



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3368]

MONDAY, THE SIXTEENTH DAY OF MARCH
TWO THOUSAND AND TWENTY-SIX

PRESENT

THE HONOURABLE SRI JUSTICE B V L N CHAKRAVARTHI

CRIMINAL APPEAL No: 1010/2006

Between:

1.T. V. BALA KRISHNAN, S/O SAMBU NAMBU DRI, ASST.
DIRECTOR, OFFICE OF THE DISTRICT SURVEY AND
LAND- RECORDS, KURNOOL DISTRICT.

...APPELLANT

AND

1.THE STATE OF AP REP BY ITS SPL PP HYD THGH ACB
KURNOOL RAN, rep. by its Spl.Public Prosecutor, High Court of
A.P., at Hyderabad, through the Inspector of Police, Anti
Corruption Bureau.

...RESPONDENT

Counsel for the Appellant(S):

1.K V ADITYA CHOWDARY

Counsel for the Respondent:

1. S. SYAM SUNDER RAO SC cum Spl P.P. For ACB

The Court made the following:

THE HONOURABLE SRI JUSTICE B.V.L.N.CHAKRAVARTHI**CRIMINAL APPEAL No: 1010 OF 2006****J U D G M E N T:**

Heard Sri K.V.Aditya Chowdary, learned counsel for the appellant and Sri S.Syam Sunder Rao, learned Special Public Prosecutor-cum-Standing Counsel representing the respondent/ACB.

2. The appeal is preferred by the convict/A-1 in the case, challenging the judgment dated 25.07.2006 rendered by the Special Court for SPE & ACB Cases, City Civil Courts at Hyderabad, in C.C.No.12/2001. The appellant/A-1 was found guilty of the offence U/secs.7 & 13(2) of the P.C.Act, 1988. He was convicted and sentenced to suffer rigorous imprisonment for two (02) years and to pay fine of Rs.5,000/- (Rupees Five Thousand only), in default, suffer simple imprisonment for six (06) months for the offence U/s.7 of the P.C.Act, 1988. He was sentenced to suffer rigorous imprisonment for two (02) years and to pay fine of Rs.5,000/- (Rupees Five Thousand only), in default, suffer simple imprisonment for six (06) months for the offence U/s.13(2) of the P.C.Act, 1988.

CASE OF THE PROSECUTION:

3. The case of the prosecution is that the appellant worked as Assistant Director, District Survey and Land Records, Kurnool, from 02.11.1999 to 26.05.2000. The accused (A-2) in the case worked as

Attender under the appellant/A-1 during that period. The complainant Sri Buddanna retired from service as Typist in the office of District Survey and Land Records on medical invalidation on 24.04.2000. He intends to get an appointment for his son (P.W-3). Accordingly, he applied to the appellant/A-1 on 25.04.2000. He met the appellant several times for earlier appointment of his son.

4. On 23.05.2000, the complainant met the appellant at his office. The appellant/A-1 made demand for Rs.25,000/- (Rupees Twenty-Five Thousand only) as gratification other than legal remuneration to appoint the son of the complainant. The complainant was unwilling to pay the amount. Therefore, he went to the office of ACB and presented Ex.P-1 report to P.W-6 i.e., Deputy Superintendent of Police, ACB, Kurnool Region. P.W-6 registered Ex.P-1 report as Ex.P-15 FIR in Cr.No.6/ACB-KUR/2000 and took-up investigation.

