

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

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**Criminal Appeal No.580 OF 2010**

Between:

Shyamala Pramod Kumar

... Appellant

And

The State of A.P., rep by  
Deputy Superintendent of Police,  
ACB, Karimnagar Range.

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

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*K.SURENDER, J*

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

**+ CRLA. No. 580 of 2010**

% Dated 31.07.2023

# Shyamala Pramod Kumar

... Appellant

And

\$ The State of A.P., rep by  
Deputy Superintendent of Police,  
ACB, Karimnagar Range

... Respondent

**! Counsel for the Appellant:** Sri D.Purna Chandra Reddy.

**^ Counsel for the Respondent:** Sridhar Chikyala, Special Standing Counsel

**>HEAD NOTE:**

**? Cases referred**

<sup>1</sup> AIR 1984 Supreme Court 63

<sup>2</sup> (2000)8 Supreme Court Cases 571

<sup>3</sup> (1976) 3 Supreme Court Cases 46

**THE HONOURABLE SRI JUSTICE K.SURENDER****CRIMINAL APPEAL No.580 OF 2010****JUDGMENT:**

1. The appellant is questioning his conviction vide judgment in C.C.No.21 of 2005 dated 13.04.2010 passed by the Principal Special Judge for SPE & ACB Cases, and being sentenced to undergo rigorous imprisonment for a period of six months for the offence under Section 7 of the Prevention of Corruption Act (for short 'the Act') and also sentenced to undergo rigorous imprisonment for a period of one year for the offence under Section 13(1)(d) r/w 13(2) of the Act.

2. The case of the prosecution is that the appellant was working as Assistant Labour Officer, Godavarikhani, Karimnagar District. The case of P.W.1/*defacto* complainant is that he and other medical agencies in the area did not have labour licences for engaging workers. Accordingly, on 19.06.2003, P.W.1 met the appellant and enquired about the licences. Since there was no response, PW1 again met him on 20.06.2003. When P.W.1 enquired about the licences, appellant demanded an amount of Rs.15,000/- as bribe for issuing licences. The applications were not received by the appellant from P.W.1 and others. Again on

21.06.2003, P.W.1 met the appellant and also met one person by name Sathish Kumar. On 24.06.2003, P.W.1 went to the house of the appellant and the appellant instructed to get an amount of Rs.10,000/- to his office on 25.06.2003. P.W.1 informed his associate members and all of them decided to get the appellant trapped by the ACB.

3. Complaint was filed by PW1 on 24.06.2003. The DSP asked P.W.1 to come on the next day i.e., on 25.06.2003. On 25.06.2003, at 8.30 a.m, the trap party gathered at the office of DSP, ACB, Karimnagar. The independent mediators were introduced to P.W.1. Having concluded the pre-trap proceedings Ex.P19, the trap party proceeded to the office of the appellant. P.W.1 was asked to enter into the office and pay the bribe amount only on demand by the appellant. P.W.2 was asked to accompany P.W.1 and observe what transpires in between the appellant and P.W.1.

4. Both P.Ws.1 and 2 entered into the office and met the appellant. P.W.1 handed over Exs.P2 to P11 application forms for issuance of licences. Appellant demanded for Rs.10,000/- and having received the bribe amount, kept it in the right table draw. Immediately, the appellant started preparing certificates and seven certificates were handed over to P.W.1 and was asked to come in

the evening hours for the remaining three licences. At that time, P.W.2 went out and gave signal to the trap party indicating acceptance of bribe. The trap party immediately entered into the office of the appellant. Test was conducted on the hands of the appellant. The test to the right hand proved positive and test on the left remained negative.

5. The Deputy Superintendent of Police questioned P.W.1, PW2 and the appellant about what transpired in the room after PW1 entered. Post trap proceedings were drafted under Ex.P23. The applications which were carried by P.W.1, i.e., Exs.P2 to P11 and the certificates prepared by the appellant Exs.P12 to P18 were also seized during the post trap proceedings. The investigation was handed over to the Inspector. After concluding the investigation, charge sheet was filed for the offence under Section 7 and Section 13(1)(d) r/w 13(2) of the Act.

