

Kaliaperumal Vs. State

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Court : Chennai

Decided On : Feb-04-2015

Judge : M.Sathyannarayanan

Appellant : Kaliaperumal

Respondent : State

Judgement :

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT DATED:

04. 02.2015 CORAM THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN CrI.A.(MD)NO.595 of 2005 Kaliaperumal .. Appellant Vs. State Inspector of Police Vigilance and Anti Corruption Thanjavur District. Crime No.6 of 2000 .. Respondent Prayer: Criminal Revision Petition filed under Section 374(2) Cr.P.C., against the conviction and sentence dated 07.11.2005 made in S.C.No.4 of 2001 on the file of the Chief Judicial Magistrate, (Special Judge), at Kumbakonam, Thanjavur district. For Petitioner :: Mr.A.Padmanaban For Respondent :: Mr.P.Kandasamy Govt. Advocate (Crl. side) :

ORDER

The sole accused, in S.C.No.4 of 2001 on the file of Court of Special Court for Prevention of Corruption Act cases cum Chief Judicial Magistrate, Kumbakonam, Thanjavur Division, stood charged and tried for the commission of offences under Sections 7, 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act,

1988. The trial Court vide judgment dated 17.11.2005 has convicted him for the commission of the said offences and imposed the following sentence: Offence under Section Sentence Section 7 One year RI, fine of Rs.5,000/- with default sentence of three months Simple Imprisonment Section 13(1)(d) r/w 13(2) Two years Rigorous Imprisonment with fine of Rs.1,000/- with default sentence of 6 months Simple Imprisonment The trial Court has also ordered set off under Section 428 Cr.P.C.

2. The facts leading to the filing of this appeal briefly narrated are as follows: P.W.2 is the de-facto complainant and he lodged a complaint under Ex.P.3 dated 07.11.2000 to P.W.11 stating that he purchased a land admeasuring 2 acres and 18 cents in the year 1992 from one Chandrahasan of Poundareegapuram and for the purpose of getting electricity connection to the pumpset, he met the appellant/accused, who, at the relevant point of time, was the Village Administrative Officer of Poundareegapuram. After verifying the records of P.W.2, it was informed that the lands in question, as per records, stands in the name of Yacob Ravuthar of Murugangudi. P.W.2/de-facto complainant submitted a petition on 28.08.2000 to the Taluk office at Kumbakonam for transfer of patta and 15 days thereafter, i.e, on or around 15.09.2000, he met the appellant/accused once again in his office and he informed that the papers have been received by him and for the purpose of transfer of patta, he shall pay a sum of Rs.1,000/- to him. P.W.2 went and met the appellant/accused in his office many times and requested him to transfer the patta and he informed him that only if pays a sum of Rs.1,000/-, he will make a recommendation. P.W.2 lastly met the appellant/accused on 04.11.2000 in his office and made a request for transfer of patta and he informed him that only if he pays a sum of Rs.1,000/-, the patta will be transferred in his name and asked him to come on 07.11.2000 at about 2.00 p.m. to his office and pay the same. P.W.2 is not inclined to accede to the demand made by the appellant/accused and therefore, decided to lodge a complaint and accordingly, lodge a complaint under Ex.P.3 to P.W.11. 2.1. P.W.11, on receipt of the complaint, has registered a case in Crime No.6 of 2000 under Section 7 of the Prevention of Corruption Act, 1988, at about 9.30 a.m. on 07.11.2000. The printed FIR was marked as Ex.P.14. P.W.11, after registering the FIR, handed over a copy of the same to P.W.2/de-facto complainant and subsequently obtained permission for laying a trap from the

Deputy Superintendent of Police, Department of Vigilance and Anti Corruption, Madurai attachment through Telephonic information. P.W.11 also made a requisition to Public Works Department, Thanjavur to depute officials to be present at the time of laying the trap. P.W.11 also recorded the statement of P.W.2. The office of Public Works Department, Thanjavur, in pursuant to the Telephonic request made by P.W.11 has deputed one of its Junior Assistant, namely Thiru.Rengasamy (P.W.3) and one more independent witness from the office of the District Forest Office, namely Mr.Selvaraj (not examined) was also deputed and both of them came to the office of P.W.11 at about 11.30 a.m. on 07.11.2000.