5. During investigation, P.W-6 conducted pre trap proceedings on 26.05.2000 in the presence of the complainant and mediators. Later, P.W-1 went to the office of the appellant. The trap team followed the complainant to the office of the appellant. The complainant went into the chambers of the appellant at about 12.10 p.m. The appellant reiterated the demand for giving order for appointment of P.W-3 as Typist. The complainant paid a sum of Rs.25,000/- towards gratification other than legal remuneration. The appellant asked the

complainant to give the amount to the A-2, who is present in the chambers at that time. Therefore, A-2 received the amount on behalf of the appellant/A-1. The complainant came out and informed the trap team. Immediately, the trap team i.e., P.W-1 along with P.W-6 and others entered into the chambers of the appellant. They found the appellant and A-2 present in the chambers of the appellant. They questioned the appellant and A-2. Then complainant came into the chambers and narrated the happenings. Then, P.W-6 seized the gratification amount from the possession of A-2, conducted chemical test and A-2. It gave positive result. Therefore, P.W-6 recorded the happenings i.e., post trap happenings in the presence of P.Ws-1 and 6 under the cover of Ex.P-6. He conducted further investigation and seized record relating to the official favour (Exs.P-2 to P-4 and Exs.P-8 to P-12) etc. Later, Ex.P-13 was issued according to sanction for prosecution of the accused in the case. After conclusion of the investigation, successor of P.W-6 i.e., P.W-9 filed report before the Special Court against the appellant and attender as A-2 for the offence U/secs.7 and 13(2) of the P.C.Act, 1988.

6. The Special Court took cognizance for the above offence against the appellant and the other accused. The appellant/A-1 was charged for the offence U/secs.7 and 13(1)(d) r/w.13(2) of the P.C.Act, 1988. A-2 was also charged for the same offence. Both the accused pleaded not guilty.

EVIDENCE FOR THE PROSECUTION:

7. Therefore, during trial, nine witnesses were examined for the prosecution as P.Ws-1 to 9. P.W-1 is the mediator for pre and post trap proceedings. P.W-2 worked as Senior Assistant in the office of Assistant Director, Survey and Land Records at Kurnool at the relevant point in time. P.W-3 is son of the deceased/complainant. P.W-4 worked as Regional Deputy Director, Survey and Land Records at the relevant point in time. P.W-5 was examined to speak about Ex.P-13 issued by the Government according to sanction for prosecution of the appellant and other accused in the case. P.W-6 is the Investigation Officer in the case, who registered FIR, conducted pre and post trap proceedings in the case. P.W-7 is the Inspector worked in ACB at that point in time and conducted part of the investigation in the case. P.W-8 is the Magistrate, who recorded the statement of the deceased/complainant U/s.164 Cr.P.C. P.W-9 is the Deputy Superintendent of Police, ACB, who laid police report before the Special Court.

8. The prosecution during the course of evidence of the above witnesses, filed 15 documents marked as Exs.P-1 to P-15, apart from the material objects marked as M.Os-1 to 9.

9. The appellant/A-1 and the other accused were examined U/s.313 Cr.P.C. regarding the incriminating circumstances appearing

against them from the evidence for the prosecution. They denied the said circumstances as false. No oral evidence was adduced for the defence. Only one document was marked for the defence vide Ex.D-1.

FINDING OF THE SPECIAL COURT:

10. Basing on the above evidence placed before the Special Court, the learned Special Court found the appellant/A-1 guilty for the offence U/secs.7 and 13(2) of the P.C.Act, 1988, whereas, found the other accused i.e., A-2 not guilty for the offence U/secs.7 and 13(2) of the P.C.Act, 1988. Accordingly, acquitted.

11. The present appeal came to be preferred by the appellant/A-1, challenging the order of conviction recorded by the Special Court against him for the above offence.

12. It is admitted that no appeal preferred by the State, challenging the order of acquittal recorded by the Special Court against A-2 for the above offence.

