Thiagarajan Vs. State Represented By

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Court : Chennai

Decided On : Mar-19-2015

Judge : M.Sathyanarayanan

Appellant : Thiagarajan

Respondent : State Represented By

Judgement :

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT DATED:

19. 03.2015 CORAM THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN Crl.A.(MD)NO.51 of 2006 Thiagarajan .. Appellant Vs. State represented by through Deputy Superintendent of Police SPE/CBI/ACB, Chennai. .. Respondent Prayer: Criminal Appeal filed under Section 374(2) Cr.P.C., against the conviction and sentence dated 18.01.2006 made in S.C.C.No.19 of 2004 on the file of the Principal Special Judge for CBI Cases, Madurai District. For Appellant :: Mr.C.Muthu Saravanan For Respondent :: Mr.S.Jeyakumar Special Public Prosecutor for CBI Cases :

JUDGMENT

The appellant in C.A.No.48 of 2006 is arrayed as Accused No.1. The appellant in C.A.No.51 of 2006 is arrayed as accused No.2 in Spl.C.C.No.19 of 2004 on the file of the Court of Special Judge for CBI Cases, Madurai. The trial Court convicted both of them for the commission of the following offences vide impugned judgment dated 18.01.2006 and imposed the following sentence: Accused Offence under Section Sentence Both accused A1 & A2 Section 120(b) r/w Section 7 and 13(2) r/w 13(1)(d) of P.C. Act, 1988 Two years Rigorous imprisonment with fine of Rs.1,000/- with default sentence of three months simple imprisonment Both accused A1 & A2 Section 7 and Section 13(2) r/w 13(1)(d) of P.C. Act, 1988 Two years of RI, fine of Rs.2,000/- with default sentence of three months Simple Imprisonment The trial Court further directed the sentence of imprisonment shall run concurrently and also ordered set off under Section 428 of Cr.P.C. and aggrieved by the conviction and sentence recorded by the trial Court, this appeal is preferred.

2. Mr.C.Muthu Saravanan, learned counsel for the appellant/A1 in C.A.(MD) No.48 of 2006, on instructions, would submit pendency of the appeal, the appellant/A1 has died and the said fact was also confirmed by Mr.S.Jeyakumar, learned Special Public Prosecutor for CBI Cases and this Court finds that Crl.A.(MD) No.48 of 2006 has already been dismissed as abated, vide order dated 12.06.2014.

3. The facts leading to the filing of the appeal, narrated in brief, are as follows: P.W.3 K.Srikumar is the de-facto complainant and he lodged a complaint under Ex.P3 dated 28.08.2003 to the Superintendent of Police, CBI Cases, Sastri Bhavan, Chennai, stating among other things that he is a graduate and doing business of running small tutti-frutti manufacturing unit and his wife, namely, T.Saradha (P.W.4) is working as a Reader in Zoology in Sri Parasakthi College of Women (Courtalam), Tirunelveli District. It is further stated by him that during the first week of June 2003, he received a communication addressed to his wife (P.W.4) from the Assistant Valuation Officer, Valuation Cell, Income Tax Department, Madurai, requesting his wife to furnish information regarding the house property owned by her at ?.Min Nagar?. in the Proforma enclosed. 3.1. On 21.08.2003, two officials namely, Ponnusamy (A1) died and A2 Thiyagarajan/appellant herein came to Tenkasi and introduced themselves and collected information in the proforma. They asked P.W.3/de-facto complainant to come to their office at B.B.Kulam, Madurai on 25.08.2003 for further information and therefore, P.W.3 went to their office. On that day met them at around 2.00 p.m. Accused No.1, who was present, called the appellant/A2 to his cabin and

