

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

Criminal Appeal No.56 OF 2011

Between:

P.Madhava Rao

... Appellant

And

The State of A.P,
rep. by Inspector of Police,
ACB, Hyderabad Range.

..Respondent/Complainant

DATE OF JUDGMENT PRONOUNCED :30.04.2024

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

K.SURENDER, J

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

+ CRL.A. No.56 of 2011

% Dated 30.04.2024

P.Madhava Rao

... Appellant

And

\$ The State of A.P,
rep. by Inspector of Police,
ACB, Hyderabad Range.
Respondent/Complainant

! Counsel for the Petitioners: Sri D.Sangeetha Reddy

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

>HEAD NOTE:

? Cases referred

THE HONOURABLE SRI JUSTICE K.SURENDER**CRIMINAL APPEAL No.56 OF 2011****JUDGMENT:**

1. The appellant was convicted for the offence under Sections 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 three years under both counts, vide judgment in C.C.No.32 of 2008 dated 11.01.2011 passed by the Additional Special Judge for SPE & ACB Cases, City Civil Court, Hyderabad. Aggrieved by the same, present appeal is filed.

2. Briefly, the case of the prosecution is that the appellant was working as Village Secretary. P.W.1/Defacto complainant was a mason resident of Thatikole village, Devarkonda Mandal. P.W.1 and his family members owned 58 acres of joint family property. The said land was surveyed by a private surveyor and the family members partitioned the land among themselves. An application was made to the MRO for the purpose of mutating the names of PW.1 and his family members in the revenue records and to issue pattadar pass books and title deeds for the said

partitioned land. The said application was filed in the month of August, 2006. The MRO having received the application informed that the application of P.W.1 would be dealt with by the Village Secretary who is the appellant herein. On the instructions of the MRO, P.W.1 met the appellant and when requested to issue pass books in the name of P.W.1 and other family members with respect to their portions of the land, appellant demanded Rs.10,000/- for issuing passbooks. Though, P.W.1 met the appellant several times, the appellant insisted to pay the bribe amount, failing which, their work would not be attended.

3. On 02.02.2007 again P.W.1 met the appellant in his office in Deverakonda. The appellant insisted for paying Rs.10,000/-. However, reduced the bribe amount to Rs.8,000/-. P.W.1 went to the DSP, ACB with the grievance of appellant's demand for bribe and lodged Ex.P1 complaint on 03.02.2007. Having received the complaint, DSP asked P.W.1 to come on 05.02.2007 on which date trap was arranged.

4. The DSP summoned independent mediator P.W.2 and another to witness the trap proceedings. In the presence of

the independent mediators, other trap party members and P.W.1, the pre trap formalities were undertaken. What all transpired during the pre-trap proceedings were drafted as Ex.P4. The trap party proceeded to Devarakonda and went to the office of the MRO. While the other party members stayed outside, P.W.1 went inside the office. It was informed that the appellant would come around 3.30 p.m. The trap party went out, had lunch and came back to the MRO office at 4.00 p.m. P.W.1 went inside the office. On seeing P.W.1, appellant demanded bribe amount. P.W.1 questioned about the pass books and the appellant promised to deliver the same within two days and asked P.W.1 to handover the amount of Rs.8,000/-. Accordingly, the said amount was given to the appellant. P.W.1 then came out of the office and signaled to the trap party indicating passing of bribe amount to the appellant.

5. Having seen the signal, the trap party entered into the office and questioned the appellant. The bribe amount was found in the hand of the appellant when the trap party entered into the office. On seeing the trap party, the appellant dropped the currency notes on the floor. His

hands were tested for the presence of phenolphthalein powder with sodium carbonate solution. Phenolphthalein powder was smeared to the currency notes during pre-trap proceedings. The colour on the right hand of the appellant turned positive. When questioned regarding the demand of bribe, the appellant stated that he had never demanded any bribe. The amount which was on the floor was collected and picked up by the mediator. It was further informed by appellant that the work of the complainant was completed and the passbooks were handed over to P.W.4 two months prior. The work was kept pending for signature of MRO for completing the other formalities.

6. Having recorded the version given by the complainant, appellant and what all transpired during post-trap proceedings, Ex.P27 was drafted. Before concluding the trap proceedings, Almirah of P.W.4 was opened in her absence and collected pass books Exs.P7 to P24.

7. Investigation was handed over to the Inspector/P.W.8, who concluded investigation and filed charge sheet.

8. The evidence produced by the prosecution and defense was considered by the learned Special Judge and found that the appellant was guilty of demanding and accepting bribe. Accordingly, he was convicted as stated supra.

