

Krishnanmenon Vs. State Through

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Court : Chennai

Decided On : Mar-12-2015

Judge : M.Sathyanarayanan

Appellant : Krishnanmenon

Respondent : State Through

Judgement :

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT DATED:

12. 03.2015 CORAM THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN Criminal Appeal No.33 of 2013 Krishnanmenon ... Appellant/Accused Vs. State through the Inspector of Police, Vigilance and Anti-Corruption Wing, in Crime No.7/2000, Sivagangai District. ... Respondent/Complainant Prayer: Criminal Appeal filed under Section 374 of the Code of Criminal Procedure to call for the records relating to the judgment in C.C.No.22 of 2002 dated 29.01.2013 on the file of Special Court for Prevention of Corruption Act and Chief Judicial Magistrate, Sivagangai and set aside the same and allow this Criminal Appeal. !For Appellant : Mr.M.Subash Babu ^For Respondent : Mr.C.Ramesh Additional Public Prosecutor :

JUDGMENT

The sole accused in C.C.No.22 of 2002 on the file of the Special Court for trial of Prevention of Corruption Act Cases / Chief Judicial Magistrate, Sivagangai is the

appellant and he stood charged and tried for the commission of the offences under Section 7 and 13(1)(D) r/w. 13(2) of Prevention of Corruption Act.

2. The trial Court, vide impugned judgment dated 29.01.2013, has convicted the appellant herein for the above said offences and imposed the sentences, thus: Accused Conviction Sentence Sole Accused U/s. 7 of P.C.Act To undergo one year rigorous imprisonment and to pay a fine of Rs.1,000/- in default to undergo three months simple imprisonment. U/s. 13(1)(D) r/w.13(2) of P.C. Act To undergo two years rigorous imprisonment and to pay a fine of Rs.2,000/- in default to undergo six months simple imprisonment. The trial Court further ordered the sentences of imprisonment imposed on the appellant to run concurrently.

3. The facts narrated in brief and necessary for the disposal of this appeal, are as follows:

3. 1. P.W.2/de-facto complainant has purchased the lands in Survey No.57/1B at Melavaniyankudi, Survey Nos.156/1A1 and 156/2A1 at Kadambakulam Group and he submitted applications on 03.10.2000 under Exs.P9 and P19 respectively for change of Patta in his name and in that connection, the relevant papers were forwarded to the appellant/accused, who was the jurisdictional Firka Surveyor. P.W.2, having found that the applications submitted by him for transfer of Patta pending for quite some time, has met the appellant/accused two weeks prior to 07.12.2000 at his office. The appellant/accused has informed him that relevant files are in his house and asked P.W.2/de-facto complainant to come and meet him in his house. 3.2. On 02.12.2000, at about 8.30 a.m., P.W.2 met the appellant/accused in his house at Sivagangai and the appellant/accused having found that the P.W.2/de-facto complainant was ready to meet out the expenses for getting transfer of Patta, took steps to measure the lands. 3.3. P.W.2, at about 1.30 p.m., on 07.12.2000, along with his friend Kumar @ Jeyakumar (not examined) once again met the appellant/accused in his house and enquired about the transfer of Patta and at that juncture, the appellant/accused has demanded a sum of Rs.800/- by way of illegal gratification to take steps on his part and he told P.W.2 that it should be paid either to him or his wife, failing which, he will not get Patta. P.W.2, aggrieved by the same, has proceeded to the office of Vigilance and