6. Learned Special Judge having examined the witnesses found that the appellant was guilty of demanding and accepting bribe of Rs.10,000/- and accordingly convicted him.

7. Learned counsel appearing for the appellant would submit that the appellant was falsely implicated in the case. Even

according to P.Ws.1, 2 and 5, they were aggrieved by the issuance of show-cause notices by the appellant. P.W.5 admitted that the appellant issued two show-cause notices to him levying penalty of Rs.6,222/-. Witness also admitted that fines ranging from Rs.1037/- to Rs.1,644/- were levied by the appellant on the shop keepers. P.W.5 categorically admitted that the associates conducted a meeting and decided to get the appellant trapped or see to that he was transferred for the reason of levying fines.

8. Learned counsel further argued that the amount was initially planted in the table drawer and thereafter in the adjoining room in a polythene cover. For the said reason, the amount was recovered from the adjoining room in a polythene cover. In the back ground of the shop holders holding grudge against the appellant for levying fines, the appellant was entrapped by planting the amount of Rs.10,000/- in the adjoining room. In support of his contention, he relied on the judgment in Criminal Appeal No.649 of 2006 dated 24.10.2018.

9. On the other hand, learned Special Public Prosecutor would submit that the amount was recovered at the instance of the appellant. The applications Exs.P2 to P11 were taken and having received the bribe amount, the appellant prepared Exs.P12 to P18.

No further evidence is required to suggest that having demanded and accepted the amount, appellant started preparing the licences. The presumption under Section 20 of the Act has to be drawn and since there is no explanation to the satisfaction of the Court regarding recovered amount, the conviction has to be confirmed.

10. He relied on the judgment in the case of State of **Maharashtra v. Narsingrao Gangaram Pimple**<sup>1</sup>. In the said case, the Hon'ble Supreme Court found fault with the High Court acquitting the accused when a clear case of demand and acceptance of bribe was made out. In the judgment reported in the case of **Madhukar Bhaskarrao Joshi v. State of Maharashtra**<sup>2</sup>, the Hon'ble Supreme Court held that once the prosecution established that the bribe was paid and accepted, presumption has to be drawn.

10. In **Chaturdas Bhagwandas Patel v. The State of Gujarat**<sup>3</sup>, the Hon'ble Supreme Court held that there was no

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<sup>1</sup> AIR 1984 Supreme Court 63

<sup>2</sup> (2000)8 Supreme Court Cases 571

<sup>3</sup> (1976) 3 Supreme Court Cases 46

necessity for the public servant to be in a position to do a favour. However, on facts, if case is made out for demand and acceptance of bribe, public servant can be convicted.

11. Having gone through the record, the mediator-P.W.3 and DSP-P.W.7 stated that the amount was recovered from the adjoining room which was kept in a polythene cover. According to their evidence, the appellant took them to the adjacent room and picked up a polythene cover and the bribe amount was found in the cover.

12. P.W.1 deposed in his evidence as follows:

*“There upon I gave bribe amount of Rs.10,000/- to the AO who received the amount with right hand and kept it in the table draw. After acceptance of the amount the AO started preparing the certificates. He handed over me 7 certificates and instructed me to come in the evening hours for receiving other 3 licences. And there after LW2(PW2) went out within no time the trap party members rushed inside the office of the AO. I handed over 7 licences to one of the mediators.”*

13. P.W.2 deposed in his evidence as follows:

*“AO enquired P.W.1 whether the demanded bribe amount was brought PW1 answered affirmatively. ON affirmative answer AO asked to give the amount accordingly he gave the amount to the AO who received the amount with his right hand and kept the amount in the table draw and scribed 7 licences. While scribing the licences I came out and relayed pre arranged signal to the trap party. In pursuance of my signal all the trap party members rushed into the office and DSP*



