

**In Re: P. Chelladurai**

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**SooperKanoon Citation :** [sooperkanoon.com/814052](http://sooperkanoon.com/814052)

**Court :** Chennai

**Decided On :** Oct-14-1968

**Reported in :** (1969)1MLJ508

**Appellant :** In Re: P. Chelladurai

**Judgement :**

**N. Krishnaswamy Reddy, J.**

1. The appellant Chelladurai was convicted under Section 161, Indian Penal Code, and Section 5 (2) read with Section 5 (1) (d) of the Prevention of Corruption Act, by the Special Judge and District Magistrate, Thanjavur at Kumbakonam, in Special Case No. 2 of 1966 and sentenced to R.I. for one year under the latter section. No separate sentence was awarded under Section 161, Indian Penal Code.

2. The appellant was charged for having received a sum of Rs. 30 from P. W. 1 Panchmurthi as a motive or reward for doing a favour to him in the exercise of his; official functions, namely, for making arrangements to accept the re-tender submitted by P.W. 1, by the office of the District Medical Officer, Thanjavur at Nagapattinam.

3. The prosecution case is briefly this : The appellant, during the relevant period was a Lover Division Clerk attached to the Government Hospital, Mannargudi. One of his duties was to attend to the tenders submitted by the contractors for

supply of materials to the Government Hospital. P.W. 1, Panchamurthy, who is a resident of Mannargudi submitted a tender for the supply of certain diet articles to the Government Hospital for the year 1966-67 in the name of his father as his father on previous occasions was supplying diet articles to the Hospital. He got a communication at the end of March, 1966 from the Medical Officer, Government Hospital, Mannargudi, to the effect that his tender had been rejected. Then he submitted a re-tender in his own name on 8th April, 1966. One week later, the appellant went to the house of P.W. 1 and asked him if he knew as to why the tender submitted by him on the prior occasion was rejected. On P.W. 1 telling him that he did not know the reason, the appellant was alleged to have told P.W. 1 that he ought to have contacted him and paid money to him and that if he had done this earlier, he would have put up a favourable note recommending the acceptance of his tender. The appellant further told P.W. 1 that if his tender dated 8th April, 1966 were to be accepted, he should put up a note recommending his tender to the Medical Officer,, Mannargudi and that the Medical Officer Mannargudi should recommend the same to the District Medical Officer, Nagapattinam. The appellant demanded a sum of Rs. 50 from him for putting up a note recommending his tender. P.W. 1 told him that he would consider the matter. The appellant again contacted him on 21st April, 1966 and told him that he had forwarded the tender after getting the signature of the Medical Officer, Government Hospital, Mannargudi, in the hope that he would pay him the bribe demanded by him. The appellant also told P.W. 1 that if he did not pay the amount, he would meet the Head Clerk in the office of the District Medical Officer, Nagapattinam, and see that his tender was rejected. So-saying, the appellant asked him to pay Rs. 30 for his share on the next day while he returned from the office to his house in the evening or on the morning of the next day and that a sum of Rs. 20 also should be paid as the share of the Head Clerk of the Office of the District Medical Officer, Nagapattinam, saying that the said sum could be paid later. P.W. 1 agreed to pay Rs. 30 the next day while the appellant, returned from the Hospital to his house in the evening as suggested by the appellant as he was afraid that the appellant would do harm to him. However, he thought over the matter and decided to report to the Vigilance Police in charge of Anti-Corruption. On the morning of 22nd April, 1966, P.W. 1 contacted P.W. 5 Sri V. N. Srinivasa

Rao, Inspector attached to the Vigilance and Anti-corruption Department at Thanjavur and told him about the demand made by the appellant. P.W. 5 recorded a complaint from P.W. 1, P.W. 5 instructed P.W. 1 to meet him in the Travellers' Bungalow with Rs. 30 intended to be paid to the appellant. At 3 p.m. on the same day, P.W. 1 produced Rs. 30 in three currency notes of denomination of Rs. 10 each before P.W. 5, in the presence of P.W. 2, Subbiah, Tahsildar, Mannargudi and the Deputy Commercial Tax Officer, Mannargudi. The numbers of the currency notes were noted by P.W. 5 in a mahazar, attested by P.W. 2 and the Deputy Commercial Tax Officer. P.W. 1 was instructed by P.W. 5 to proceed to the Government Hospital, Mannargudi and pay the amount to the appellant, if demanded by him, and if he had accepted the amount to signal to P.W. 5 by pretending to apply snuff to his nose and picking up the kerchief from his pocket and waving it as though it was for rubbing his nose. P.W. 1 accordingly proceeded to the hospital by cycle. P.Ws. 2 and 5 followed him in a jeep and stood at a distance of 20 yards from the gate of the Government Hospital. At about 5 or 5-15 p.m., the appellant came from the Hospital Office and asked him if he had brought the money as promised by him. When P.W. 1 told him that he had brought the money, the appellant took him towards the hotel on the eastern side of the Hospital. After P.W. 1 and the appellant had proceeded ten yards from the Hospital gate, the appellant asked for the money. P.W. 1 gave M.Os. 1 to 3, three ten rupees notes to the appellant. The appellant received them and kept them in the left pocket of his shirt. Thereafter P.W. 1 signalled to P.W. 5 who was standing at a distance of 20 yards. Immediately, P.W. 5 along with P.W. 2 rushed to the appellant and asked him to produce the amount received by him from P.W. 1. The appellant produced the notes from his pocket. On comparison, the notes recovered from the appellant were found to be the same notes, the numbers of which were noted in a mahazar.

