

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

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**Criminal Appeal No.477 OF 2008**

Between:

Nagabandi Baby Nageswaramma

... Appellant

And

The State of A.P

Through Inspector of ACB,

rep. by Special Public Prosecutor

..Respondent/Complainant

DATE OF JUDGMENT PRONOUNCED : .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

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*K.SURENDER, J*

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

**+ CRL.A. No.477 of 2008**

% Dated .03.2024

# Nagabandi Baby Nageswaramma

... Appellant

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**! Counsel for the Appellant:** Sri P.Giri Krishna

**^ Counsel for the Respondent:** Sri Sridhar Chikyala,  
Special Public Prosecutor for ACB

**>HEAD NOTE:**

? Cases referred

2022(4) SCC 574

**THE HONOURABLE SRI JUSTICE K.SURENDER****CRIMINAL APPEAL No.477 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.54 of 2004 dated 31.03.2008 passed by the Principal Special Judge for SPE & ACB Cases, City Civil Court, Hyderabad.

2. Briefly, the case of *defacto* complainant is that her property situated at Kamaypally village was given on rent to B.C Welfare Office, Khammam for running hostel in it. The rent was fixed at Rs.1,073/- per month. Later, on an application made, the rent was enhanced to Rs.1,575/- per month. The rent was being paid through Demand Draft. For the months of May, June and July, 2003, the rent was due. P.W.1 met the appellant and asked to pay three months rent. Then the appellant demanded bribe of Rs.500/- on 10.11.2003

for handing over the Demand Draft that was issued on 08.10.2003. The demand was repeated on 11.10.2003, 14.10.2003 and 20.10.2003. On the said three days, the husband of P.W.1 met the appellant.

3. On 23.10.2003, P.W.1 and her husband went to the ACB office and gave Ex.P1 written complaint. Having received the complaint, P.W.1 and her husband were asked to come on 28.10.2003 with the proposed bribe amount, on which date trap would be arranged.

4. On 28.10.2003, the mediators P.W.2 and another and other trap party members were present. Pre-trap proceedings were drafted vide Ex.P6. Having concluded formalities, prior to proceeding to trap the appellant, all the trap party members went to the hostel situated at Kamaypally village at 1.00 p.m. At 1.00 p.m, the appellant was not present in the office. P.W.1, on instructions of DSP went back to her house and at 3.00 p.m, it was known that the appellant was sitting in her chair. P.W.1 approached her and asked for the Demand Draft, for which demand was made for the bribe of Rs.500/- and at that

time, the appellant was having her lunch. After completing her lunch, she received the bribe amount, counted and kept in the bag. P.W.1's signature was taken in Ex.P2 acquittance register. P.W.1 came out of the office and relayed the signal intimating acceptance of bribe amount by the appellant. The trap party members entered into office and conducted tests over the hands of the appellant and the same turned positive. Eleven documents were seized and post trap proceedings under Ex.P10 were drafted.

5. Having obtained sanction orders, the Investigating Officer concluded investigation and filed charge sheet. Learned Special Judge examined witnesses P.Ws.1 to 6 and marked Exs.P1 to P13 on behalf of the prosecution. D.W.1 was examined on behalf of the appellant and Ex.D1 was marked.

6. Learned Special Judge found the appellant guilty of accepting bribe amount pursuant to demand and accordingly convicted her.

7. Learned counsel appearing for the appellant would submit that a false case was filed by P.W.1 since appellant had given a memo Ex.D1 asking to carry out repairs in the house as there was leakage in the building. Further, she had taken active part in construction of a separate hostel building by the department. For the said reason, if the hostel is shifted, P.W.1 would be deprived of the rent, for which reason, appellant was falsely implicated. Further, D.W.1 is the Constable who had come before the Court and stated that the husband of P.W.1 was earlier convicted for the offence under Section 376 of IPC and Section 3(1)(x) of SCs & STs (POA) Act. He was shady character and was responsible for falsely implicating the appellant in the case. He relied on the judgment of Hon'ble Supreme Court in the case of **K.Shanthamma v. The State of Telangana**<sup>1</sup>. The Hon'ble Supreme Court held that the basic requirements to prove a case against a public servant under Section 7 of the Prevention of Corruption Act are: i) Demand of illegal gratification and ii) acceptance thereto. If the demand is

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<sup>1</sup> 2022(4) SCC 574

not proved, the prosecution case fails though there is recovery of the amount. Further, mere recovery of the amount from the accused will not dispense with the burden of proof of proving the demand by the prosecution. He also relied on the judgment of this Court in Criminal Appeal No.742 of 2023 dated 01.02.2024 in the case of **Bairam Muralidhar v. The State of Telangana.**

8. On the other hand, learned Special Public Prosecutor for ACB would submit that the demand of bribe is proved by the evidence of P.W.1. There is no reason why the appellant would be falsely implicated when she was giving the rent by way of Demand Draft as and when received from the department. The findings of the trial Court are probable and cannot be interfered with.

9. P.W.1 is the witness to prove demand and acceptance of bribe by the appellant. Ex.D1 is the memo issued for carrying out repairs. Further, the case of the appellant is that the department was building its own premises for shifting hostel.

It is not the case that the appellant had recommended for shifting the hostel from the premises of P.W.1. In the capacity of the appellant, she will not have the authority to sanction the construction of any building. Admittedly, Demand Draft dated 08.10.2003 was with the appellant. It was not handed over to P.W.1 till the trap date i.e., 28.10.2003.

10. Though it was argued by the learned counsel for the appellant that on 11.12.2003, the appellant was on leave, that in itself would not create any dent or doubt in the case of the prosecution regarding demand. It is not the case of P.W.1 that she was out of station on the said dates and no evidence is brought on record by the appellant to prove that she was not in station on the alleged dates of demand.

11. It is the specific plea of the appellant that earlier loan was taken for the purpose of whitewashing the building by P.W.1 and the said amount of Rs.500/- which was paid on the trap day was towards repayment of the said loan. Except making a suggestion that the said amount was received



towards loan repayment, the appellant has not taken steps to convince the Court as to on what date the amount was taken and whether any whitewashing was done. Since the acceptance of the amount of Rs.500/- on trap date is accepted by the appellant, the burden shifts on to the appellant to prove her case that the said amount was towards loan that was earlier taken.

12. In the present case, as already stated, the Demand Draft was dated 08.10.2003 and it was not handed over until the date of trap i.e., 28.10.2003. No reasons are given as to why the Demand Draft was kept with the appellant for nearly 20 days.

13. The said circumstances prove the case of the prosecution beyond reasonable doubt against the appellant.

14. Finally, learned counsel for the appellant argued that the appellant was handicapped and is now old aged and prayed to take a lenient view. Minimum sentence was awarded by the trial Court. Statute does not contemplate inflicting lesser sentence than the minimum sentence imposed. When no such

discretion is given to the Court to give punishment lesser than the minimum punishment, this Court cannot show indulgence in passing sentence of imprisonment lesser than the minimum sentence.

15. Accordingly, the Criminal Appeal is dismissed.

Date: 06.03.2024  
kvs

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**K.SURENDER, J**