

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

Criminal Appeal No.214 OF 2009

Between:

Gaddameedi Lalaiah

... Appellant

And

The State ACB, Hyderabad Range,
Hyderabad Rep. by its Special Public
Prosecutor for ACB Cases,
High Court of A.P., Hyderabad

... Respondent

DATE OF JUDGMENT PRONOUNCED : 31.07.2023

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 |

K.SURENDER, J

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

+ CRL.A. No. 214 of 2009

% Dated 31.07.2023

Gaddameedi Lalaiah

... Appellant

And

\$ The State ACB, Hyderabad Range,
Hyderabad Rep. by its Special Public
Prosecutor for ACB Cases,
High Court of A.P., Hyderabad

... Respondent

! Counsel for the Petitioner: Sri Narada Raju Avaneesh

^ Counsel for the Respondents: Sri Sridhar Chikyala
SC SPL Public Prosecutor for ACB

>HEAD NOTE:

? Cases referred

¹ 2022 Live Law (SC) 1029

² (2005) 12 SCC 641

³ 2001 (1) ALD (CrI.) 407 (SC)

⁴ 1993 Supp (1) SCC 482

THE HONOURABLE SRI JUSTICE K.SURENDER**CRIMINAL APPEAL No. 214 OF 2009****JUDGMENT:**

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.21 of 2005, dated 18.02.2009, 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 under both counts, for demanding and accepting an amount of Rs.1,000/-

2. Heard both sides.

3. PW1 is the complaint who approached the DSP, ACB and lodged a complaint on 24.03.2004. In the said complaint, he alleged that he had purchased agricultural land to an extent of Ac.18.28 guntas in Survey Nos.20 and 21 at Nagireddygudem Village, Moinabad Mandal, in the name of his wife Nalini Devi in the year 1965. On 08.03.2004, he applied for Certified Copies of 1A and 1-B documents in respect of his land in Survey No.20, admeasuring Acres 7.34 guntas in the MRO office, Moinabad Mandal. Having given the application, PW1 went to the office on

19.03.2004 and met the appellant who was working as Deputy MRO and requested for issuance of Certified Copies at an early date. The appellant demanded an amount of Rs.1,000/- for issuing the Certified Copies. Again on 23.03.2004, the appellant met the MRO-PW3 and requested him for issuance of certified copies. The MRO called and directed the appellant to issue Certified Copies as per record. Though, MRO, directed the appellant to issue Certified Copies, the appellant insisted for Rs.1,000/- as bribe and if the amount was not paid he would not issue Certified Copies.

4. The DSP having received the complaint on 24.03.2004 at 4.00 p.m. conducted preliminary enquiries. PW1 was asked to come on 26.03.2004.

5. PW1, DSP, Inspector, Independent Mediators and others gathered in the office of DSP, ACB, Hyderabad. Pre-trap proceedings were drafted from 9.30 am to 10.30 am under Ex.P4. After completion of pre-trap proceedings, the trap party proceeded to the office of MRO, Moinabad. The DSP instructed PW1 that only on demand made by the appellant, amount should be passed on and not otherwise.

6. PW1, went inside office compound and on inquiry found that the appellant was not present. The trap party waited in the office compound, till the arrival of appellant at 1.45 p.m. Thereafter PW1 went inside the office and at about 3.00 p.m, came out and gave signal to the trap party indicating acceptance of bribe by the appellant. The trap party entered into the office and DSP questioned the appellant. Sodium Carbonate Solution was prepared and the appellant rinsed his hands separately in two glasses. The right hand fingers of the appellant turned positive and the left hand test remained colourless. The DSP questioned the appellant regarding amount that was received from PW1. The appellant took out the bribe amount of rupees thousand from his shirt pocket and handed it over to the trap party. Both the appellant and complainant were examined. PW3-MRO was also examined during the post-trap proceedings. The relevant documents were handed over by the MRO. After having concluded the post-trap proceedings, Ex.P12- post trap proceedings was drafted.

7. The inspector concluded investigation and filed charge sheet against the appellant for the offence under Section 7 & 13(1)(d) of the Prevention of Corruption Act.

8. The main contention of the learned counsel appearing for the appellant is that at no point of time did the appellant deal with Ex.P2-application made by PW1. In fact Ex.P2 was not seized from his possession. It does not contain his signature and he has no knowledge about the application made by PW1. The complainant-PW1 never met him at any point of time and it is not his official duty to issue the Certified Copies of 1-A and 1-B documents. He further submitted that the MRO-PW3, PW4-Senior Assistant and PW5-Junior Assistant have all colluded to falsely implicate the appellant. A false complaint was filed taking assistance of PW1 and the official witnesses PW3 to 5 have deposed against him. Since the aspect of demand was not proved by the prosecution, the conviction has to be set aside.