2.2. P.W.11 introduced P.W.3 Rengasamy and Selvaraj to P.W.2/de-facto complainant and asked the above said persons to verify as to the truth and veracity of the said complaint and they have also enquired with P.W.2, who said that the contents of the complaint are true. P.W.2 produced a sum of Rs.1,000/- to be payable to the appellant/accused by way of illegal gratification and the denomination and the number of currency notes was also noted by P.W.11 in the mahazar marked as Ex.P.4. P.W.11 conducted the demonstration of Phenolphthalein test through Head Constable Kannaiyan (not examined) and informed the importance of the said test to P.W.2 as well as to the independent witnesses present at that time. P.W.11 directed the Constable to apply Phenolphthalein powder on both sides of the currency notes and asked Radhakrishnan/P.W.2/de-facto complainant to give the currency notes, when the demand is made by the appellant/accused and also requested P.W.3, namely, Rengasamy, to accompany P.W.2 at the time of paying the money to the appellant/accused. P.W.11 advised P.W.3 to maintain some distance and watch the proceedings and asked the de-facto complainant/P.W.2 to give a signal by folding his dhoti, if he has paid the illegal gratification to the appellant/accused. In this regard, a mahazar was also prepared. 2.3. Thereafter P.W.11 along with the police party, accompanied by P.Ws.2, 3 and Selvaraj reached the Office of the appellant/accused at Poundareegapuram at about 14 hours and once again reminded P.Ws.2 and 3 about the procedure to be adopted and were waiting outside for their signal. At about 14.10 hrs on 07.11.2000, P.Ws.2 and 3 went inside the office of the appellant/accused and at about 14.15 hrs, P.W.2 came outside and made a signal by folding his dhoti to evidence the fact that he has paid

the money to the appellant/accused. Immediately, the party lead by P.W.11 rushed to the office of the appellant/accused and on the way, P.W.11 confirmed with P.W.2 as to whether he paid the money and it was also acknowledged by him. On entering the office room of the appellant/accused, P.W.2/de-facto complainant identified the appellant/accused and immediately, he went away. P.W.11 introduced himself and also the witnesses to the appellant/accused, who became panic. The Head Constable-1039 Somasundaram prepared the Sodium Carbonate solution and P.Ws.2 and 3 have also told P.W.11 that the appellant/accused has received the currency notes through his right hand and kept the said currency notes on the shirt pocket and therefore, after preparation of the Sodium Carbonate solution, P.W.11 asked the appellant/accused to dip his right hand and it turned pink. The said solution was put in a clean bottle and sealed, in which, P.W.3, Selvaraj (not examined), P.W.11 and the appellant/accused had put their signatures. P.W.11 asked the appellant/accused, as to whether he has received the money from P.W.2 and he produced the same from the left side inside pocket of the shirt owned by him. The currency notes have been verified and it was noted in the mahazar and P.W.11 gave the appellant/accused another shirt and recovered the shirt and subjected the shirt pocket to Phenolphthalein test and it also turned pink. The said solution was put in another bottle and sealed and signatures of the above said persons were obtained. 2.4. P.W.11 asked the appellant/accused about the transfer of patta, the appellant/accused has informed P.W.11 that with regard to the request for transfer of patta made by P.W.2, he has already made his recommendation even one week prior to 07.11.2000 to the Tahsildar, Kumbakonam and he has also produced the Encumbrance Certificate dated 27.09.2000 given by P.W.2. P.W.11 asked the appellant/accused as to the reason for receipt of Rs.1,000/- from the de-facto complainant/P.W.2 and the appellant/accused has informed him that the said sum was received from P.W.2 by way of loan. P.W.11 has prepared the mahazar as to the events happened in the office of the appellant/accused and it was marked as Ex.P.5 and his signature was also obtained. P.W.11 also prepared the rough sketch of the office of the appellant/accused and it was marked as Ex.P.15. Thereafter, P.W.11 took the appellant/accused and witnesses to the office of the Tahsildar at Kumbakonam and reached the said office at 16.15 hours and seized Ex.P6 Patta Transfer