SUBMISSIONS ON BEHALF OF THE APPELLANT/A-1:

13. The learned counsel for the appellant/A-1 would submit that the case of the prosecution is that the appellant/A-1 demanded the complainant to pay gratification amount for appointment of P.W-3 in the post of Typist on 23.05.2000 when complainant met him in the chambers of the appellant/A-1 located in the office of Survey and

Land Records at Kurnool. Therefore, the complainant presented Ex.P-1 report to P.W-6. It was registered as Ex.P-15 FIR on 26.05.2000. On that day, pre-trap proceedings were conducted in the presence of P.W-1 and others. Later, the complainant went to the office of the appellant/A-1, met him in the chambers at about 12.15 p.m. in the afternoon. The other accused was present in the chambers of the appellant at that time. Then, the appellant made demand for the bribe amount to issue order of appointment to P.W-3 appointing as Typist. Therefore, the complainant paid the bribe amount. It was handed over to the other accused (A-2) on the instructions of the appellant/A-1. It was received by the other accused (A-2) in the chambers itself on the instructions of A-1. Later, the complainant went outside, gave signal to the trap team. Therefore, the trap team followed into the chambers of A-1, recorded statements of A-1 and A-2. Complainant came to there. His statement was also recorded. Then, bribe amount was seized from A-2 under the cover of post trap proceedings.

14. He would further submit that this story of the prosecution is proved to be not true from the witnesses examined by the prosecution. P.W-2 deposed that the appellant/A-1 signed the proceedings of the appointment on 26.05.2000 before 11.00 a.m. P.W-2 put up note before the appellant for orders on 23.05.2000. He approved it on the very same day and forwarded the file to P.W-2. On that day, letter was

also received from the Regional Deputy Director office at about 05.30 p.m. Immediately, he placed note and obtained orders before the appellant going for a camp on official duty.

15. P.W-4 deposed that Ex.P-11 would show that on 20.05.2000 the appellant wrote a letter to P.W-4 seeking permission for appointment of P.W-3 as Typist. These facts would establish that the appellant/A-1 addressed letter to P.W-4 on 20.05.2000 itself seeking permission for appointment of P.W-3. Later, permission was received on the evening of 23.05.2000 from the office of Regional Deputy Director of P.W-4. Immediately, P.W-2 placed the file before the appellant/A-1 on 23.05.2000 evening itself and the appellant/A-1 approved the file and returned the file to P.W-2 on the very same day for taking further action in the matter and copies of appointment orders were prepared even before 11.00 a.m. on 26.05.2000 before post trap proceedings. All these circumstances would show that the appellant/A-1 has no intention at all to stop or delay the proceedings for any reason much less anticipating bribe as initiated the process itself on 20.05.2000 and completed the process by 23.05.2000.

16. The learned counsel for the appellant/A-1 would further submit that the prosecution to prove the case U/secs.7 and 13(2) of the P.C.Act, 1988, would establish the demand as well as receiving the bribe amount by the Public Servant. Then only, presumption U/s.20 of

the said Act would arise with respect to the offence U/s.7 of the PC Act, 1988, only that the bribe amount was received to do official favour. In the case on hand, the complainant died pending trial. He is the only witness for the prosecution to depose about the demand made by the appellant/A-1 and also to depose about the fact that the appellant/A-1 asked the complainant to pay the amount to A-2 and on his instructions, A-2, who was present in the chambers of A-1 on 26.05.2000, received the amount.

17. P.W-1, P.W-3 or P.W-6 examined for the prosecution are not eyewitnesses for the alleged demand on 23.05.2000 or 26.05.2000 made by the appellant/A-1. The evidence of P.Ws-2 and 4 would establish that no official favour was pending with the appellant/A-1, when the complainant met the appellant on 12.15 p.m. on 26.05.2000.

18. The Hon'ble Apex Court in the case of **Neeraj Dutta V. State (Govt. of NCT of Delhi)**¹ in Criminal Appeal No.1669 of 2009 held that *“the prosecution must establish demand and receive the bribe amount to raise presumption U/s.20 of the Act, to presume that official favour was pending. In the absence of evidence to establish demand or receiving the amount as bribe amount, no presumption shall be raised U/s.20 of the Act that official favour is pending with the accused”*.

¹ (2022) SCC OnLine SC 1724

19. In the case on hand, the evidence of P.Ws-2 and 4 would establish that no official favour was pending with the appellant/A-1, when the complaint met him on 26.05.2000 at about 12.15 p.m. Further, there is no evidence to prove the demand made by the appellant/A-1 on 23.05.2000 or 26.05.2000.