9. He relied on the Judgment of Honourable Supreme Court in ***Neeraj Dutta v. State (Govt.of NCT of Delhi)*** ³ wherein the Constitutional Bench of the Hon'ble Supreme Court held that burden is on the prosecution to prove the aspect of demand. Mere recovery of the amount from a public servant will not automatically entail conviction of the appellant. Further, in cases of hostility of witnesses, the trial Court can look into the other

³ 2022 Live Law (SC) 1029

circumstances in the case to decide regarding the complicity or otherwise of the accused officer.

10. The learned Public Prosecutor submits that there is no necessity for the MRO or his employees to falsely implicate the appellant. The application Ex.P2 was made by PW1 and in fact in the evidence of PW3, it is clearly mentioned that PW3 had instructed the appellant to issue Certified Copies of 1-A and 1-B documents. The amount was recovered from the shirt pocket of appellant.

11. He relied on the Judgment of Honourable Supreme Court in ***Kanshi Ram v. State of Punjab*** ⁴. In the said judgment since there was no reasonable explanation offered by the accused as to why he was in possession of the tainted currency, the Honourable Supreme Court held that presumption would arise. Since the appellant therein did not discharge his burden, conviction was confirmed.

12. He also relied on the Judgment of Honourable Supreme Court in ***M.Narsinga Rao v. State of Andhra Pradesh*** ⁵ wherein it was held that once gratification is found to have been accepted,

⁴ (2005) 12 SCC 641

⁵ 2001(1) ALD (CrI.) 407 (SC)

a legal presumption can be drawn that the amount was accepted as illegal gratification.

13. He further relied on the Judgment of Honourable Supreme Court in ***Ajit Kumar Vasantlal Zaveri v. State of Gujarat*** ⁶, wherein the honourable Supreme Court refused to accept the plea of thrusting. The conviction was upheld since the amount was recovered from the accused which was not disputed.

14. The main contention of the appellant is that he did not have knowledge of Ex.P2-application made by PW1 for the purpose of obtaining certified copies of 1-A and 1-B. PW3 is the MRO who stated before the Court that Ex.P2-application was made by PW1 on 08.03.2004. PW4-Senior Assistant signed on the said application and sent it to the record section. PW5 who was Junior Assistant put up a note on 22.03.2004 to the appellant. PW3-MRO further stated that prior to the trap, PW1-complainant approached him for Certified Copies and he informed PW1 to approach the appellant. He then called the appellant and directed him to issue Certified Copies as per rules.

15. It is not disputed that Ex.P2-application was received by PW4-Senior Assistant. PW5 who is a Junior Assistant stated that

⁶ 1993 Supp (1) SCC 482

he signed on Ex.P2 and put up a note and sent it to the appellant on 22.03.2004. As the seizure of application made by PW1-Ex.P2 was from the table of PW5, it cannot be said that the appellant did not even have knowledge about the application being made. There is no reason as to why PW3-MRO would speak false against his subordinate. In the complaint EXP1, it is specifically mentioned that PW1 met PW3-MRO who directed the appellant to issue certified copies. It is the case of PW1 that the appellant insisted for payment of thousand rupees for issuance of the said certified copies. It is not in dispute that it is for the appellant to process and issue the certified copies taking certification from the MRO-PW3.

17. The processing of Ex.P2-application was spoken to by PW3 to PW.5. PW1 specifically stated that he met the appellant several times and the appellant had insisted to pay the bribe amount. The version of the argument of the counsel that PWs.3 to 5 colluded with PW1 to falsely implicate the appellant in a false case cannot be believed. No reasons are given for PW3 to 5 colluding to falsely implicate the appellant. The factum of demand is stated by PW1 and also mentioned in the complaint Ex.P1. Even on the trap date there was a demand made by appellant pursuant to which the

tainted currency was passed on to the appellant. The said amount was recovered from the shirt pocket of the appellant.

18. In view of the aforesaid facts and circumstances, there are no grounds to interfere with the findings of the Special Judge.

19. Accordingly, the Criminal Appeal fails and dismissed. The trial Court is directed to cause appearance of the appellant/accused and send him to prison to serve out the remaining part of the sentence.

Miscellaneous applications, if any pending, shall stand closed.

K.SURENDER,J

Date: 31.07.2023

Note: LR copy to be marked.

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THE HON'BLE SRI JUSTICE K.SURENDER

CRIMINAL APPEAL No. 214 OF 2009
Dt. 31.07.2023

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