after his arrival, A1 told P.W.3 that they have been directed to determine the cost of the construction of the dwelling house by the Income Tax Department and valuation will be around Rs.10 lakhs and it would be valued at 15 lakhs, if P.W.3 did not pay them a sum of Rs.5,000/- as a bribe/illegal gratification and asked him to bring the said amount on 28.08.2003 and exhibit in their office during office hours. Both A1 and A2 threatened P.W.3 that if he does not pay bribe amount of Rs.5,000/- on 28.08.2003, he will be put to trouble by enhancing the valuation. It is stated by P.W.3 in Ex.P3 that aggrieved by the act of A1 and A2 in demanding illegal gratification, he contacted the Superintendent of Police, CBI, Chennai through telephone and the said official, in turn, asked him to meet the CBI officials, who are reaching Madurai on 28.08.2003 and asked him to meet Mr.Billi Christodoss Inspector of Police, CBI (P.W.6) with a written complaint at Railway Construction Office, Madurai. Accordingly, P.W.3 has preferred a written complaint under Ex.P.3 and met P.W.6, on that day and handed over the complaint. 3.2. P.W.6 on receipt of the complaint, made arrangement to conduct trap. P.W.6, based on which, has registered the FIR under Ex.P31 at 9.30 a.m. on 28.08.2003 under Section 120(b) read with Section 7 of the Prevention of Corruption Act 1988. P.W.6, after registration of the FIR, instructed P.W.3 to come to his office at about 11.30 hours on 28.08.2003 along with bribe amount of Rs.5,000/- and he sent the original complaint to Superintendent of Police, CBI, Chennai. P.W.6 also conducted confidential enquiry about the accused persons and genuineness of the complaint and he came to know that the reputation of both of them are bad and having convinced himself about the genuineness of the complaint, requested the services of two independent witnesses, namely, S.Packiam/P.W.5 and S.Joseph Sugunaraj, who were employed in the State Bank of India and United India Insurance Company respectively and requested them to come and report before him at 11.00 a.m. at 28.08.2003 and both of them were present. The witnesses were introduced P.W.3/de-facto complainant and a copy of the complaint under Ex.P.3 was read over to them. P.W.6 asked the complainant to produce the bribe amount of Rs.5,000/- and he accordingly, produced denominations of two thousand rupees, 6 numbers of 500 notes and the serial numbers were noted in the entrustment mahazar, at the time of preparation. 3.3. P.W.6, after conducting the pre trap proceedings and informed the importance of Phenolphthalein Test to the witnesses, has instructed P.W.5 to go along with P.W.3 at the time of payment of bribe to both the accused. Accordingly, the party lead by P.W.6 and the witnesses have reached the office of the accused at around 03.00 p.m. on 28.08.2003 and as instructed, P.Ws.3 and 5 proceeded to the third floor of the office and after 25 minutes, P.W.5 came out and within 5 minutes thereafter, P.W.3 came out and gave a prearranged signal indicating the fact that the bribe amount has been paid. Immediately, P.W.6 along with other witnesses, namely, Joseph Sugunaraj and other personnel of CBI, had rushed inside the valuation cell and they were also joined by P.W.5. The two accused, who were sitting in the room were identified as A1 and A2. P.W.6 asked A1 and A2, why they were demanded and accepted the demand amount of Rs.5,000/- and has also revealed their identity and the identity of other members. A1 and A2, after hearing P.W.6 could not speak anything and became perplexed. 3.4. One Manoharan, on instructions of P.W.6, prepared Sodium Carbonate solution in a first glass and requested A2 to dip his right hand fingers inside the said solution and it turned pink in colour and it was poured in a glass bottle and sealed and labelled as 'A'. Sodium Carbonate solution was prepared and once again A2 was asked to dip his left hand fingers and it turned pink in colour and it was poured in a glass bottle and sealed and labelled as 'B'. Similar kind of exercise was also done in respect of accused No.1 also and it turned positive and the solution were marked as 'C' and 'D' and A to D bottles were marked as M.Os.4 to 7. P.W.6 asked A1 and A2 as to where they kept the bribe amount demanded and accepted by them, A1 has reluctantly pointed out the newspaper kept on the table and took the tainted currency notes and handed over to P.W.6 and he in turn handed over the same to one of the witness, namely, Joseph Sugunaraj and he verified the numbers of the currency notes with the entrustment mahazar marked as Ex.P4/pre trap mahazar and informed P.W.6 and that the currency numbers tallied. The newspaper, in which, the currency was wrapped, was wiped out by using a cotton swab and the cotton swab was dipped in the solution and it was also turned positive and the solution was preserved in another clean bottle and sealed and marked as 'E'. The newspaper was also seized and put in a separate cover marked as 'F' and the signatures of two independent witnesses were also obtained. 3.5. Thereafter P.W.6 effected the arrest of A1 and A2, after explaining the grounds of arrest and also informed the fact immediately to the higher official, namely, P.W.7. 3.6. P.W.6, before asking P.W.3 to contact A1 and A2 to pay the bribe, has also put a micro cassette recorder for the purpose of recording the conversation and after trap proceedings, it was also taken and sealed inside the cover marked as 'J'. P.W.6 has prepared the mahazar with regard to the post trap proceedings and recovery mahazar marked as Ex.P5 and as per the orders of the Superintendent of Police, CBI, Chennai, he handed over the documents to P.W.9 S.Balasubramaniam, Inspector of Police, CBI. 3.7. P.W.9, who took up the investigation, has registered a regular case in RCMA1003A0039 on 28.08.2003 in Ex.P31 and commenced investigation. He has also collected the documents and material objects from P.W.6 and was sent to the jurisdictional Court and also recorded the statements of the independent witnesses and made arrangement to get transcription of the audio cassette recorded in the micro cassette recorder, which was in possession of P.W.3 at the time of trap. He has also called the accused to attend the office on 09.10.2003 for the purpose of recording their statements. 3.8. P.W.12 continued the investigation and collected documents from one Dharmar, Income Tax Officer, who reopened his assessment against P.W.4/ wife of P.W.3 under Section 148 of the Income Tax Act, 1961 and he has also recorded statements of A1 and A2 on that date. On 11.10.2003, he recorded the statements of P.W.6 and Trap laying officer/TLO and recorded his statement and also recorded the statement of P.W.7 and other witnesses and after getting sanction from P.Ws.1 and 2 in respect of both accused under Exs.P1 and P2, has filed the charge sheet before the Special Court for trial of CBI Cases on 25.08.2004 charging them for the commission of offences under Sections 120(b) of IPC and Section 7 and 13(2) read with 13(1)(d) of the Prevention of Corruption Act, 1988.

