

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

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**Criminal Appeal No.1592 OF 2008**

Between:

R.Ravikanth

And

... Appellant

The State ACB City Range-I,  
Hyderabad.

..Respondent

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

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*K.SURENDER, J*

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

**+ CRL.A. No.1592 of 2008**

% Dated 06.03.2024

# R.Ravikanth

And

... Appellant

\$ The State ACB, City Range-I,  
Hyderabad.

...Respondent

**! Counsel for the Appellant:** Badeti Venkata Rathnam

**^ Counsel for the Respondent:** Sri Sridhar Chikyala  
Spl. Public Prosecutor for ACB

**>HEAD NOTE:**

? Cases referred

<sup>1</sup> 1995 Cri.L.J 3978

<sup>2</sup> (2004) 13 Supreme Court Cases 227

<sup>3</sup> 2001 AIR SCW 2415 (FB)

<sup>4</sup> 1992 Cri.L.J 608

**THE HONOURABLE SRI JUSTICE K.SURENDER****CRIMINAL APPEAL No.1592 OF 2008****JUDGMENT:**

1. The appellant was convicted for the offence under Section 7 and 13(1)(d) r/w 13(2) of Prevention of Corruption Act, 1988 and sentenced to undergo rigorous imprisonment for a period of six months and one year respectively vide judgment in C.C.No.38 of 2004 dated 22.12.2008 passed by the Principal Special Judge for SPE & ACB Cases, City Civil Court, Hyderabad.

2. Briefly, the case of the prosecution is that the appellant was working as Junior Assistant in the office of the Deputy Educational Officer, Ameerpet Mandal, Hyderabad. P.W.1/defacto complainant was the office in-charge of Gyana Saraswathi School. The TC book of the school was exhausted and since new TC book would be supplied by the DEO, Hyderabad, on the instructions of the Head Mistress of the School, the *defacto* complainant visited the office of the Deputy DEO, on 03.07.2003 and met the appellant. The

application for giving TC certificates Ex.P1 and letter for allotment of text books dated 30.06.2003 along with pay orders Exs.P3 and P4 were handed over to the appellant. The appellant refused to put up file before the Deputy DEO for issuance of TC book and text books and demanded Rs.1,000/- as bribe. P.W.1 went back to school and informed to the Secretary and correspondent of the School that the appellant was demanding Rs.1,000/- to process the file and forward to the DEO. Then, P.W.3, who is the Correspondent of the school asked P.W.1 to inform the appellant that he would arrange bribe and later directed P.W.1 to lodge a complaint with the ACB.

3. P.W.1 approached the ACB on the very same day i.e., 03.07.2003 on the day of demand and lodged Ex.P5 complaint. The DSP directed P.W.1 to come back on 05.07.2003 on which date the trap would be arranged. Having received the complaint and verifying the antecedents of the appellant and also the complainant, the complaint was registered on 05.07.2003. P.W.4 along with another were

asked to act as independent mediators to the proceedings. Pre-trap panchanama was drafted in the office of ACB which is Ex.P8. Thereafter, the trap party went to the office of the DEO. Around 3.30 p.m, P.W.1 went inside and came out from the office and gave the signal that the bribe was accepted by the appellant. Accordingly, the trap party entered into the office and asked the appellant regarding the bribe amount. His hands were tested to find out whether bribe amount was handled. Sodium carbonate solution was prepared and the appellant was asked to rinse his fingers in the sodium carbonate solution. The tainted currency notes were smeared with phenolphthalein powder. In the event of handling the currency notes, the person handling the currency notes would come into contact with the phenolphthalein powder on the notes and when hands are washed in sodium carbonate solution, the same would turn pink indicating handling of the smeared currency notes.

4. The tests on the right fingers did not yield any result. However, on the left hand fingers, the solution turned pink.

The DSP questioned whether any amount was received, on which the appellant opened almirah with keys available with him and bribe notes were found along with the register and used TC book Ex.P6.

5. Post trap proceedings were conducted and Ex.P11 was drafted, incorporating what all transpired during post trap proceedings.

6. The appellant was arrested and having concluded investigation, charge sheet was filed for the offence under Sections 7 and 13(1)(d) r/w 13(2) of the Prevention of Corruption Act. On behalf of the prosecution, P.Ws.1 to 6 were examined and Exs.P1 to P14 were marked.

7. Learned Special Judge found that the element of demand and acceptance were proved by the prosecution. Further, the amount was seized at the instance of the appellant which was under lock and key in the almirah. The key to the almirah was with the appellant and after he opened it, the amount was found along with Ex.P6 TC book and another Register.

8. Learned counsel appearing for the appellant would submit that the evidence of demand and acceptance cannot be believed. The amount was found in Ex.P6 which is the used TC book. There is no mention about Ex.P6 in the pre-trap panchanama. None of the witnesses stated that P.W.1 was carrying Ex.P6 to be handed over to the appellant. It is apparent that the amount was kept in Ex.P6 without the knowledge of appellant and handed over to the appellant, which was in turn kept under lock and key by the appellant. There is no explanation as to why there is no mention about Ex.P6 in pre-trap proceedings and in such circumstances when the case is that Ex.P6 TC book was handed over by P.W.1, it is for the prosecution to explain as to how PW.1 came into possession of Ex.P6. In the said circumstances, there arises any amount of doubt in the case of prosecution being correct. Counsel further argued that the reason known to the appellant is that the school management i.e., P.Ws.2 and 3 were aggrieved by the Education Department for grant of permission to Gowthami Vidyalaya High School near by the Gyana Saraswathi School and the students were taking TCs

and joining in Gowthami Vidyalaya School, which is the reason for false implication.