Anti- Corruption and lodged a complaint before P.W.16 under Ex.P.2. P.W.16, on receipt of the complaint at about 3.30 p.m., registered an F.I.R. in Crime No.7 of 2000 for the commission of the offence under Section 7 of Prevention of Corruption Act, 1988. Since P.W.16 required the service of independent witnesses, she has made a request to Highways and Rural Roads Division, Sivagangai as well as the Office of the District Medical Officer, Sivaganai to depute some persons and accordingly, Mariyasargunam/P.W.3 was deputed from the Office of Highways and Rural Roads Division, Sivagangai and one Kasiviswanathan (not examined) was deputed from the Office of the District Medical Officer, Sivagangai. P.W.16 after forwarding the original of the First Information Report marked as Ex.P3, furnished a copy of the said document to both the witnesses and asked them to read it and requested the witnesses to ask P.W.2/de-facto complainant as to whether the contents of Ex.P.3/F.I.R. are true or not and he acknowledged by saying that the contents are true. Thereafter, P.W.16 asked P.W.2 as to whether he brought the amount to be paid as bribe / illegal gratification and in response to the same, P.W.2 produced a sum of Rs.800/- containing the denomination of one 500 rupee and three 100 rupee notes. The serial numbers in the currency notes were noted. A Constable Ramu (not examined) prepared a Sodium Carbonate Solution and put it in a glass tumbler and asked one of the witnesses viz., Kasiviswanathan to dip his right hand fingers, there was no reaction and also asking him to dip fingers of his both hands and there was no change. Thereafter, phenolphthalein powder was applied on the currency notes and Viswanathan was asked to count the currency and once again he was asked to dip his right hand fingers in the solution and it turned pink in colour and such reaction has also occurred, when he dipped his left hand fingers. The solutions were destroyed. P.W.16 advised Kasiviswanathan / P.W.3 to accompany P.W.2 and watch the proceedings, at the time of illegal gratification to the appellant/accused and also advised P.W.2 / de-facto complainant to pay the amount, when it is demanded by the appellant/accused. A pre-trap mahazar (Entrustment Mahazar) in this regard, was prepared between 5.10 p.m. to 5.55 p.m. and it was marked as Ex.P4. The requisition was also made to search the house of the appellant/accused, in the event of the trap being successful. At about 7.00 p.m., on the same day, P.W.2 along with P.W.3 were advised to proceed to

the house of the appellant/accused and they were also followed by a police party headed by P.W.16. At about 7.25 p.m., both of them came out and said that the appellant/accused did not receive the money, but told him that he will come on the next day and receive the amount. The occurrence took place on the night hours of 07.12.2000 were reduced into writing in the form of mahazar and it was marked as Ex.P4. On 08.12.2000 at about 8.30 a.m., P.W.16 has received the telephonic information from P.W.2 / de-facto complainant stating that the appellant/accused has come to his house and demanded money and he has paid a sum of Rs.300/- only and asked the appellant/accused to wait in his house. Immediately the police party headed by P.W.16 rushed to the house of P.W.2 and reached the place at about 8.45 a.m., P.W.2 along with the appellant/accused were standing outside the house and the two wheeler bearing Registration No.TN63B1226 of the appellant/accused was also parked. P.W.2/de-facto complainant has introduced the appellant/accused to P.W.16 and on seeing P.W.16, the appellant/accused became panic and he was taken inside the house of the P.W.2/ de-facto complainant and was introduced to the witnesses. While the appellant/accused complained of having giddiness and also developed fever, he was pacified. Sodium Carbonate Solution was prepared and the appellant/accused was asked to dip his right hand fingers and it turned positive and he was once again asked to dip his left hand fingers in the solution kept in the separate glass tumbler and it also turned positive. These happenings were also reduced into writing. When the appellant/accused was asked for explanation, he told her that when he was proceeding in his two wheeler, the appellant/accused asked for lift and accordingly, he gave lift and he submitted that at that time, somebody has put money in his front pocket against his wish and will and that is why, he was forced. From the two wheeler of the appellant/accused, some documents were also seized and a mahazar was also prepared. Thereafter, he was brought to the police station and his arrest was also informed to his wife. 3.4. P.W.17 has also done a part of the investigation and also examined P.Ws.3, 4 and other witnesses and he was transferred on 02.07.2002. 3.5. P.W.18 had continued the investigation and he once again examined P.Ws.6 and 7 as well as the accused and recorded their statements and after obtaining sanction from P.W.1 under Ex.P1, he has filed charge sheet on 04.12.2002 charging the accused for commission of the offence

