

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

\*\*\*\*\*

**Criminal Appeal No.265 OF 2009**

Between:

Marupaka Lokanatham

... Appellant

And

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

... Respondent

DATE OF JUDGMENT PRONOUNCED: 11.07.2023

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. 265 of 2009

% Dated 11.07.2023

# Marupaka Lokanatham

... Appellant

And

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

... Respondent

**! Counsel for the Appellant:** Sri C. Rajasekhar Reddy

**^ Counsel for the Respondent:** Sri Vidhya Sagar Rao Chittineni  
(SC of ACB)

**>HEAD NOTE:**

**? Cases referred**

<sup>1</sup> 2022(1) ALD (Cri) 109

<sup>2</sup> 2022(2) SCC (Cri) 193

<sup>3</sup> 2005 AIR (SC) 3123

<sup>4</sup> 2015 3 SCC 220

<sup>5</sup> AIR 1984 Supreme Court Cases 63

<sup>6</sup> 2000 8 SCC 571

---

**THE HONOURABLE SRI JUSTICE K.SURENDER****CRIMINAL APPEAL No. 265 OF 2009****JUDGMENT:**

This appeal is filed by the appellant/accused officer, questioning the conviction recorded by the Principal Special Judge for SPE & ACB Cases, Hyderabad, in C.C.No.53 of 2004, dated 27.02.2009, convicting the appellant to undergo Rigorous Imprisonment for a period of six months and a fine of Rs.1,500/- for the offence under Section 7 of the Prevention of Corruption Act, 1988, and a period of one year and a fine of Rs.1,500/- for the offence under Section 13(1)(d) r/w.13(2) of the Prevention of Corruption Act, 1988.

2. Heard. Perused the record.
3. The appellant was convicted for demanding and accepting an amount of Rs.3,000/- as bribe on 20.09.2003 from PW1/defacto complainant.
4. The case of the prosecution is that the appellant was working as a Mandal Surveyor in the office of the M.R.O, Amberpet, Hyderabad. PW1 purchased a portion of the house in Amberpet area and wanted to reconstruct the house. He approached the municipal authorities who sought 'No objection certificate' from the M.R.O's

office. Accordingly, PW1 approached the office of MRO on 08.09.2003 and met the appellant. The appellant demanded a bribe of Rs.3,000/- for preparing survey report and to submit favourable report to the MRO. Again PW1 met the appellant on 19.09.2003 who refused to submit report unless the amount of Rs.3,000/- is paid. Aggrieved by the said demand, PW1 approached the ACB authorities on 19.09.2003 and met the DSP-PW8 and gave a written complaint-Ex.P3. The DSP-PW8 asked PW1-complainant to come to the office on 20.09.2008. PW1 then went to the DSP office along with the bribe amount of Rs.3,000/- where independent mediators were present and in their presence pre-trap proceedings-Exp10 was drafted. Having completed the pre-trap proceedings, the trap party consisting of PW1, PW3, PW8 and others proceeded to the office of MRO. Around 9.30 a.m. PW1 went inside the MRO office and came out at about 9.40 a.m. and signaled the trap party indicating acceptance of bribe by the appellant. The trap party went inside and conducted Sodium Carbonate test on the hands of the appellant. The test on both hands of the appellant proved positive. When PW8 questioned about the amount that was received from PW1, the appellant informed that some amount was given without his demand. He received the said amount and kept in his pant pocket. The bribe amount was taken out from his pant pocket by the

appellant and handed over to the DSP. Thereafter, the concerned files of PW1 which are Exs.P1, P2 and other relevant documents were seized. The trap party concluded post-trap proceedings and drafted Ex.P13.

5. Investigation was handed over to the Inspector who concluded investigation and filed charge sheet.

6. Learned Special Judge having considered the evidence adduced by the prosecution and defence found that the appellant was guilty and accordingly convicted him.