4. The Special Court for trial of CBI Cases, immediately has taken cognizance of the final report filed by P.W.12 and issued summons to both the accused and on their appearance furnished them with copies of documents under Section 207 of Cr.P.C. and thereafter framed charges under Section 120(b) IPC read with Section 7, 13(1)(d) and Section 13(2) of the Prevention of Corruption Act and questioned them. Both the accused pleaded not guilty to the charges framed against them.

5. The prosecution, in order to sustain their case, has examined P.Ws.1 to 12, marked Exs.P1 to P.32 and also marked M.Os.1 to 10. Both the accused were questioned under Section 313(1)(b) of Cr.P.C., with regard to the incriminating circumstances made out against them and that they denied it as false and the appellant/accused/A2 herein has specifically stated that he did not demand any bribe. Both the accused were compelled to handle the currencies and thereafter only Phenolphthalein Test was conducted and the complaint given by P.W.3 is a false and concocted one. On behalf of both the accused, no oral evidence was let in and no documents were marked. The trial Court on appreciation of oral and documentary evidences, has convicted both the accused for the commission of the above said offences and sentenced them as stated above and hence, these appeals.

6. Mr.C.Muthu Saravanan, learned counsel for the appellant/A2, made the following submissions: (i) The prosecution has miserably failed to prove the purposes, for which, both the accused made demand. (ii) When both the accused made visit on 21.08.2003 and met P.W.3 for the purpose of getting proforma and valuation, admittedly did not demand any bribe amount and according to P.W.3, the said demand was made only on 28.08.2003, when he went to the office of A1 and A2 and met them. (iii) the acceptance of bribe amount on 28.08.2003 has also not been established by the prosecution for the reason that P.W.5 ?. independent witness/shadow witness was asked to go away and after prearranged signal, P.W.6 and police party along with witnesses went inside the office of the Valuation Cell and the bribe amount was not recovered either from the personal custody or either from A1 and A2 and it was found to be in a newspaper. Though Phenolphthalein Test conducted on both hands of A1 and A2 proved positive, the version of both the accused that the police party being lead by P.W.6 entered their office and both of them were compelled to handle the money and that is why Phenolphthalein Test conducted on both hands turned positive. (iv) P.Ws.3,5 and 6 were not in a position to tell as to whether the newspaper in which the currency notes covered, is a vernacular one or a English newspaper and though P.W.5 in his cross examination, would admit that piece of a newspaper was also subjected to Phenolphthalein Test, the fact remains that the said solution was not marked as material object and it was also not subjected to chemical analysis test as