Register, Ex.P7, the Allotment Register, File Relating to Patta Transfer Ex.P9, Allotment Register Ex.P10, Ex.P11 Patta Transfer Register for Serial No.801/2000 of Patta Transfer and Ex.P12 Patta Transfer Register dated 12.09.2000 and also examined P.W.4 Venkatraman, P.W.5 Jeevan and also examined the witnesses and with regard to the seizure of the documents also obtained signatures from the concerned witnesses/Revenue officials. 2.5. P.W.11 sent a report including Section 13(1)(d) read with 13(2) of the Prevention of Corruption Act, 1988, apart from Section 7 and sent the appellant/accused for judicial custody. At about 19.30 hours, P.W.11 prepared Form No.95 and sent the seized material objects to the Court and also made a request to the Court to send the two bottles, which contained the Phenolphthalein solution, for chemical analysis. Thereafter he handed over the case records to P.W.12, the Deputy Superintendent of Police. 2.6. P.W.12, on receipt of the Case Diary, has examined, P.Ws.2 and 3 and Selvaraj on 08.11.2000 and recorded the statements under Section 161(3) of Cr.P.C. On 11.11.2000, P.W.12 recorded the statements of P.Ws.4, 5, 6, 7 and 8 the officials attached to the office of the Tahsildar and recorded their statement and on 25.11.2000, P.W.12 recorded the statement of P.W.9 and on 06.12.2000, he examined the appellant/accused and recorded his statement. 2.7. P.W.11 was examined by P.W.12 on 09.12.2000 and his statement was recorded and on 18.12.2000, he sent the report to the Director of Vigilance and Anti Corruption. On 27.10.2001, he got the sanction order from the competent authority to launch the prosecution and on completion of investigation has filed the charge sheet on 12.11.2001 charging the appellant/accused for the commission of offences under Sections 7, 13(1)(d) read with 13(2) of the Prevention of Corruption Act, 1988.

3. The Special Court for Prevention and Corruption Act cases/Chief Judicial Magistrate, Kumbakonam, on receipt of the charge sheet, has summoned the accused and framed the charge under Sections 7, 13(1)(d) read with 13(2) and questioned him and he pleaded not guilty to the charges framed against him.

4. During the course of trial, the prosecution, in order to sustain their case, has examined P.Ws.1 to 12 and marked Exs.P1 to P15 and marked material objects M.Os.1 to 4. The appellant/accused was questioned under Section 313(1)(b) Cr.P.C. with regard to the incriminating circumstances made out against him in the

evidence rendered by the prosecution, he denied the same as false. The accused has examined himself as D.W.1 and exhibited the promissory note dated 07.03.2000 as Ex.D1. 5.The Trial Court, on consideration of the oral and documentary evidence, has found the appellant/accused guilty of all charges framed against him and sentenced him as stated above. Challenging the legality of the conviction and sentence passed by the trial Court, the accused has filed this appeal.