9. Counsel relied on the judgment of Hon'ble Supreme Court in the case of **M.K.Harshan v. State of Kerala**<sup>1</sup>. The Hon'ble Supreme Court found favour with the defence of the accused that the amount was planted in his table drawer without knowledge and extended benefit of doubt to the appellant.

10. In **State of A.P v. T.Venkateswara Rao**<sup>2</sup>, the Hon'ble Supreme Court acquitted the accused on the ground of recovery of the amount under mattress. Though the solution on the hands tested positive, the Hon'ble Supreme Court held that on facts, the said money could not have been received as bribe.

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<sup>1</sup> 1995 Cri.L.J 3978

<sup>2</sup> (2004) 13 Supreme Court Cases 227



11. In **State of Tamil Nadu v. Krishnan and another**<sup>3</sup>, the Full Bench of Hon'ble Supreme Court found favour with the defence version that the bribe amount was planted.

12. In **Ayyasami v. State of Tamil Nadu**<sup>4</sup>, the Hon'ble Supreme Court found favour with the defence of the accused that the money was planted.

13. On the other hand, learned Public Prosecutor would submit that the amount was recovered at the instance of the appellant which was kept under lock and key. It cannot be said that the amount would have been planted in a locked almirah. P.W.1 had specifically stated that there was a demand of bribe to put up the application under Exs.P1 and P2 to the Deputy DEO. In the said circumstances, the plea of planting cannot be believed and the conviction has to be upheld.

14. P.W.2 is the Deputy Educational Officer who stated that he is the recommending authority and it is the DEO who will

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<sup>3</sup> 2001 AIR SCW 2415 (FB)

<sup>4</sup> 1992 Cri.L.J 608

issue Transfer Certificate book and only one book will be issued at a time. P.W.6, the DEO who was examined stated that the appellant was not competent person to address any communication to him directly. P.W.6 further stated that as and when application to issue fresh TC book is made, it is necessary that the TC book has to be given for verification and only one book will be issued at a time. It is for P.W.2, DEO to forward his recommendation for the issue of TC book to the DEO. Further, unless the old TC book is submitted, the question of recommending for issuance of new TC book does not arise.

15. The whole argument of the learned counsel for the appellant is regarding the TC book Ex.P6 that was found in the almirah and alleged to have been passed on by P.W.1.

16. As on the date of meeting the appellant, application under Exs.P1 and P2 were made, the old TC book was not handed over. P.W.1 admitted that though he met the appellant for the second time on 03.07.2003, the TC book was not handed over to him.

17. The prosecution failed to explain as to how Ex.P6 was handed over by P.W.1 to the appellant. In the pre-trap proceedings Ex.P8, there is no mention about Ex.P6 TC book in the possession of P.W.1. Ex.P6 is a A4 size book containing nearly 100 used sheets with one inch thickness. The said book could not have been concealed in any of the pockets of P.W.1. When such book was being carried along by P.W.1 on trap day, it should have been mentioned in the pre-trap proceedings Ex.P8. For the first time, there is a mention about Ex.P6 in post trap proceedings and it is not known when it was handed over by P.W.1, when Ex.P6 was not carried by P.W.1 during pre-trap proceedings or while entering into the office, as evident from the evidence of P.W.4 mediator and the DSP. One fails to understand as to how P.W.1 got into possession of Ex.P6 after they entered into the office. P.W.5, who is the Inspector of ACB also admitted that there is no mention about P.W.1 being in possession of Ex.P6 TC book nor was he asked by the DSP to produce TC book or hand it over to the appellant at the time of passing on the bribe amount.

18. From the evidence narrated by the witnesses, it was only P.W.1 who went inside the office and was not accompanied by anyone else. The DSP did not deem it appropriate for the reasons best known to him to send any one of the mediators to accompany P.W.1 and to observe what transpires in between P.W.1 and the appellant. P.W.1 having gone inside, came out after 15 minutes and relayed the signal indicating acceptance of bribe. It is for the prosecution to explain as to how Ex.P6, which is used TC book was handed over to the appellant. Only left hand of the appellant proved positive. Prosecution did not explain as to how the appellant, who handled the bribe amount tested positive on left hand only. Placing in Ex.P6 TC book, without knowledge of appellant and the same being placed in the almirah, is probable as argued by the learned counsel for the appellant. Even according to the evidence of Inspector P.W.6, the amount and Ex.P6 was taken out from the almirah.

19. Two versions are given during the post trap proceedings. One version is that the amount was asked to be placed in the

table drawer by the appellant and thereafter when the trap party entered, the cash was found in the almirah along with register Ex.P6. The other version is that the appellant specifically stated that he is not aware about the amount as to how it was found in between the documents and register which was placed in the almirah. The version of the amount being placed in the table drawer was not verified by the DSP by taking any test to know whether the amount was in fact placed in the table drawer. The DSP ought to have conducted test in the table drawer by testing inside of the table drawer to know whether the amount was placed.

20. In the back ground of there being no explanation regarding Ex.P6, as to how it was taken by P.W.1 and handed over to the appellant, there arises any amount of doubt regarding the version of P.W.1, in the back ground of suppressing the factum of Ex.P6 to be handed over to the appellant. Accordingly the benefit of doubt is extended to the appellant.

21. In the result, the Criminal Appeal is allowed setting aside the judgment of learned Special Judge in C.C.No.38 of 2004 dated 22.12.2008. Since the appellant is on bail, his bail bonds shall stand cancelled.

22. Accordingly, the Criminal Appeal is allowed.

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**K.SURENDER, J**

Date: 06.03.2024

Note: LR copy to be marked.

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