under Sections 7, 13(1)(d) r/w. 13(2) of Prevention of Corruption Act, 1988. 3.6. The Special Court for trial of Prevention of Corruption Cases, Sivagangai, on receipt of the charge sheet, has issued summons to the appellant/accused and on his appearance, furnished him the copies of documents under Section 207 of Cr.P.C., and when questioned, the appellant/accused pleaded not guilty to the charges framed against him. 3.7. The prosecution in order to sustain their case, examined P.Ws.1 to 18, marked Exs.P1 to 29 and also marked MOs.1 to 5. 3.8. When the appellant/accused was questioned under Section 313(1)(b) of the Code of Criminal Procedure, 1973, with regard to the incriminating circumstances made out against him in the evidence tendered by the prosecution, he denied it as false and he had also filed his written statement denying his complicity of offence. 3.9. On behalf of the appellant/accused, Ex.D1-temporary suspension order was marked. On the side of the Court, Ex.C1-the summons issued to P.W.17 was marked. 3.10. The trial Court, on consideration of the oral and documentary evidence, has found the appellant/accused guilty of the charges framed against him and imposed the sentence as stated above and challenging the illegality of sentence, the appellant/accused has filed this appeal.

4. Mr.M.Subash Babu, learned counsel appearing for the appellant made the following submissions:

4. 1. The trap was laid on 07.12.2000 and admittedly, it was not successful and on 08.12.2000, according to the prosecution, the appellant/accused came to the house of P.W.2 for the purpose of receiving the bribe amount and P.W.2 having found that the shadow witness viz., P.W.3 was not available, he has paid only a sum of Rs.300/- and asking him to wait and subsequently, contacted P.W.16 to come to his house and at that time, the appellant/accused was not inside the house of P.W.2, but he was standing outside the house with his two wheeler and he was taken inside the house and thereafter, the formalities were said to have been done and he was asked to speak about the demand and acceptance. Except the phenolphthalein test, the prosecution does not examine any witnesses to sustain their case, especially, the ingredients of Section 7 of the Prevention of Corruption Act. 4.2. The testimonies of the prosecution witnesses viz., P.Ws.6, 8 and 12 would disclose that the appellant/accused has done his part on 06.12.2000

and hence, there is no necessity or occasion for him to demand and accept the bribe. 4.3. The defence version projected on the side of the appellant/accused appears to be probable for the reason that while he was riding in the two wheeler, the defacto complainant/P.W.2 asked for lift and having got acquittance, he has given him lift and when the defacto complainant tried to put up money forcibly in his pocket, he resisted that and that is why, the phenolphthalein test proved to be positive. 4.4. In sum and substance, it is the submission of the learned counsel appearing for the appellant that the testimonies of the above said prosecution witnesses especially P.W.6, who ultimately issued the Patta under Exs.P20 and P21 did not support the case of the prosecution and Ex.D1 marked on his behalf also substantiates the fact that he has made a positive recommendation in writing on 06.12.2000 itself and in any event, the trial Court ought to have ordered benefit of doubt and acquitted him, but erroneously he was convicted and sentenced. It is also submitted by the learned counsel appearing for the appellant that after his conviction, he was also dismissed from service and such fact may also be taken into consideration, while deciding this appeal.