4. When questioned under Section 342, Criminal Procedure Code, the appellant admitted having received money from P.W. 1, but stated that P.W. 1 requested him to go to the office of the District Medical Officer and find out the details from them in respect of the tender submitted by him as P.W. 1 did not know any one in the office and that on his saying that it will not be possible for him to avail leave for that purpose and go to the office at Nagapattinam, P.W. 1, had told him that he

could go in a taxi and paid Rs. 30. He further stated that he was trapped at the instance of one Balakrishnan who was working as a Clerk in the Government Hospital, Mannargudi, and who was inimically disposed towards him as he (the appellant) exposed his intimacy with one nurse in the hospital kitchen, to the Medical Officer, Mannargudi.

5. The case is very simple. The appellant admitted that he received Rs. 30 from P.W. 1. The case of P.W. 1 is that the appellant insisted upon him to pay Rs. 30 not only for having put up a favourable note recommending his tender but also for making further arrangements with the Head Office at Nagapattinam for accepting his tender. There is no reason to reject the evidence of P.W. 1. The appellant does not dispute the fact that he had put up a favourable note recommending his tender to the Head Office and obtained the signature of the Medical Officer, Mannargudi. His explanation itself probabilities the version of P.W. 1 that the appellant would arrange with the Head Office at Nagapattinam for accepting the tender. It is very difficult to believe the case of the appellant that P.W. 1 gave Rs. 30 as taxi charges to go to Nagapattinam to find out the details from the Head Office. The appellant is a public servant. P.W. 1 does not seem to be his friend. In these circumstances, it is curious that the appellant would have accepted to go to Nagapattinam merely to oblige him without receiving a gratification for the favourable arrangements to be made for accepting the tender of P.W. 1 by the Head Office. No motive has been suggested to P.W. 1 as to why he should be a party in laying a trap when especially according to the appellant, he was prepared to oblige him. I accept the case of the prosecution that the appellant received Rs. 30 as illegal gratification for having put up a favourable note recommending the tender of P.W. 1 and also for making arrangements at the Head Office for accepting his tender.

6. The learned Counsel Sri C. Gopalaswami argued that any amount received as reward for the past service rendered by a public servant would not come within the mischief of Section 161, Indian Penal Code. He stressed this point on the language used in Section 161, Indian Penal Code, which according to him refers to things to be done by a public servant or forbearing to do by such public servant in future. I am unable to agree with him. The relevant words in Section 161, Indian

Penal Code, are as follows:..as a motive or reward for doing or forbearing to do any official act or for showing or forbearing to show, in the exercise of his official functions...

From these words, it is argued by the learned Counsel that what is referred to is only for doing or forbearing to do any official act in future. The word 'reward', according to Shorter Oxford Dictionary, means ' a return or recompense made to, or received by, a person for some service or merit, or for hardship endured '. It clearly denotes a payment for a past service. If the contention of the learned Counsel is accepted, it will lead to an absurd position, namely, whenever a public servant stipulates to receive money for doing service, after service is rendered it will not be an offence under Section 161, Indian Penal Code. This can never be the intention of the Legislature. Yahya Ali, J., in Venkatasubbiah v. Emperor : AIR1948 Mad63 , on a similar contention raised, held that the term 'reward' in Section 161, Indian Penal Code, was manifestly intended to apply to a past service and that any other construction would lead to an absurdity. I respectfully agree with this decision. I do not, therefore, see any force in the contention of the learned Counsel. The convictions of the appellant under Section 161, Indian Penal Code, and Section 5 (2) read with Section 5 (1) (d) of the Prevention of Corruption Act are confirmed.

7. So far, as the sentence is concerned, I am inclined to take a lenient view. The appellant is a middle-aged man who was getting a very meagre salary as a Clerk at the time he committed the offence. He has lost his job. He has been in jail for a week. Taking all these circumstances into consideration, I do not think it necessary to send him back to jail and, therefore, I reduce his sentence of imprisonment to the period already undergone.

8. The appeal is dismissed with the modification in the sentence.