20. The learned trial Court found that A-2 is not guilty for the offence, on the ground that he does not know that the amount was paid towards bribe amount, and therefore, he could not have received the amount from the complainant. He would further submit that as per the case of the prosecution, the other accused was also present in the chambers of A-1, when the complainant met him at about 12.15 p.m. Then, the appellant/A-1 made demand for the bribe amount and therefore, the complainant made the payment to A-2 on the instructions of A-1. If the said story is true and correct, A-2 would also know about the demand made by the appellant/A-1 and that the amount is paid towards bribe as per the demand. But, the trial Court finding that A-2 was not having any knowledge that it is a bribe amount. and accordingly, acquitted him. No appeal is filed by the State, challenging the judgment of the trial Court. Hence, the finding of the trial Court became final. It leads to a conclusion that no demand was made by A-1 for bribe in the presence of A-2 at that time and therefore, A-2 might have received the amount. Meaning thereby, A-1 did not make any demand at that time.

21. In the light of foregoing circumstances, absolutely, there is no evidence on record to prove the demand and also to prove that A-2 received the amount as bribe amount. In that view of the matter, the conviction of the appellant/A-1 for the offence U/secs.7 and 13(2) of the P.C.Act, 1988, is not sustainable either on facts or in law.

SUBMISSIONS ON BEHALF OF THE RESPONDENT/STATE:

22. Sri S.Syam Sunder Rao, learned Special Public Prosecutor-cum-Standing Counsel for ACB would argue that though the complainant died pending trial, the prosecution placed other evidence to prove the demand and receiving the amount by the appellant as to prove the obtainment of gratification, other than legal remuneration.

23. The Hon'ble Apex Court in **Neeraj Dutta's case** held that "*death of complainant will not abate the offence. The prosecution can place other evidence to prove the demand and receiving the gratification amount by the accused*".

24. In the case on hand, the prosecution has examined P.W-1 the mediator, P.W-6 the trap laying officer as well as the son of the deceased as P.W-3. Their evidence would establish the demand as well as receiving amount by A-2. In those circumstances, there are no grounds to interfere with the judgment of the Special Court so far as recording conviction against the appellant/A-1 for the offence U/secs.7 and 13(2) of the P.C.Act, 1988. However, he would admit that no

appeal was filed by the State, challenging the order of acquittal passed against the other accused/A-2.

25. In the light of above rival contentions, the point that arose for consideration in this Criminal Appeal is as under:

“Whether the judgment of the Special Court warrants interference of this Court and liable to be set aside as prayed for?”

26. **POINT:** It is an admitted fact that the complainant in the case, who presented Ex.P-1 report to P.W-6 i.e., Inspector of ACB, alleging that the appellant/A-1 made demand for bribe on 23.05.2000 and also on 26.05.2000, is no more. He died pending appeal. P.W-1 is the mediator for pre and post trap proceedings. He was not a witness for the demand alleged on 23.05.2000. He was also not a witness for the demand made by the appellant/A-1 on 26.05.2000. So also, P.W-6 the Investigation Officer. P.W-3 is the son of the deceased/complainant. Admittedly, he also did not follow his father to the office of the appellant/A-1 either on 23.05.2000 or 26.05.2000.

ANALYSIS:

27. The evidence of P.Ws-2 and 4 who are the Officers of the Survey and Land Records Department at Kurnool, would establish that the appellant/A-1 addressed letter on 20.05.2000 itself to the office of P.W-4, seeking permission to appoint P.W-3 as Typist.