5. Per contra, Mr.C.Ramesh, learned Additional Public Prosecutor would vehemently contend that the prosecution through the testimonies of witnesses, especially P.W.2 amply proved and established that the appellant/accused, for the performance of his lawful duty in measuring the land, with the help of Village Administrative Officer and to make a recommendation to the Tahsildar, has demanded illegal gratification of a sum of Rs.800/- and he not only stopped with that, but also told the de-facto complainant / P.W.2 that unless and until he pays the said sum, he will not get Patta and P.W.2 /de-facto complainant, aggrieved by the same, has lodged a complaint under Ex.P2 to P.W.16, who has carried out the trap. 5.1. Though the trap was initially laid on 07.12.2000, it became unsuccessful. On the next day only, the appellant himself has come to the house of P.W.2/de-facto complainant and demanded money. Having felt that P.W.3 - shadow witness was not available at the relevant point of time, P.W.2/de-facto complainant has paid a sum of Rs.300/- out of a sum of Rs.800/-, demanded by way of illegal gratification and asked the appellant/accused to wait for some time and immediately called P.W.16, who along with the witnesses rushed to his house and found that P.W.2 /de-facto complainant and the appellant/accused were standing

outside the house and his vehicle was also parked and took him inside the house and conducted phenolphthalein test, which was also proved positively and therefore, the presumption operates against him and he has failed to examine any witness to discharge the said presumption cast upon him. 5.2. It is the further submission of the learned Additional Public Prosecutor that the testimonies of revenue officials also supported the case of the prosecution and the fact remains that the relevant records were also in the custody of the appellant/accused and it will also prove the case of the prosecution that the appellant/accused, for the performance of his official duty, has demanded and accepted the illegal gratification.

6. The learned counsel for the appellant in support of his submissions, placed reliance upon the decisions in (i) C.K.Damodaran Nair v. Government of India reported in 1997 (1) Crimes 75 (SC), (ii) M.Narsinga Rao v. State of Andhra Pradesh reported in 2001 CrL.L.J.

515 (SC) and (iii) Ramesh Kumar Gupta v. State of Madhya Pradesh reported in 1995 CrL.L.J.

3656 (SC).

7. This Court carefully considered the submissions made by the learned counsel appearing for the appellant and the learned Additional Public Prosecutor appearing for the State and also perused the oral and documentary evidences and the original record.

8. No serious arguments have been advanced as to the validity of the sanction order issued by P.W.1 marked as Ex.P1 and therefore, this Court is not called upon to decide that issue. 8.1. P.W.2 is the de-facto complainant and in his cross examination, he would state that when he met the appellant/accused two weeks prior to 02.10.2000, he told him that the relevant records are in his house and he did not demand any illegal gratification and one week thereafter, he met him in his house and the appellant told him that P.W.2 / de-facto complainant has to incur some expenses and also not demanded any bribe or illegal gratification at that time. He would further depose that though the appellant initially demanded a sum

of Rs.1,500/- by way of illegal gratification, thereafter, he reduced it to Rs.800/-.

P.W.2/de-facto complainant has also pleaded ignorance as to whether the appellant/accused has performed his part before issuance of Patta by P.W.6.

8.2. A perusal of testimonies would disclose that part of illegal gratification was paid on 08.12.2000 and admittedly, on that day, P.W.3- shadow witness was not present. P.W.3 is one of the official witnesses /shadow witnesses and he accompanied P.W.2/de-facto complainant to the house of the appellant/accused on 07.12.2000 and when P.W.2/de-facto complainant asked him about the Patta, the appellant/accused has told him that he may have to incur large sum of money by way of expenses and P.W.2 / de-facto complainant responded by stating that he brought a sum of Rs.500/- as demanded by him and produced the money and the appellant/accused has not received it and told him that he will come to his house on 08.12.2000 and he will receive the same. The said fact was also informed to P.W.16. At about 8.30 a.m, on 08.12.2000, P.W.2/de-facto complainant has telephonically informed P.W.16 stating that the appellant/accused has come to his house and since no official witnesses are present, he has paid part of the bribe amount of Rs.300/-, by retaining a sum of Rs.500/- and asked him to come immediately and accordingly, P.W.16 went and conducted the phenolphthalein test, which was also proved positively. As stated above, P.W.3 did not see the payment of Rs.300/- to the appellant/accused. When a suggestion was made to P.W.2/de-facto complainant, while he was riding in the two wheeler, whether he tried to forcibly put up Rs.300/- in the pocket of the appellant/accused, without his knowledge, he denied the same.

