



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

**[3368]**

TUESDAY, THE SEVENTEENTH DAY OF MARCH  
TWO THOUSAND AND TWENTY SIX

**PRESENT**

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

**CRIMINAL APPEAL No: 1067/2007**

**Between:**

1. JANDYALA CHANDRA SEKARAM (DIED) PER L.RS, S/O. J.KRISHNA MURTHY, FORMERLY ADDITIONAL REVENUE INSECTOR , O/O. MANDAL REVENUE OFFICER, KADAPA DISTRICT.
2. J. ANNAPOORNA, W/O. LATE J. CHANDRASEKHARAM, AGED 61 YEARS, OCC.HOUSEWIFE, R/O. FLAT NO.A-202, HOYASALA SAMRUDDI APTS., AMRUTHA HALLI, TALACAVERY LAYOUT, BYATARAYANAPURA, BANGALORE - 560092, KARNATAKA STATE.
3. J. PRADEEP KUMAR, S/O. LATE J. CHANDRASEKHARAM, AGED 39 YEARS, R/O. FLAT NO.A-202, HOYASALA SAMRUDDI APTS., AMRUTHA HALLI, TALACAVERY LAYOUT, BYATARAYANAPURA, BANGALORE - 560092, KARNATAKA STATE.
4. J. VAMSI KRISHNA, S/O. LATE J. CHANDRASEKHARAM, AGED 42 YEARS, R/O. FLAT NO.A-202, HOYASALA SAMRUDDI APTS., AMRUTHA HALLI, TALACAVERY LAYOUT, BYATARAYANAPURA, BANGALORE - 560092, KARNATAKA STATE.
5. J. BHARGAVI, W/O. T. SUBRAHMANYAM, AGED 41 YEARS, R/O. FLAT NO.A-106, HOYASALA SAMRUDDI APARTMENTS., TALACAVERY LAYOUT, BYATARAYANAPURA, BANGALORE - 560092, KARNATAKA STATE. SINCE APPELLANT NO.1 IS DIED, APPELLANT LR'S ARE BROUGHT ON RECORD AS APPELLANT NOS.2 TO 5, AS PER THE COURT ORDER DATED 23.06.2025 IN I.A.NO.3 OF 2024 IN CRL.A.NO.1067 OF 2007.

**...APPELLANT(S)**

**AND**

1.STATE OF A P REP BY PP, rep.by Inspector of Police, ACB,  
Tirupathi Range, Kadapa District.

**...RESPONDENT**

**Counsel for the Appellant(S):**

1.D KODANDARAMI REDDY

**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: 1067 OF 2007****J U D G M E N T:**

Heard Sri D.Kodandarami Reddy, learned counsel for the appellants 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/accused in the case, challenging the judgment dated 13.08.2007 rendered by the Special Court for SPE & ACB Cases at Nellore, in C.C.No.6/2005. The appellant is the accused in the case. The Special Court convicted the appellant for the offence U/secs.7 and 13(2) of the P.C.Act, 1988 and sentenced to suffer rigorous imprisonment for a period of one (01) year and to pay fine of Rs.1,000/- (Rupees One Thousand only), in default, to suffer simple imprisonment for a period of two (02) months each for the above offence.

3. Pending appeal, the appellant/accused died. Therefore, legal representatives come on record to continue the appeal as per section 394 of Code of Criminal Procedure, 1973.

**CASE OF THE PROSECUTION:**

4. The case of the prosecution is that the accused working as Additional Revenue Inspector in the office of Mandal Revenue Officer, Mydakur Village, Kadapa District, at the relevant point in time. The

accused demanded and received gratification, other than legal remuneration from K.Venkata Subba Reddy (P.W-1) on 10.03.2004 at 11.15 a.m. in the office of the accused for doing an official act i.e., processing the files and to issue pattas and passbooks for the land in the name of P.W-1 and his family members. Therefore, he committed the offence U/secs.7 and 13(2) of the P.C.Act, 1988.

5. The Special Court took cognizance for the above offence against the appellant. The accused was charged for the offence U/secs.7 and 13(1)(d) r/w.13(2) of the P.C.Act, 1988. The accused pleaded not guilty and claims to be tried.

**EVIDENCE FOR THE PROSECUTION:**

6. The prosecution to prove the above charge, examined P.Ws-1 to 8. During their evidence, marked Exs.P-1 to P-16, apart from M.Os-1 to 8.

7. The accused was examined U/s.313 Cr.P.C. regarding the incriminating circumstances appearing against him from the evidence for the prosecution. He denied the said circumstances as not true and correct. No evidence for defence was adduced.