evidenced by Ex.P32 ?. Chemical Examination Report and there is a material discrepancy with regard to the newspaper in which the currency notes was covered for the reason that M.O.1 is a Tamil Newspaper and M.O.3 is a English Newspaper and in the absence of any positive evidence as to the putting up of currency in a particular newspaper, the prosecution has miserably failed to prove the acceptance of the bribe amount on the part of A1 and A2. (v) P.W.3 is always in the habit of complaining against officials and though his wife also made a complaint against one Mr.Dharmaraj, Income Tax Officer and similarly also he made a complaint against both the accused and therefore his version cannot be accepted. (vi) Next submission made on the part of A2 is that both sanction orders are verbatim reproduction of each other and testimonies of P.Ws.1 and 2 also disclose that without due and proper application of mind, the orders of sanction have been given to prosecute both the appellants. (vii) In sum and substance, it is the submission of the learned counsel for the appellant/A2 that since the case projected by the respondent/prosecution bristles out very many infirmities and inconsistencies and that the appellant/A2 has also probabalised his defence, the trial Court in any event ought to have awarded benefit of doubt and acquitted him and however reached an erroneous conclusion and convicted the appellant/A2 and hence, prays for setting aside the order of conviction and sentence and prays for acquittal of the appellant/A2.

7. Per contra, Mr.S.Jeyakumar, learned Special Public Prosecutor for CBI Cases, would contend that the examination of the witnesses commenced nearly two years from the date of trap and on account of paucity of time, there are bound to be some inconsistencies in the testimonies of witnesses and they are only trivial discrepancies, which are not affected the core of the case projected by the prosecution. 7.1. On the merits of the case, it is submitted by the learned Special Public Prosecutor for CBI cases that P.W.2, who accorded sanction under Ex.P2 to appellant/A2 for his prosecution under the provisions of Prevention of Corruption Act, has duly applied his mind to all the materials placed before him and independently arrived at a conclusion to accord sanction and therefore, it cannot be said that the orders of sanction under Ex.P2 to prosecute A2 has been given without due application of mind. 7.2. It is the further submission of the learned Special Public Prosecutor for the respondent/prosecution that through the

testimonies of P.Ws.3,4,5,6 and other witnesses, it amply established the demand of bribe on the part of A1 and A2 on 28.08.2003 and acceptance on the same day and with regard to the recovery of newspaper, in which tainted currency notes were covered, it is the submission of the learned Special Public Prosecutor that having found the currency notes were put inside the newspaper, a cotton swab was used to wipe out the Phenolphthalein powder and it was also turned positive and it was also marked as exhibits and report under Ex.P32 opinion of the Chemical Examiner, was also given for it turned positive and proved positive. 7.3. It is also contended by the learned Special Public Prosecutor that no doubt, the newspaper in which the currency notes was covered, is a vernacular or English daily or not clearly established by the prosecution. But the fact remains that it was wiped out by using a cotton swab and the Chemical Analysis Test also proved positive to show that the tainted currency notes were put on the newspaper and in any event it can be taken only as a trivial discrepancy. 7.4. In sum and substance, it is the submission of the learned Special Public Prosecutor that the respondent/prosecution through the testimonies of witnesses and documentary evidences, has probabalised and established its case beyond any pale of doubt and the trial Court has rightly recorded the conviction and awarded adequate sentence of imprisonment and hence prays for dismissal of this appeal.

8. This Court paid its anxious consideration and best attention to the rival submissions and also carefully gone through the oral and documentary evidences and the original record.

9. P.W.4 is the owner of the property and her husband is P.W.3 and the jurisdictional income Tax Officer, namely, Dharmaraj has reopened the assessment under Section 148 of the Income Tax Act, 1961, especially, pertains to the valuation of the house property owned by P.W.4.

10. P.W.7, the Valuation Officer, would state in his chief examination that Ex.P7 is the file pertaining to the Assistant Valuation Officer for the case of P.W.4 and a reference has been received from the Income Tax Department for valuing the property and he would further state that in this regard, he received a letter from P.K.K.Dharmar Income Tax Officer Ward No.4, Tirunelveli on 29.05.2003 and it

was marked as Ex.P17 and the said letter was received by A1 and it was also initialled by him and received by A1 also on 05.06.2003 and as per Ex.P17, the cost of construction was shown as 8 lakhs and he would further state that if the admitted cost is upto Rs.10 lakhs, it is dealt by the Assistant Valuation Officer. If it is between 10 to 15, then it is dealt with by the Valuation Officer. Since the admitted valuation as per the assessment is only 8 lakhs, it should be dealt with by A1. The testimonies of P.W.7 would disclose that the file relating to valuation has been handled by A1.