8.3. P.W.6 is one of the crucial and important witnesses examined by the prosecution and he was the Zonal Deputy Tahsildar at the relevant point of time and in the Chief Examination, he deposed that he is in-charge of the applications given for transfer of Patta and he has also spoken about the procedure. P.W.6 would further depose that on receipt of the applications, it would be forwarded to Firka surveyor and the appellant/accused, at that point of time, was the Firka surveyor. P.W.2 has submitted two applications on 03.10.2000 for transfer of Patta and on 12.10.2000, it was forwarded to the appellant/accused through P.W.7 and subsequently, he has passed the order granting transfer of Patta which has been marked as Exs.P20 and P21 dated 13.12.2000.

8.4. In the cross examination, P.W.6 would depose that even prior to 06.12.2000, the

appellant/accused made an inspection of the lands for which P.W.2 de-facto complainant prayed for transfer of Patta and those documents were marked as Exs.D1 and D2 and would further state that once the appellant/accused in his capacity as the Firka Surveyor make such recommendations, his job / duty is over. Though P.W.6 was re-examined by the prosecution, nothing has been elicited as to the evidence of P.W.6 that even prior to 06.12.2000, the appellant/accused has done his duty as a Firka Surveyor. P.W.7 was the Assistant attached to A6 Section of the Office of the Thasildar, Sivagangai and according to P.W.6, after making necessary endorsement on the applications for transfer of Patta submitted by P.W.2/de- facto complainant, he has handed over the same to P.W.7, who in-turn after making necessary endorsement in the register, has given to the appellant/accused. 8.5. In the cross-examination, P.W.7 would admit that though she received the applications from P.W.6 on 04.10.2000, she made the entries only on 12.10.2000 on account of pressure of work. 8.6. P.W.8 was the Village Assistant and according to him, the appellant/accused asking him to come along with relevant documents and other officials and the appellant/accused and P.W.2 went to Melavaniyankudi and measured the lands and he also took 'A' - Register and F.M.B.I Register. 8.7. In the cross-examination, he would depose that after the measurement is effected, the Village Administrative Officer asking him to bring the relevant Register back to the Office. 8.8. P.W.9 was the Deputy Surveyor attached to Sivagangai Taluk Office and in the cross-examination, he has spoken about the procedure and would further state that the appellant/accused in his capacity as Firka Surveyor made necessary recommendation for transfer of Patta and prior to P.W.6 passing orders, he verified the same and having found to be correct, made a recommendation. Based on which, the transfer of Patta was granted in favour of the appellant/accused. 8.9. P.W.11 was the Thasildar, Sivaganga and in the chief examination, he would depose that on 07.12.2000, no report has been received from the appellant/accused and he was arrested on 08.12.2000 and P.W.6 ordered transfer of Patta on 13.12.2000. In the cross-examination, he would depose that on the particular date, how many petitions were entrusted to the appellant/accused was not aware and apart from the regular work, the appellant/accused would also be entrusted with some other important works and in that event, delay is bound to occur. 8.10. P.W.12 was the Zonal Deputy Inspector