*instructed me and PW1 to wait outside accordingly we have waited.”*

14. According to the post trap proceedings at 12.05 p.m, P.W.2 went and gave the signal indicating acceptance of bribe. Immediately, the trap party entered and questioned about the acceptance of bribe. Thereafter, test was conducted and the appellant was asked to produce the amount of bribe. He got up from his chair and went to back side of the office hall and picked up a polythene cover containing some books and produced before the DSP stating that the amount is in that bag. In the 2<sup>nd</sup> mediators' report, it is written as follows:

*“When the I/c DSP instructed him to produce the said amount he got up from his chair went back side of the office hall, took a polythene cover containing some books and produced before the I/c DSP stating that the amount is in that bag (Polythene cover).”*

15. One crucial aspect which the learned Special Judge has missed out nor agitated before this Court is that there is no evidence to the effect that after P.Ws.1 and 2 entered into the office, the appellant had left the room. As seen from the extracts from the evidence of P.Ws.1 and 2, the appellant having received the amount, kept the amount in the table drawer and started writing licences. P.W.2 went out and gave pre-arranged signal and trap

party members entered inside. Even according to P.Ws.1 and 2, the appellant never stepped outside from his room and he was sitting in the chair from the time P.Ws.1 and 2 entered into the office till the trap party came and questioned the appellant.

16. However, according to the evidence of mediator P.W.3 and P.W.7 DSP, it is mentioned in the post-trap proceedings that the appellant got up from his chair, went back side of the office hall, took polythene cover and produced before P.W.7 stating that the amount was kept in that bag.

17. There is no evidence as to how the amount has traveled into the next room and was found in a polythene bag. Unless the evidence of the witnesses is to the effect that the appellant went into the other room after PW1 and PW2 met the appellant and before ACB trap party entered the room of appellant, the recovery cannot be believed.

18. The appellant has taken the defence that the amount was initially planted in his table drawer and thereafter in the adjoining room, as suggested to P.Ws.1 and 2 and also the mediator/P.W.3 and DSP.

19. It is for the prosecution to prove all the circumstances and events linking one another by producing evidence to prove their case beyond reasonable doubt. In the absence of the prosecution evidence explaining as to how the amount was placed in a polythene cover in the next room and any circumstances narrating that the appellant went into the next room, recovery of bribe cannot be believed.

20. There arises any amount of doubt in the case projected by the prosecution. The prosecution cannot sustain on the ground that the appellant produced the amount when questioned by the DSP. The appellant had totally disputed the case of the prosecution regarding demand and acceptance. The prosecution has to stand on its own legs and cannot derive strength from the defence of the accused or from the alleged recovery at the instance of the appellant. The appellant disputed that he has not shown the polythene cover. Accused can take any defence to wriggle out of the case. However, the prosecution has to stick to its version and prove that the offence was committed. In the present case, the prosecution has utterly failed to prove their case since the factum of recovery of bribe amount from the other room in a polythene

cover remains unexplained. Consequently the demand and acceptance cannot be believed.

21. P.Ws.1, 2 and 5 admitted that appellant was issuing notices and also levying fines. The appellant also examined D.Ws.2 and 3 to prove that he was levying fines on the shop keepers. He also marked Exs.D2 to D21 which are show-cause notices and inspection reports given by the appellant. There is any amount of evidence on record regarding P.W.1 and other shop holders developing grudge against the appellant. False implication of the appellant appears to be probable in the present facts of the case.

22. The prosecution has failed to prove its case.

23. In the result, the judgment in C.C.No.21 of 2005 dated 13.04.2010 is hereby set aside. Since the appellant is on bail, his bail bonds shall stand discharged.

24. Accordingly, the Criminal Appeal is allowed. Consequently, miscellaneous applications, if any, shall stand closed.

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**K.SURENDER, J**

Date: 31.07.2023

Note: LR copy to be marked

B/o.kvs

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

**CRIMINAL APPEAL No.580 OF 2010**

**Dt. 31.07.2023**

kvs