8. The plea of the accused is that he worked as Additional Revenue Inspector in the office of Mandal Revenue Officer at the relevant point in time. He was entrusted with files relating to process of

assignment work and pass books which include the files relating to P.W-1 and his family members. He completed the work by 05.03.2004. He handed over the files to P.W-4 on the evening as he was under transferred at that time. He could not relieve from the office as his successor did not come to join. Therefore, the case of the prosecution that he made demand and received the gratification amount, other than legal remuneration on 10.03.2004 is not true and correct. On that day, he informed P.W-1 that he had already completed the work, handed over the files to P.W-4 on 05.03.2004. No work is pending with him and asked P.W-1 to contact other staff for further action on the files of P.W-1. Therefore, P.W-1 became angry on the ground that his work is not completed, quarreled with the accused and later, presented report with false allegations implicating him in the case.

**FINDING OF THE SPECIAL COURT:**

9. Basing on the above evidence placed before the Special Court, the learned Special Court found the appellant/accused guilty for the offence U/secs.7 and 13(1)(d) r/w.13(2) of the P.C.Act, 1988, and accordingly, convicted him as mentioned above.

**SUBMISSIONS ON BEHALF OF THE APPELLANT/ACCUSED:**

10. Sri D.Kodadarami Reddy, learned counsel for the appellant would submit that the evidence of P.W-4 and P.W-5, who are Mandal Surveyor and Senior Assistant working in the office of the Mandal Revenue Officer at Mydakur Village, during the relevant point in time,

The evidence for the prosecution would show that the appellant processed and concluded the work relating to files of P.W-1 and his family members on 05.03.2004. He also handed over the files (Exs.P-1 to P-3) to P.W-4, as P.W-5 is not available in the office at about 07.15 p.m. Admittedly, 6<sup>th</sup> and 7<sup>th</sup> of March 2004 are public holidays. The accused continued to work in the office subsequently as his successor did not come to the office to take charge. On 10.03.2004, P.W-1 came to the accused and asked him about his files. The accused intimated him that files were already been processed and handed over to other officials in the office. But P.W-1 did not listen to him. Suddenly, pushed the tainted money into the trouser pocket of the accused, when he is about to leave the seat. Later, P.W-8/Inspector of Police, ACB, along with P.W-6 and others came to there and asked the accused to pick out the money from his trouser. The accused obliged the direction of P.W-8. Then, chemical test was conducted on the hands of the accused. Therefore, it gave positive result. In those circumstances, he was trapped falsely and implicated in the case.

11. He would further submit that in the evidence of P.W-1 he deposed that he approached the accused on 01.03.2004 and 05.03.2004 accused demanded money to process the files and that he will not process the files till payment of the amount demanded by him. Therefore, P.W-1 approached P.W-8 on 09.03.2004 and presented the report. If it is true, how do the accused would process the files on

05.03.2004, even before the demand is satisfied, when accused asked P.W-1 to come on 10.03.2004 to meet his demand.

12. It is not the case of the prosecution that the accused in anticipation of the payment of the amount on 10.03.2004 by P.W-1, processed the files on 05.03.2004, and handed over the files to P.W-4 on 05.03.2004 with a request to hide the files from other employees in the office and P.W-1 till 10.03.2004. So that, no one will know that he processed the files on 05.03.2004, particularly P.W-1 and he would pay the bribe amount on 10.03.2004.

13. It is also not the case of the prosecution that the accused anticipated that P.W-1 will go to ACB officials, and a trap will be arranged on 10.03.2004. So that he shall have a defence to say that he had already completed the work on 05.03.2004. Accordingly, P.Ws-4 and 5 accommodated the accused, received the files on 05.03.2004. But, the learned Judge of the Special Court, at para-No.13 in page 18 of the judgment, observed that Mandal Revenue Officer/P.W-2 P.W-4, and P.W-5 were hand in glove with the accused officer. They accommodated the accused officer to safeguard him and therefore, the accused officer handed over the files to P.W-4 instead of handing over the files to P.W-5 on 05.03.2004, and it was done with a bad motive. So, there P.W-1 paid the amount on 10.03.2004 and this theory may be possible. Trial Court also observed at para 17 of the

judgment at page 24, that there is every possibility of P.W-1 paying amount to the accused officer on demand by the accused, though he has completed the work on 05.03.2004.

14. Therefore, the learned trial Judge developed a new case, which is nobody's case. The theory developed by the learned Special Judge is not based on the evidence of P.W-4 or P.W-5 or P.W-1. It is based on no evidence. Therefore, it is a perverse finding. It appears that the Special Court predetermined the issue and came to a decision that the accused committed the offence. Therefore, accordingly developed a theory to hook the accused with the offence. Accordingly, observed that there are many possibilities to say that P.W-1 paying the amount to the accused on 10.03.2004, though work was completed on 05.03.2004.