11. The prosecution through the testimonies of P.W.3 has established the fact that both the accused came to the place in which the property was located on 21.08.2003 and collected the proforma filled by P.W.3 and also made a valuation and to ask P.W.3 and 4 to come and meet them in the office on 28.08.2003 and accordingly, he met them in the morning hours on 28.08.2003 in their office and at that time, a demand of Rs.5,000/- was made stating that the valuation would be Rs.10 lakhs and if the demand is not made, the valuation will be increased to Rs.15 lakhs. According to P.W.3, A1 also told them that if he does not pay the bribe amount, he will be put to trouble. P.W.3, having felt that the demand of bribe on the part of A1 and A2 is not at all justifiable, has consulted his wife P.W.4 and thereafter he contacted the Superintendent of Police, CBI, Chennai and lodged a complaint under Ex.P3 and P.W.6, after receipt of the complaint, made a pra-trap proceedings and also prepared the entrustment mahazar marked as Ex.P4.

12. On the date of trap on 28.08.2003, P.W.3 as well as P.W.5 the shadow witnesses reached the Valuation Office and both of them went inside and A1 alone was present. On seeing P.W.3, A1 asked A2 to come inside and A2 came inside the cabin of A1 and having found and asked about the presence of P.W.4, then A2 gestured to P.W.3 to send P.W.4 out of the room and accordingly, P.W.3 asked P.W.4 to come out of the room. P.W.3, in his chief examination, has spoken about the said fact and it was also corroborated by P.W.4 also and that is why at the time of demand of illegal gratification, P.W.4 was not present.

13. The learned counsel for the appellant has drawn the attention of this Court to the testimonies of P.Ws.3 and 4 and would submit that admittedly, P.W.3 was

inside the office for nearly 20 minutes and in the interregnum, A1 went and attended the nature's call and the said fact was also spoken to by P.W.4 and according to P.W.3, after payment of bribe amount, he came out and gave a prearranged signal and then, within a short span of time, the police party lead by P.W.6 went inside the office and admittedly, the money was not found in the possession of neither A1 nor A2. But it was placed on the newspaper and the said version projected by the prosecution creates a great doubt for the reason that according to A1 and A2, P.W.6, having found that the tainted money was not in possession of either of them, forced them to handle the money and thereafter only conducted Phenolphthalein Test on both the hands of the accused, which in turn, turned positive.

14. The learned counsel for the appellant has also invited the attention of this Court to the testimony of P.W.3 and would submit that P.W.4 is also in the habit of giving complaint against the officials and similarly she made a complaint against the jurisdictional Income Tax Officer and the said fact has also been spoken to by P.W.3 and adopting similar methods and in order to pressurize both the accused to give a lesser valuation in respect of the property owned by his wife, he has done so.

15. It is an admitted fact that the file relating to valuation of the house owned by P.W.4 ?. wife of P.W.3 has been handled by A1 and it is not in serious dispute that both A1 and A2 visited the place, in which the property was located on 21.08.2003 and they collected proforma and valued the property and they asked P.W.3 to come to their office on 28.08.2003 in the morning hours and when he met them, they made a demand and also warned him about the consequences of not paying the demand. At about 3.00 p.m., on 28.08.2003, after trap was arranged, P.W.3 along with P.W.5 met with A1 and subsequently A1 in turn A2 to come there and A2 on seeing P.W.4 gestured P.W.3 to send P.W.4 out and accordingly she was sent out. As pointed out in the earlier paragraph, the said fact has also spoken to by P.W.3 and P.W.4 and in the cross examination, nothing fruitful or favourable answer was elicited in favour of the appellant/A2.

16. It is the vehement submission of the learned counsel for the appellant/A2 that P.W.3 is always in the habit of giving complaint and that is why he made a complaint against the jurisdictional Income Tax Officer, namely, Dharmaraj and similarly he also made complaint against A1 and A2.

17. A perusal of the testimonies of P.W.8 would disclose that a representation was given with regard to the belated settlement of the income tax refund only and no personal allegations were levelled against Mr.T.K.K.Dharmar jurisdictional Income Tax Officer and the act of the said official also came for criticism as evidenced under Ex.P29 by P.W.8 and subsequently the amount was refunded and the reopening of the assessment was also closed.

18. Therefore, this Court is of the view that P.W.3 has no axe to grind against A1 and A2. P.W.6, after seeing the prearranged signal given by P.W.3, rushed inside the office of the valuation office and conducted Phenolphthalein Test on the hands of both the accused and it turned positive and he asked A1 as to where he kept the bribe money and has admitted that it was kept in the newspaper. The currency was taken and one of the witnesses, namely, Joseph Sugunaraj was asked to verify the serial numbers in the currency notes with the entrustment mahazar marked as Ex.P4 and the currency numbers were also tallied. Subsequently a cotton swab was also used to wipe out the Phenolphthalein powder and it was subjected to chemical analysis and it was also proved positive as per Ex.P32 - Chemical Examiner's report.