and in the chief- examination, he would depose that in the Register, it has been stated that on 06.12.2000, the appellant/accused has signed. In the cross-examination, he would depose that though there was a delay on the part of the appellant/accused to deal with the concerned file, he has scrupulously followed the procedure and discharged his duty and the delay in processing may occur on account of several reasons and he cannot say that the appellant/accused has deliberately caused delay by accepting the bribe / illegal gratification. 8.11. P.W.16, the Trap Laying Officer has spoken about the bribe and trap proceedings and in the cross-examination, she was put a specific question that even prior to the lodging of Ex.P2/complaint by P.W.2/the complainant, the appellant/accused have performed his duty and she denied it. She would further state that on 07.12.2000, the appellant/accused made a demand/illegal gratification and he did not receive it and he further admit that when the part of the illegal gratification was paid to the appellant/accused on 08.12.2000, the Official witnesses including P.W.3 were not present and she has also denying the suggestion that while the appellant/accused was riding his two wheeler, P.W.2/de-facto complainant has clandestinely tried to put the part of the amount in his pocket and it was resisted by the appellant/accused. 8.12. A similar suggestion was put by P.W.17 as to the performance of duty on the part of the appellant/accused even prior to the trap on 07.12.2000 and he denied it. 8.13. P.W.18, who completed the investigation, in his cross- examination, though admitted that the appellant/accused has performed his duty, he failed to forward the papers to P.W.6 on time.

9. A careful scrutiny of a testimonies of witnesses would disclose the fact that after the demand/ illegal gratification, P.W.2/de-facto complainant has lodged a complaint on 07.12.2000 to P.W.16, who on receipt of the same has registered a case in Crime No.7 of 2000 for the commission of the offences under Section 7 of Prevention of Corruption Act at about 15.30 hours and arranged for the trap. Admittedly, when P.W.2/de-facto complainant accompanied by P.W.3 made an attempt to pay the illegal gratification, it was not received by the appellant/accused and he asked P.W.2 /de-facto complainant that he will come to the house of P.W.2 on the next day and receive the bribe amount and in this regard, mahazers were also prepared and marked. However, according to P.W.2/de-facto complainant, the appellant/accused came to his house for the purpose of receiving illegal

gratification and immediately on 08.12.2000, he contacted P.W.16 over phone at about 8.30 p.m. and told her since no official witness are present, he paid part of the bribe amount of Rs.300/- and asked them to come immediately. P.W.16 along with the witnesses reached the house of P.W.2/ de-facto complainant at about 8.45 a.m. on 08.12.2000 and they found the appellant/accused was standing along with P.W.2/complainant and his vehicle also parked. Thereafter, he was taken inside the house of P.W.2/defacto complainant and phenolphthalein test was conducted on both hands and it turned positive.

10. The defence projected by the appellant/accused is that even prior to the lodging of the complaint under Ex.P2, he has done his part and therefore, there is no necessity for him to demand and accept the illegal gratification and also put a suggestion to the Trap Laying Officer as well as the Investigating Officer and also in his written statement stating that he given lift to the appellant/accused and while he was riding, an attempt was made to put some money in his pocket and he resisted and in that event, he had handled the currency notes and on account of the same, phenolphthalein test proved positive.

11. Most important witnesses examined by P.W.6, who ultimately issued Exs.P20 and 21 for transfer of Patta in favour of the appellant/accused and in the cross examination, has clearly deposed that even prior to 02.10.2000, the appellant/accused made a recommendation for transfer of Patta and it was not marked as an exhibit. The said evidence of P.W.6 was amply corroborated by P.W.12 also and in the light of the said testimony, the defence version projected by the appellant/accused, in the considered opinion of the Court has been probablised.

12. P.W.12 has also categorically stated that though there was some delay on the part of the appellant/accused, he has done his part of the duty perfectly and simply, because there was some delay on the part of the appellant/accused, cannot lead to the presumption that only for getting the bribe, he delayed the process. P.W.11 in his cross-examination also deposed that apart from regular work assigned to the appellant/accused, he was also entrusted with additional responsibilities and in that event also, the delay is bound to occur.

13. It is also pertinent to point out at this juncture that P.W.6 after making necessary endorsement on the applications submitted by the appellant/accused praying for transfer of Patta, has been forwarded to P.W.7 and though she has received the papers on 04.10.2000, made the entry only on 12.10.2000 and the explanation offered by her is on account of pressure of work, she has belatedly made the entry.