7. The learned counsel appearing for the appellant would submit that there are several discrepancies in the evidence of the prosecution witnesses which go to the root of the case and belies the demand for bribe. Even according to the prosecution case except PW1 there were no other eye-witnesses to the alleged demand and acceptance of bribe. Further, during the course of examination under 164 of Cr.P.C. before the Magistrate, PW1 admitted that he did not mention that the appellant demanded bribe on 08.09.2003. The said claim of PW1 that the appellant asked PW1 to pay the bribe amount on 20.09.2008 was not stated before the Magistrate nor mentioned in Ex.P3-complaint. PW2 who was the then MRO was the competent authority to issue the No objection certification and

the appellant was not empowered to issue such NOC. The said aspect is to the knowledge of PW1 and it cannot be said that PW1 yielded to the demand of the appellant when the appellant did not have the competence to issue No Objection Certificate.

8. Learned Counsel further submitted that once the element of demand could not be proved by the prosecution, mere recovery from the appellant is of no consequence. In support of the said contention he relied on the Judgment of this Court in **S.Shankar v. State ACB, Karimnagar Range, Karimnagar** <sup>3</sup>. In the said case, the witnesses turned hostile to the prosecution case and since the demand was not proved, this Court acquitted the accused.

9. In **K.Shanthamma v. State of Telangana**<sup>4</sup> the Honourable Supreme Court held that once the demand is not proved which is a *sina qua non* for establishing the offence under Section 7 and 13(1)(d) of the Prevention of Corruption Act, the accused cannot be held guilty for the said offence.

10. In **Ganga Kumar Srivastava v. State of Bihar**<sup>5</sup>, the Honourable Supreme Court held that in a trap case, it is the duty of the officer to prove the allegations made against a government

---

<sup>3</sup> 2022(1)ALD (Cri) 109

<sup>4</sup> 2022 (2) SCC (Cri) 193

<sup>5</sup> 2005 AIR (SC) 3123

servant. The independent witnesses to the trap should be really independent and respectable.

11. In the present case according to the counsel for the appellant, PW3 who acted as independent witness was earlier a witness to another trap. As such, his evidence cannot be taken into consideration.

12. On the other hand, learned Special Public Prosecutor would submit that though there are no other witnesses apart from PW1, who went into the room of Appellant on the trap date, his evidence cannot be disbelieved. Admittedly, the application filed by PW1 was pending in the MRO office and it was the duty of the appellant to submit a report to MRO for the purpose of issuing NOC. An official favour was pending with the appellant and he had insisted to pay the bribe for which reason of proof of demand of bribe and acceptance on the date of trap, presumption arises under Section 20 of the Prevention of Corruption Act. The other grounds raised by the counsel for the appellant are minor discrepancies which can be disregarded.

13. He relied on the Judgments of Honourable Supreme Court in ***Vinod Kumar v. State of Punjab*** <sup>6</sup> and in ***State of Maharashtra***

---

<sup>6</sup> 2015 3 SCC 220

**v. Narsingrao** <sup>7</sup> wherein the Honourable Supreme Court held that in a trap case every minor detail or omission cannot be magnified to falsify or extend benefit of doubt to the accused regarding the prosecution case. It would be the very antithesis of a correct judicial approach to the evidence of witnesses in a trap case.

14. He also relied on the Judgment of Honourable Supreme Court in **Madhukar Bhaskar Rao Joshi v. State of Maharashtra** <sup>8</sup> wherein it is held that once the prosecution establishes that gratification was paid and accepted by the public servant, presumption arises under Section 20 of the Act. Further, the fact of currency notes reaching the hands of accused would be sufficient corroboration of the trap witness.