15. He would submit that in criminal case, burden is always on the prosecution to prove the offence. The case shall be determined as per the case pleaded by the prosecution. The offence must be proved beyond reasonable doubt. An accused cannot be convicted on the possibilities. The distance between 'may' and 'might' shall be travelled by the prosecution, placing evidence before the Court. The distance between 'may' and 'might' cannot be filled by the Court on surmises particularly, when it is not the case of the prosecution. Therefore, the trial Court committed a grave error leading to travesty of justice.

Hence, it is a fit case to interfere and set aside the judgment of the trial Court.

**SUBMISSIONS ON BEHALF OF THE RESPONDENT/STATE:**

16. Sri S.Syam Sunder Rao, learned Special Public Prosecutor-cum-Standing Counsel for ACB would argue that the evidence of P.W-1 would establish demand and receipt of bribe amount by the accused on 10.03.2004. Therefore, presumption U/s.20 of the P.C.Act, 1988 would come into picture. In that view of the matter, accused shall rebut the presumption that he did not receive the amount for performing the official work. The accused did not place any evidence to rebut the presumption. The evidence of P.W-1 was corroborated by the mediator/P.W-6 and Investigation Officer/P.W-8.

17. The prosecution examined Mandal Revenue Officer/P.W-2, Mandal Surveyor/P.W-4 and Senior Assistant/P.W-5 working in the Mandal Revenue Officer's office. Their evidence would prove that the official work was pending with the accused and it relates to the files of P.W-1. Therefore, the prosecution proved all the ingredients required to establish the offence U/secs.7 and 13(2) of the P.C.Act, 1988. Hence, there are no grounds to interfere with the judgment of the trial Court.

18. 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?”***

19. **POINT:** The specific case of the prosecution is that the accused is working as Additional Revenue Inspector in the office of Mandal Revenue Officer at Mydakuru Village at the relevant point in time i.e., February and March 2004. He was entrusted with certain files relating to assignment and issuing pattedar pass books of some villagers. P.W-1 is one such villager. The files relating to P.W-1 and his family members (P.W-3 and another) were entrusted to the accused. P.W-1 met the accused on 01.03.2004 regarding the files. The accused demanded Rs.3,000/- towards gratification, other than legal remuneration to process the files. P.W-1 expressed his inability to pay the money. The accused intimated P.W-1 that files will be processed only after amount is paid. He will not process the files, if amount is not paid. Later, P.W-1 again met the accused on 05.03.2004. The accused reiterated the demand and asked P.W-1 to bring money on 10.03.2004. Then he will process the files. But he reduced the amount to Rs.2,000/- on the request of P.W-1. Later, P.W-1 approached P.W-8 on 09.03.2004 and presented a report. It was registered as a case and

P.W-8 took-up investigation, conducted pre-trap proceedings in the presence of P.W-6 and another and laid trap on 10.03.2004.

20. Accordingly, P.W-1 visited the office of the accused at about 11.15 a.m. and met the accused. He requested the accused about the work. The accused again made demand to pay Rs.2,000/- to do the work. Then, P.W-1 paid the amount to the accused. The accused received the money and kept the money in trouser pocket. Later, P.W-1 came out, informed the trap team. Hence, the trap team led by P.W-8 and followed by P.W-6/mediator and others and went to the accused, conducted chemical test to the hands of the accused. It gave positive result. Therefore, seized the tainted money and recorded the statement of the accused and complainant under the cover of post trap proceedings. Later collected the relevant files relating to official work. On completion of the investigation, laid police report before the Special Court.

**ANALYSIS:**

21. P.W-1 is the complainant in the case. In the evidence, he restated the case of the prosecution that he approached the accused on 01.03.2004 and 05.03.2004 before the trap date i.e., 10.03.2004 and on that dates, the accused made demand P.W-1 to pay money towards gratification other than legal remuneration to do the work. The accused stated that he will not do the work till the demand is satisfied. Therefore, on 05.03.2004, the accused asked P.W-1 to come on

10.03.2004 and pay the money. Then only he will process the files. Whereas the evidence of Mandal Revenue Officer (P.W-2), Mandal Surveyor (P.W-4) and Senior Assistant (P.W-5) examined by the prosecution would show that the accused processed the files on 05.03.2004 and handed over the files to P.W-4 at about 07.15 p.m. as P.W-5 is not available in the office. The evidence would disclose that the accused was under transfer. He was not relieved, as his successor did not come to join. Therefore, the accused continued the work in the same office waiting for his successor to join.

22. It is pertinent to note down that it is the case of the accused that he demanded amount on 01.03.2004 and 05.03.2004 is not correct. He processed the files as per rules on 05.03.2004 and passed on the files to P.W-4, as P.W-5 is not available in the office on that day. Therefore, no official work is pending with him subsequent to 05.03.2004 pertaining to P.W-1 and his family members. Hence, the question of he is making demand on 10.03.2004 will not arise. If really, the evidence of P.W-1 is true that he made demand on 01.03.2004 and 05.03.2004 stating that he will not do the work till his demand is satisfied, the question of processing the files on 05.03.2004 will not arise. This fact would probable his plea that he did not make any demand on 10.03.2004 and that P.W-1 has suppressed the truth for the reasons best known to him.