6. Mr.A.Padmanaban, learned counsel for the appellant/accused made the following submissions: (i).The respondent/prosecuting agency has failed to place the relevant records before the sanctioning authority, namely, P.W.1 and therefore, the order granting sanction marked as Ex.P1 dated 01.10.2001 is vitiated. (ii).Even as per the version of the prosecution, a trap was laid on 07.11.2000 and 5 days prior to that, the files containing the recommendation of the appellant/accused recommending the transfer of patta was made and therefore, there was no necessity on the part of the appellant/accused to demand and accept the sum of Rs.1,000/- by way of illegal gratification. (iii).The appellant/accused immediately after the trap was laid has given a plausible explanation that he received the said sum from the appellant/accused only by way of loan and not by way of bribe and when P.W.2/de-facto complainant was put a specific question, he only deposed that he did not remember, but not specifically denied the suggestion. (iv).The testimonies of the revenue officials, who are examined as P.Ws.4,5,6,7,8 and 9, would also disclose that the files were received on 02.11.2000, which contained the recommendation of the appellant/accused that the patta can be transferred in favour of P.W.2 and since such a recommendation was made even five days prior to the alleged date of trap on 07.11.2000, there was no necessity for demand and acceptance as illegal gratification. (v).P.W.3 on his own version has not witnessed the alleged demand and acceptance of illegal gratification by P.W.2 to the appellant/accused for the reason that he was standing near the entrance and even as per his own testimony, he was only hearing the conversation and it may not have been possible for him, because, according to P.W.11, while preparing the rough sketch of the office of the appellant/accused, he did not note the exact measurement or the place, in which, P.W.3 was standing and said to have listening the conversation and therefore, except the interested

testimony of P.W.2, absolutely, there was no corroboration to probabalise the case of the prosecution that the appellant/accused has demanded and accepted the illegal gratification of Rs.1,000/- for recommending the transfer of patta in the name of P.W.2/de-facto complainant. (vi).The learned counsel for the appellant has also invited the attention of this Court to the testimony of D.W.1 as well as Ex.D1 and would submit that the oral evidence of the appellant/accused and Ex.D1 has probabalised the defence version that a sum of Rs.1,000/- was received from P.W.2 by way of loan and not by way of bribe and would further add that the trial Court, without taking note of this material aspect, has erroneously chosen to convict and sentence the accused. (vii).Lastly, it is submitted by the learned counsel for the appellant that the appellant/accused attained the age of superannuation on 30.11.2000 and because of his conviction and sentence, he was dismissed from service and at present, he is aged about 70 years and the said fact may also be taken into consideration, while deciding this appeal.

7. Per contra, Mr.Kandasamy, learned Government Advocate (Crl. Side), would vehemently contend that the appellant even as per his own version has admitted the receipt of Rs.1,000/- from the de-facto complainant/P.W.2 and therefore, the presumption would stand attracted and it is his bounden duty to offer plausible and tenable explanation to probabalise his defence that he has received the said sum from the de-facto complainant/P.W.2 only by way of loan and not by way of bribe and he miserably failed to do so. It is the further submission of the learned Government Advocate that the testimony of P.W.3 ? shadow witness has merely corroborated the testimony of P.W.2 and as to the demand and acceptance of the illegal gratification and the phenolphthalein test conducted on the right hand as well as shirt owned by the appellant/accused has also proved that it turned positive, as evident by the report of the Scientific Assistant, who was examined as P.W.10 and Ex.P13 the chemical analysis report prepared by him. It is also contended by the learned Government Advocate the fact remains that at the time of recording oral testimony, the patta was not issued to P.W.2/de-facto complainant and therefore, the defence version projected by the appellant/accused has not been probabalised and the trial Court, on proper appreciation and consideration of oral and documentary evidence, has rightly convicted and sentenced the appellant/accused as stated supra.

8. This Court paid its anxious consideration and best attention to the rival submissions and also perused the oral and documentary evidence as well as the original records.