28. It is the case of the prosecution that the complainant met the appellant/A-1 on 23.05.2000. On that day, he made demand for bribe, but, the evidence of P.W-4 would establish that the appellant/A-1 already addressed letter on 20.05.2000 for permission to appoint P.W-3 as Typist. The case of the prosecution is that the deceased / complainant met the appellant/A-1 again on 26.05.2000 in the chambers of the appellant in the presence of A-2 at about 12.15 p.m. The evidence of P.W-2 would establish that permission to appoint P.W-3 as Typist issued by P.W-4 was received in their office on the evening of 23.05.2000 at about 05.30 p.m. Immediately, file was placed before the appellant/A-1 for passing orders. He passed orders. He also forwarded the file to P.W-2 to take further steps in the matter. Orders were prepared. He also signed the orders on the very same day. Therefore, the evidence of P.Ws-2 and 4 would establish that process of the file was completed by the appellant/A-1 on the evening of 23.05.2000 itself. In fact, the evidence of P.W-2 would further show that copies of orders were also obtained by stencil work, and they were made ready even before 11.00 a.m. on 26.05.2000 to deliver the same to the complainant and P.W-3. In those circumstances, the case of the prosecution that the appellant/A-1 made demand for payment of bribe at about 12.15 p.m., when complainant met him in his chambers in the presence of A-2 is not believable.

29. Here, it is pertinent to note down that case of the prosecution is that the appellant made demand for bribe in the presence of A-2, when the complainant met him at about 12.15 p.m. in the chambers of the appellant. Then, the appellant asked the complainant to pay the amount to A-2, and therefore, A-2 received the amount from the complainant. If this version is true and correct, then A-2 would know what for the amount has been paid by the complainant probably for that reason only, the Investigation Officer filed report against the A-2 also. Accordingly, the trial Court charged A-2 for the offence U/secs.7 and 13 (1)(d) r/w.13(2) of the P.C.Act, 1988. But the trial Court basing on the evidence made a categorical finding that the other accused i.e., A-2 could not know that the amount was paid to him is bribe and therefore, he received the amount. If it is true, then the question of A-1 making demand in the presence of A-2 is not possible and would not happen. My view is fortified by the evidence of P.Ws-2 and 4. Their evidence would establish that the appointment proceedings were completed even by the evening of 23.05.2000 and copies were also made ready on that day itself. In those circumstances, the case of the prosecution that the appellant/A-1 made demand on 26.05.2000 appears to be false.

30. There is no other evidence to prove the demand and receipt of the amount. The evidence of P.W-1, P.W-6 or P.W-3 will not improve the case of the prosecution, in the light of foregoing facts and

circumstances. It will not lead the Court to say that prosecution proved the demand as well as receipt of the amount towards bribe, which are sine qua non to establish "**obtainment**", as laid down U/s.7 as well as U/secs.13(1)(d) r/w.13(2) of the P.C.Act, 1988, in the case. But, the trial Court in its judgment did not consider the above facts and circumstances. Therefore, came to an erroneous opinion that the prosecution proved the offence U/secs.7 and 13(2) of the P.C.Act, 1988 against the appellant/A-1, while acquitting the other accused i.e., A-2 for the same offence. In those circumstances, the judgment of the trial Court is not sustainable either on facts or in law.

CONCLUSION:

31. In the light of foregoing discussion, this Court is of the considered opinion that the appeal be allowed, setting aside the judgment of the learned Special Court.

RESULT:

32. In the result, the Criminal Appeal is allowed. The judgment dated 25.07.2006 rendered by the Special Court for SPE & ACB Cases, City Civil Courts at Hyderabad, in C.C.12/2001 is set aside. Accordingly, the appellant/A-1 acquitted for the offence U/secs.7 and 13(2) of the P.C.Act, 1988. The fine amount if any paid by the appellant/A-1, shall be refunded to him in accordance with law. This judgment be certified to the trial Court, U/s.405 Cr.P.C.

As a sequel thereto, interlocutory applications, if any, pending shall stand closed.

JUSTICE B.V.L.N. CHAKRAVARTHI.

16.03.2026

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THE HONOURABLE SRI JUSTICE B.V.L.N. CHAKRAVARTHI

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Date: 16.03.2026

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