15. Ex.P7 is the file which includes application Ex.P2 of PW1 and his wife. PW2 who was the then MRO has stated in his cross-examination that according to Ex.P9-personal register maintained by the appellant, Exs.P6 and P7 were submitted for orders on 19.09.2003. Exs.P9a and Ex.P9b are the relevant entries. In Ex.P9-register, page Nos.97 and 98 are relating to Exs.P6 and P7 files. He further admitted that once the report is submitted by appellant,

---

<sup>7</sup> AIR 1984 Supreme Court Cases 63

<sup>8</sup> 2000 8 SCC 571



there is no role played by him in submitting report to the District Collector.

16. Learned Counsel for the appellant argued that since the work was already complete on 19.09.2003, the question of demanding bribe by the appellant does not arise. Further in the evidence of PW2 it was elicited that as per Ex.D1, the appellant on the instructions of PW2 visited the Deputy Director's office to give information on 19.09.2003. During the course of cross-examination by the Public Prosecutor, it was elicited that Ex.D1-tour diary was submitted by the appellant on 30.09.2003 which is 10 days after the date of trap. Further according to PW2, Ex.P9a and Ex.P9b were not forwarded to him which are entries relating to Ex.P6 and P7-files in the register Ex.P9. It can be safely concluded from the chief and cross examination of PW2 and considering the other circumstances of recovery of relevant files from the table of appellant and handing over ExP9 and the tour diary at a later date, that Ex.P9-register and Ex.D1-tour diary were handed over after making insertions which are Exs.P9a and P9b regarding Exs.P6 and P7-files.

17. The complaint Ex.P3 reflects that PW1 had gone around the office from 10.09.2003 to 18.09.2003 and the appellant was not

available. The said statement corroborates with evidence of PW2 stating that the appellant was either on casual leave or there were holidays.

18. On the demand date i.e. 19.09.2003, it was elicited during the course of cross-examination of PW2 that in accordance with Ex.D1, the appellant visited Deputy Director's Office to give information provided by the Advocate Commissioner. It is not the case of the appellant that the entire day he was not present in the office. According to PW1-complaint, he went to the office on 19.09.2003 at about 11.30 a.m and met the appellant. There is nothing in the evidence of any of the witnesses to suggest that at the relevant time on 19.09.2003, the appellant was not available in the office.

19. It is not in dispute that the appellant as surveyor has to submit the report to the MRO and the MRO in turn forwards it to the District Collector for issuance of NOC and the NOC would be issued by the District Collector. It was further elicited that NOC will be issued to the party through post. The procedure is not in dispute. However, unless the appellant as surveyor submits a report, the file will not be processed for issuance of NOC. As on the date of the complaint, and the trap date, the file of PW1 was not submitted to the MRO. In fact, the relevant files of PW1 were available on the

table of the appellant and seized by the ACB on the trap date. The inventory of the said files is also made in the second mediator's report-Ex.P13.

20. The argument of the learned counsel that there was no demand on the trap date is incorrect. PW1 during the course of his examination in the Court stated that when he went inside he found the appellant sitting in his seat and when he enquired about NOC certificate, the appellant informed that the file is ready and in case PW1 pays the money, he will forward the file. The said version is also stated by PW1 during post-trap proceedings at page-13 of Ex.P13.

21. There is no element of doubt regarding the demand and acceptance of bribe by the appellant. As on the date of trap, the concerned files were with the appellant and on demand the amount was handed over which was placed in his pant pocket. It was not explained by the appellant regarding the amount at the earliest point of time during the post-trap proceedings. There is no hard and fast rule that the officer has to explain at the earliest point of time. The reason being, a person in such circumstances would be in a state of shock and disturbed. He can take his defence even during trial. However in the present case considering the other

circumstances regarding the official work and other events narrated by witnesses and discussed above, the factum of demand and acceptance is believed. I do not find any infirmity with the said order of the learned Special Judge in recording the conviction.

22. Accordingly, the Criminal Appeal is dismissed. The trial Court shall 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: 11.07.2023

Note: LR copy to be marked.

tk

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

**CRIMINAL APPEAL No. 265 OF 2009**  
**Dt. 11.07.2023**

tk