23. There is no dispute with regard to handing over of files by the accused at about 07.15 p.m. on 05.03.2004. There is no dispute that the accused processed the files and completed the work of P.W-1 on 05.03.2004. This fact is deposed by P.Ws-4 and 5, who are Mandal Surveyor and Senior Assistant working in the Mandal Revenue Office at that time. "It is not the case of the prosecution that P.W-4 accommodated the accused or moved hand in glove with the accused. Therefore, he received the files instead of P.W-5, though P.W-5 is available on 05.03.2004. He received the files only to accommodate the accused to make a demand on 10.03.2004, so that, information will not go to P.W-1 or any other in the office. Accordingly, P.W-1 will pay the amount to the accused on 10.03.2004." Surprisingly, as pointed out by the learned counsel for the appellant, the trial Court developed its own theory mentioned above, accordingly, and developed a new case for the prosecution not pleaded at any time, that P.W-2, P.W-4 and P.W-5 acted hand in glove with the accused; P.W-4 accommodated the accused only to hide the information from P.W-1 and others in the office that files were processed on 05.03.2004, to make P.W-1 to pay the amount on 10.03.2004.

24. Perusal of the evidence of P.W-2, P.W-4 and P.W-5 i.e., Mandal Revenue Officer, Mandal Surveyor and Senior Assistant is not making out any such case to assume or presume such a theory. Prosecution did not put any cross-questions to said witnesses claiming them as

hostile witnesses. The Court below also did not put such questions under Section 165 of the Evidence Act. The trial Court developed the said case in favour of the prosecution to say that the plea of the accused that there is no occasion for him to make a demand on 10.03.2004, as he already completed the work on 05.03.2004, is false. It appears that the trial Court pre-concluded that accused committed the offence, and to support that conclusion developed a case not pleaded even by the prosecution.

25. Further, the conclusion is based on certain surmises observing that they may be possible. A person cannot be convicted on observation that a fact may be possible. It must be possible. Any fact must be established from the evidence on record. It must be pleaded by the prosecution. The trial Court unfortunately decided the case against the settled legal principles and the basic principle of criminal law that prosecution must prove the case beyond reasonable doubt; burden of proof is on the prosecution to prove the demand and receipt of the bribe amount, with trustworthy evidence.

26. The prosecution must fill the gap between 'may' and 'might' by clear evidence. Convictions should be based on admissible and verifiable evidence rather than hearsay, or surmises.

27. The facts and circumstances made out from the evidence of P.W-1, P.W-2, P.W-4 and P.W-5 would show that accused completed

the work on 05.03.2004 and handed over the files also to P.W-4 at 07.15 p.m. in the office, as P.W-5 is not available at that time. Therefore, merely because files are handed over to P.W-4 in the absence of P.W-5, no presumption can be drawn that they were handed over to P.W-4 with a bad motive, unless there is evidence to support that theory, more so when it is not the case of the prosecution.

28. The admitted facts mentioned above would disclose that the accused completed the work on 05.03.2004, handed over the files to the other staff in the office. In those circumstances, it is highly improbable to say that the accused made demand on 10.03.2004 and received the bribe amount. P.W-1 stated that the accused informed him that he will not do the work till the amount is paid. If it is true the accused will not do the work till 10.03.2004, as he asked P.W-1 to pay amount on that day. In those circumstances, testimony of P.W-1 that the accused demanded him to pay amount and received the amount on 10.03.2004 has no ground to stand. Hence, it is not safe to rely on the sole evidence of P.W-1 for concluding that the accused made demand and received the bribe amount on 10.03.2004.

29. In the light of foregoing circumstances, this Court is of the considered opinion that the judgment of the learned trial Court based on assumptions only, not based on evidence. Hence, it is not sustainable either on facts or in law and be set aside.

**CONCLUSION:**

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

**RESULT:**

31. In the result, the Criminal Appeal is allowed. The judgment dated 13.08.2007 rendered by the Special Court for SPE & ACB Cases, Nellore, in C.C.6/2005 is set aside. The deceased/appellant is found not guilty for the offence U/secs.7 and 13(2) of the P.C. Act, 1988. Accordingly, acquitted. The fine amount if any paid by the appellant/accused, shall be refunded to the legal representatives of the appellant/accused 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.

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**JUSTICE B.V.L.N. CHAKRAVARTHI.**

17.03.2026

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

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**CRIMINAL APPEAL No:1067 OF 2007**

**Date: 17.03.2026**

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