9. It is not in dispute that P.W.2/de-facto complainant, after purchase of land, made an application to the jurisdictional Tahsildar for transfer of patta in his name and the said application was made on 28.08.2000 marked as Ex.P2. It was transferred to the file of the appellant/accused, who was the jurisdictional Village Administrative Officer, for his report. It is the specific case of P.W.2/de-facto complainant that in this regard, he has approached the appellant/accused very many times and he demanded a sum of Rs.1,000/- for making the recommendation and when he met him on or around 15.10.2000, the appellant/accused reiterated the said demand and on 04.11.2000, he once again reiterated that unless and until the said sum is paid, he will not make any recommendation and asked him to meet him on 07.11.2000 in the evening and pay the money. P.W.2/de-facto complainant feeling aggrieved by the said illegal demand on the part of the appellant/accused has lodged a complaint Ex.P3 to P.W.11, who after complying with the procedure formalities, asked P.W.2 to meet the appellant/accused in the evening hours on 07.11.2000 and pay the money and asked P.W.3 ? shadow witness to accompany him. Accordingly, a police party accompanied by P.Ws.2 and 3 went to Poundareegapuram and the police party was waiting outside and P.Ws.2 and 3 were adviced to go and meet the appellant in the office as suggested by him. Accordingly, P.Ws.2 and 3 went and meet the appellant/accused, who made a demand of Rs.1,000/- and according to the prosecution, P.W.3 was listening to the said conversation. After paying the money, P.W.2 should make a pre-arranged signal and immediately police party rushed in and caught the appellant/accused and Phenolphthalein tests conducted on his right hand and the shirt pocket were also proved positive.

10. The first ground of attack made by the learned counsel for the appellant/accused is that the relevant records have not been placed before P.W.1, the Sanctioning Authority before obtaining sanction. P.W.1, Sanctioning authority in his cross examination has admitted that the Village Administrative Officer has no power to order transfer of patta. But he has to verify the relevant documents

and send a report and accordingly, the appellant/accused has sent the report and he did not remember the date of sending the report and he did not also remember whether it was prior to the date of trap or after the trap. P.W.1 denied the suggestion that even prior to the trap, all the records have been forwarded to the Tahsildar and would further depose that the Deputy Tahsildar did not make any enquiry and records also do not reveal whether witnesses, P.W.2 and the appellant were examined and he did not take any steps to find out the nature of record, but denied the suggestion that he has granted sanction without due application of mind.

11. P.W.4, was the Deputy Tahsildar of Kumbakonam Tahsildar Office at the relevant point of time and in the chief examination, he would state that as per Ex.P9 Record, even prior to 07.11.2000 ?. the date of trap, statements were obtained. In the cross examination, he would depose that with regard to the transfer of patta, the concerned Village Administrative Officer will be examined only to find out the fact of the ownership of the land in question in the village records and the Village Administrative Officer cannot make any positive recommendation as to the transfer of patta to the jurisdictional Tahsildar.

12. P.W.7 has handed over the relevant records maintaining in the office of the Tahsildar and those documents were marked as Exs.P.11 and 12 and through Ex.P9, the patta transfer register numbering 1 to 72 were marked. No doubt, according to P.W.1, those records have not been produced, at the time of granting sanction. However, it is to be pointed out at this juncture that P.W.11 ?. Trap Laying Officer as well as P.W.12 - the Investigating Officer have not been specifically questioned as to the non placement of record and therefore, point urged with regard to validity of sanction, is liable to be rejected.

13. This Court has gone through the testimonies of witnesses and exhibits with regard to the submission made by the learned counsel for the appellant on the merits of the case.

14. P.W.2/de-facto complainant in the chief examination speaks about the demand made by the appellant/accused and the demand of illegal gratification on 07.11.2000. In the cross examination, P.W.2 would depose that either in the

complaint or at the time of recording statement, he did not specify the date on which, he met the accused and he also did not make any enquiry from the office of the Deputy Tahsildar as to whether the Village Administrative Officer has sent a report.