19. No doubt, there is some discrepancies with regard to the tearing of the part of the newspaper and that it was also subjected to chemical analysis. But the fact remains that the said report is not available and the explanation offered by the prosecution that it is only a trivial discrepancy, which may normally happen on account of the fact that the witnesses were examined nearly two years from the date of trap.

20. This Court finds that the discrepancies pointed out by the learned counsel for the appellant, are only trivial for the reason that cotton swab used to wipe out the Phenolphthalein powder found on the newspaper also turned positive. Similarly M.Os.1 and 3 came to be marked and it is the submission of the learned counsel

for the appellant that none of the witnesses including P.W.6 is not clear as to whether the newspaper is a vernacular one or a English daily and since two newspapers came to be marked as M.Os.1 and 3, it has become highly doubtful as to whether the tainted currency notes were placed on the newspaper at all and for the purpose of making the trap successful, P.W.6 has recorded as if the currency notes were get on the newspaper.

21. Even assuming that if two newspapers having been marked as M.Os.1 and 3, the fact remains that the cotton swab used to collect the Phenolphthalein powder found on the newspaper has proved positive as Ex.P.32 and therefore, the said point urged by the learned counsel for the appellant lacks significance.

22. It is the well settled position of law as relied by the Hon'ble Supreme Court of India in catena of decisions that mere recovery of the tainted money without there being any demand and acceptance by the accused from the complainant does not prove the guilt of the appellant and while invoking the provisions of Section 20 of the Prevention of Corruption Act, the Court is required to consider the explanation offered by the accused, if any, only on the touchstone of preponderance of probability and not on the touchstone of proof beyond all reasonable doubt. However, before the accused is called upon to explain as to how the amount in question was found in his possession, the foundational facts must be established by the prosecution. [AIR 1958 SC61[State of Madras v. A.Vaidhyanatha Iyer]..

23. In the case on hand, the prosecution beyond any pale of doubt has proved the demand of bribe on the part of both the accused on 28.08.2003 in the morning hours and acceptance of the bribe amount in the evening hours on 28.08.2003.

24. The Hon'ble Supreme Court of India in the decision reported in 1998 Crl.L J863[State of U.P. vs. Zakaullah]. has considered the scope of Section 5(2) of the Prevention of Corruption Act and held that the non signing of sample of solution used for conducting Phenolphthalein Test with the chemical examination did not vitiate the trap proceedings.

25. In the case on hand, as already pointed out the cotton swab used for wiping of Phenolphthalein powder found on the newspaper was also subjected to Chemical

Analysis Test and it is also turned positive and marked as Ex.P.32 coupled with the testimony of P.W.11.

26. In the considered opinion of the Court, the contradiction pointed out by the learned counsel for the appellant is only a trivial one and it has not affected the core of the case of the prosecution.

27. It is well settled position of law that Court, while appreciating the evidence, has to take into consideration whether the contradiction/omissions have been such a magnitude that they may materially affect the trial. Minor contradictions, inconsistencies, embellishments or improvements on trivial matters which do not affect the core of the prosecution case, should not be made a ground on which the evidence can be rejected in its entirety.

28. In the considered opinion of the Court, the respondent/prosecution, through the testimonies of witnesses and exhibits, has proved the guilt of the appellant/accused/A2 beyond any reasonable doubt and the trial Court on a proper consideration of the oral and documentary evidences has rightly found the appellant/accused A2 guilty of the offence.

29. At this juncture, the learned counsel for the appellant/A2 would submit that he is aged about 55 years and also physically challenged and suffering due to age related ailments and after conviction also dismissed from service and the said fact may also be taken into consideration for reduction of sentence of two years of imprisonment for each count, for the commission of the said offences may be reduced and on the said submission, the Court heard the submission of the learned Special Public Prosecutor for CBI cases also.

30. In the result, the criminal appeal is dismissed confirming the conviction dated 18.01.2006 and however, the sentence of imprisonment of two years awarded for the commission of the aforesaid offences is reduced to one year each and the fine and default sentence awarded by the trial Court is maintained. The bail bonds shall stand cancelled and the respondent is directed to take necessary steps to secure the custody of the appellant/A2 to undergo the sentence of imprisonment as modified by this Court. 19.03.2015 Index :Yes/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 Crl.A.(MD)NO.51 of 2006 19.03.2015