9. Learned counsel appearing for the appellant would submit that even according to the prosecution case, the work of the appellant was already complete and the passbooks of P.W.1 and others were handed over to P.W.4. P.W.4 stated during her chief examination before the Court that the appellant had followed due procedure before preparing the passbooks and also conducted panchanama in the village. The said proceedings were handed over to P.W.4 and relevant entries were made by her. All the passbooks and title deeds under Exs.P7 to P24 pertaining to P.W.1 and his family members were already prepared and they were in PW4's possession. Since P.W.4 could not make necessary entries in the revenue records, work was kept pending. In the absence of P.W.4, the passbooks were seized on the date of trap from the almirah belonging to P.W.4.

10. Learned counsel further submits that when two months prior to the date of trap the entire record was handed over to P.W.4, the question of pending work with the appellant does not arise. When it is admitted that the entire work of the appellant was complete and the records were handed over to P.W.4, the allegation of demand itself is doubtful. In fact, the appellant was falsely implicated since there was a quarrel on the date when the panchanama was drafted by the appellant in the village regarding partition of the lands. The said quarrel was spoken to by D.W.1. Since the circumstances of the case are contrary to the facts wherein there was no official favour which was pending to be done by the appellant and supported by P.Ws.4, 5 and DW.1, who are responsible public servants, prosecution has failed to prove the case against the appellant.

11. On the other hand, learned Special Public Prosecutor appearing for the ACB would submit that money was held in the hands of the appellant when the trap party entered. On seeing the trap party, it is the case of the prosecution that the amount was thrown on the floor. Admittedly, application was given to the MRO for the purpose of preparing

passbooks. It is the duty of the appellant to prepare the passbooks after following the procedure. Since the appellant was the person who was officially involved in preparing the passbooks, the version of P.W.1 regarding demand and acceptance of bribe was convincing.

12. Admittedly, the application for making entries in revenue records and preparing passbooks was made sometime in August, 2006. P.W.1 was going around the office and met the appellant for the preparation of the passbooks several times. One specific date of demand as 02.02.2007 was stated, however P.W.1 stated that he has met the appellant several times when the application was submitted in the month of August, 2006. The argument of the learned counsel for the appellant that there is no official favour which was pending with the appellant cannot be accepted. Admittedly, it was the appellant who was responsible and duty bound to prepare appropriate proceedings and also prepare the passbooks. The factum of going to the village on the basis of the application filed by P.W.1 and conducting proceedings is not disputed. Further,

it is also not disputed that the proceedings were prepared including the passbooks and handed over to P.W.4.

13. The official work of the appellant, though completed and passbooks handed over to P.W.4, the said information was not passed on to P.W.1 when P.W.1 met the appellant. It is not the case of the appellant that the preparation of the passbooks and pending for making entries by P.W.4 and signature of MRO was known to P.W.1. It was the appellant who had gone to the village, conducted proceedings and to the knowledge of P.W.1, the work was still pending with the appellant. In the absence of any proof that P.W.1 had knowledge about the preparation of the passbooks by the appellant and the said passbooks being handed over to P.W.4, it cannot be said that the demand made by the appellant cannot be believed. The request of P.W.1 for preparation of pass books was pending for nearly six months. Part of the process was completed by the appellant. As already discussed, according to the knowledge of P.W.1, it was the appellant who was responsible for handing over the passbook. If P.W.1 had knowledge about the completion of work by the appellant, the defence version of false

implication could be believed. However, in the present facts, when it is the duty of the appellant to prepare the passbooks and for such preparation, there was demand, only for the reason of appellant completing his part of the duty and handing over to P.W.1 which is not to the knowledge of P.W.1, defence version cannot be believed. Admittedly the appellant had gone to the village for conducting panchanama and making enquiries regarding partition, on the basis of application by PW1 to the MRO for issuance of passbooks.

14. The circumstances of recovering notes from the floor is of no consequence. Admittedly, when the trap party entered, the appellant was holding the notes in his hands and on seeing the trap party, he dropped the notes on the floor. Recovery of tainted currency notes from the floor has been clearly explained by the prosecution. As discussed, prosecution has proved their case of demand and acceptance by the appellant.

15. Criminal Appeal is dismissed. Since the appellant is on bail, the trial Court is directed to cause appearance of the

appellant and send him to prison to serve out the remaining period of sentence. The remand period if any shall be given set off under Section 428 of Cr.P.C.

K.SURENDER, J

Date: 30.04.2024

Note: LR copy to be marked

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