15. A suggestion was put to P.W.2 that even prior to 04.11.2000 all the relevant records has reached the office of the Deputy Tahsildar and he pleaded ignorance, but, however, he would state that till the date of giving evidence, he has not been issued with transfer of patta and further added that he has developed a grievance against the appellant/accused, since, in spite of meeting him several times, his request for transfer of patta was not complied with. It was further deposed by P.W.2 in the cross examination that he spent five minutes time at the time of paying illegal gratification to the appellant/accused and at the time, P.W.3 - shadow witness did not accompany him. A specific question was put to P.W.2 that when he met the appellant/accused, he requested him to give a loan of Rs.1,000/- to meet out his immediate urgent expenses and it was answered by P.W.2 that he did not remember it.

16. P.W.3 - shadow witness even in the chief examination would depose that he accompanied P.W.2 to the office of the appellant/accused and on 07.11.2000, except the appellant/accused nobody was there and P.W.2 has asked the appellant/accused as to the result of the application given by him for transfer. According to P.W.3, he was waiting near the entrance at the office of Village Administrative Office and also spoken about the demand and illegal gratification by P.W.2 and acceptance of the same by the appellant/accused. In the cross examination, P.W.3 would depose that P.W.2 went inside the office of the Village Administrative Office and came back within five minutes thereafter and after the trap was laid, the appellant/accused offered his explanation that he has received a sum of Rs.1,000/- from P.W.2/de-facto complainant only by way of loan. P.W.3 would admit that from the office of the appellant/accused and the entrance, it is about 5 to 6 feet. P.W.11 ? the Trap Laying Officer was specifically questioned in that regard and he would admit, in the cross examination, that in the rough sketch prepared by him marked as Ex.P15, he has not specified the length and breadth of the office room and also not intimated as to whether P.W.3 was standing outside

and listening to the conversation. He would further admit that in other trap cases, he has not advised the shadow witness to stay away at the time of paying the illegal gratification.

17. P.W.4, who was the Deputy Tahsildar of Kumbakonam Taluk Office at the relevant point of time, in the chief examination, would admit the statement relating to transfer of patta in favour of P.W.2/de-facto complainant had reached the office prior to 07.11.2000 and in the cross examination would also admit that in the records, the statement of P.W.2 was recorded by the appellant/accused and those statements were also available. P.W.4 would admit in the cross examination that in respect of transfer of patta, the Village Administrative Officer is being enquired only for the reason to find out whether the person, who applies for patta, is the owner of the land and other than that, the Village Administrative Officer is not having power to make a recommendation for transfer of patta to the Tahsildar and would further admit that the Village Administrative Officer need not submit any report in that regard.

18. P.W.5 was the Zonal Deputy Tahsildar at the relevant point of time and in the cross examination would admit that even prior to the arrest of the appellant/accused, the statements of P.W.2 and the appellant/accused are available in the records.

19. P.W.8, who was employed as A5 Assistant in the office of the Tahsildar, Kumbakonam, in his cross examination, also admitted that from the records, it is clear that the appellant/accused given a statement stating that the patta can be transferred in favour of P.W.2/de-facto complainant.

20. The appellant/accused examined himself as D.W.1. The appellant/accused in his written statement under Section 313(1)(b) of Cr.P.C., has stated that he has received a sum of Rs.1,000/- by way of loan from P.W.2/de-facto complainant and also examined himself as D.W.1 reiterating the very same stand.

21. This Court has also gone through Exs.P6 to P12 and those documents would disclose that much prior to the trap, the Village Administrative Officer, in his statement, which is also available in the said record, stating that the patta can be

transferred in favour of P.W.2/de-facto complainant and even according to P.W.11, the trap laying officer, during the course of investigation, it was revealed that the files containing the statements of P.W.2 as well as the appellant/accused has reached the office of the Tahsildar, Kumbakonam, on 02.11.2000 itself. Therefore, the fact remains that even prior to the second demand on 04.11.2000 and the final demand and acceptance on 07.11.2000, the appellant/accused has given a statement that the patta can be transferred in favour of P.W.2/de-facto complainant and the testimony of P.W.4 was also supported by other revenue officials, who are examined as P.Ws.5 to 8.

