscellaneous applications, if any pending, shall stand closed.

Date:06.03.2024
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K.SURENDER, J