14. As pointed out earlier that at the time of alleged part of payment of Rs.300/- in the morning hours on 08.12.2000, P.W.3 - shadow witness was not present. It was also pointed out by the learned counsel for the appellant/accused that when the police party lead by P.W.6 rushed to the house of P.W.2/de-facto complainant, both of them were standing outside of his house and the police party only took the appellant/accused inside the house of P.W.2/de-facto complainant and conducted phenolphthalein test.

15. The learned Additional Public Prosecutor would contend that in respect of demand and acceptance of bribe, corroboration need not be direct and since phenolphthalein test also proved positive, the presumption can be drawn against him and the appellant/accused has failed to prove the same.

16. The learned Additional Public Prosecutor also placed reliance upon the judgment of the Honourable Supreme Court reported in 1997 (1) Crimes 75 (SC) (C.K.Damodaran Nair vs. Government of India) that the facts would disclose that trap was successful, the appellant/accused raised the defence plea that the amount was put in his trouser. However, the Honourable Supreme Court of India found that the acceptance of the bribe was witnessed by two independent witnesses holding responsible position, in a panic and hence, the testimonies cannot be doubted. There cannot be any difficulty in accepting the preposition laid down by the Honourable Supreme Court of India and the decisions laid down by the learned Additional Public Prosecutor, but it depends upon the facts of each case.

17. This Court, in the earlier paragraph, has pointed out the testimonies of P.Ws.6 and 12 that even one day prior to the lodging of the complaint by P.W.2 / de-facto complainant, the appellant/accused has performed his duty and made a positive

recommendation of transfer of Patta and even for the sake of argument, the demand of a sum of Rs.800/- has been proved through the testimonies of P.Ws.2 and 3, because of the part of illegal gratification on 08.12.2000 by the appellant/accused, in the consider opinion of the Court has not been proved in a manner projected by the prosecution. Admittedly, P.W.3 - the shadow witness was not present and the different version taken by the appellant/accused that he offered P.W.2/ de- facto complainant was riding along with him as pillion rider in a two wheeler, when he made an attempt to put some money while he was riding, it was resisted and which may resulted in, proving of the phenolphthalein test, in his opinion and in the present explanation, the said defects, difference in version appears to be more probable.

18. It is a well settled position of law for recording conviction, demand and receipt of money is to be proved and mere recovery of tainted money itself will not constitute the offence in the absence of substantive evidence for demand of money and voluntary acceptance of the same. (2010) 3 MLJ (Cri) 132 (SC). Banarsi Dass vs. State of Haryana.

19. The discussion of this Court in the earlier paragraphs would show that the respondent / prosecution has failed to prove its case beyond any reasonable doubt and the testimonies of crucial witnesses viz. P.Ws.6 and 12 also did not support the case of the prosecution.

20. A perusal of Ex.D1 also would disclose that the appellant/accused has made a positive recommendation even on 06.12.2000 that is even prior to the lodging of Ex.P2/complaint to P.W.16.

21. The trial Court has not properly appreciated the oral and documentary evidence in a proper perspective, therefore, the impugned judgment warrants interference.

22. In the result, the Criminal Appeal is allowed and the conviction and sentence recorded in the judgment dated 29.01.2013 made in C.C.No.22 of 2002 on the file of the Special Court for Prevention of Corruption Act and Chief Judicial Magistrate, Sivagangai is set aside and the appellant/accused is acquitted of the charges. The

bail bond stands terminated. Fine amount if any paid by the appellant/accused, shall be refunded to him. 12.03.2015 Index: No Internet:Yes akv To 1. The Inspector of Police, Vigilance and Anti-Corruption Wing, Sivagangai District.

2. The Additional Public Prosecutor, Madurai Bench of Madras High Court, Madurai. M.SATHYANARAYANAN.J.

akv Criminal Appeal No.33 of 2013 12.03.2015

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