22. The defence version projected by the appellant/accused is that he requested P.W.2/de-facto complainant to part with a sum of Rs.1,000/- by way of loan and it was received by him on 07.11.2000 in his office and therefore, it cannot be construed as illegal gratification. As already pointed out in the earlier paragraph, a specific question was put to P.W.2 as to whether the sum of Rs.1,000/- was paid to the appellant/accused by way of hand loan and he answered by saying that ?he did not remember?..

23. The testimonies of P.W.11 ? Trap Laying Officer would also admit immediately after trap was laid, the appellant/accused has offered his explanation stating that he received the sum of Rs.1,000/- only by way of loan from P.W.2/de-facto complainant.

24. P.W.12 the Investigating Officer, has also recorded the statement of the appellant/accused, however, it did not see the light of the day. Even as per the own admission of P.W.11 ? the Trap Laying Officer, at the time of asking P.W.2/de-facto complainant to pay the amount demanded by the appellant/accused by way of illegal gratification, he advised the shadow witness to go and accompany and as per the advice given by P.W.11, the shadow witness waited outside the office room of the accused and listening to the conversation. P.W.11 during the cross examination has admitted that at the time of preparing Ex.P.15, he did not note down the measurement, namely, length and breath of the room. Even as per the own version of P.W.11, he did not actually see whether the demand and acceptance of Rs.1,000/- to the appellant/accused was by way of

illegal gratification.

25. P.W.3 would also admit that immediately after the demand of money, P.W.2/de-facto complainant went outside and made a pre-arranged signal and immediately the police party along with P.W.11 rushed to the office. Since P.W.3 was waiting near the entrance, he accompanied P.W.11 and went inside the office of the appellant/accused and accused had offered an explanation that he received the said sum only by way of loan and not by way of bribe. Thus, the testimonies of the witnesses would probabalise the version of the appellant/accused that he has received a sum of Rs.1,000/- only by way of loan from P.W.2/de-facto complainant and not by way of illegal gratification and the said defence version is also get probabalised by the reason that according to the officials attached to the office of the Tahsildar, Kumbakonam, who are examined as witnesses, the file containing the statement of P.W.2/de-facto complainant as well as the statement of the appellant/accused recommending the transfer of patta has reached the office of the Tahsildar much prior to 07.11.2000 and P.W.11 ? the Trap Laying Officer in his cross examination would also admit that the said file has reached the office much prior to 07.11.2000, (i.e.) on 02.11.2000 itself. Therefore, the defence version projected by the appellant/accused that he has not demanded and accepted a sum of Rs.1,000/- by way of illegal gratification, is probabalised.

26. The Trial Court, in the considered opinion of this Court, has failed to advert to the testimonies of the said witnesses and committed an error in convicting and sentencing the accused/appellant and therefore, the impugned judgment warrants interference.

27. In the result, the Criminal Original Petition is allowed and the conviction and sentence passed by the trial Court, vide judgment dated 07.11.2005 on the file of the Chief Judicial Magistrate, (Special Judge), at Kumbakonam, Thanjavur district, is set aside and the appellant/accused is acquitted of charges under Sections 7, 13(1)(d) read with 13(2) of the Prevention of Corruption Act, 1988. The fine amount, if any, paid by the appellant/accused is to be refunded to him. The bail bonds stand terminated. 04.02.2015 Index :No Internet:Yes RR To 1.The Chief Judicial Magistrate, (Special Judge), at Kumbakonam, Thanjavur district. 2.The

Inspector of Police Vigilance and Anti Corruption Thanjavur District. 3.The
Additional Public Prosecutor, Madurai Bench of Madras High Court, Madurai.
M.SATHYANARAYANAN,J.

RR CrI.R.C.(MD)NO.595 of 2005 04.02.2015

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