

HIGH COURT OF ANDHRA PRADESH
MONDAY ,THE SEVENTEENTH DAY OF JULY
TWO THOUSAND AND TWENTY THREE

PRSENT

THE HONOURABLE SRI JUSTICE A V RAVINDRA BABU
CRIMINAL APPEAL NO: 1165 OF 2006

Between:

1. P. SUBBARAYADU S/o Subbanna,
Junior Assistant
O/o Mandal Revenue Officer,
Chapadu Mandal,
Kadapa Dist.

...PETITIONER(S)

AND:

1. THE STATE OF A.P., REP. BY SPL. P.P. FOR ACB CASES rep. by its
Spl. Public Prosecutor for ACB Cases,
High Court of A.P., Hyderabad.

...RESPONDENTS

Counsel for the Petitioner(s): V R REDDY KOVVURI

**Counsel for the Respondents: S M SUBHANI (SC FOR ACB AND SPL
PP)**

The Court made the following: ORDER

HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

CRIMINAL APPEAL No.1165 OF 2006

Between:

P. Subbarayudu, S/o.Subbanna,
Aged about 58 years,
Occ:Junior Assistant, O/o.MRO,
Revenue Officer, Chapadu Mandal,
Kadapa District. Appellant/AO

Versus

The State of AP,
Rep. by Spl. Public Prosecutor for ACB cases,
High Court of A.P.
Amaravathi. Respondent.

DATE OF JUDGMENT PRONOUNCED : 17.07.2023

SUBMITTED FOR APPROVAL:

HON'BLE SRI JUSTICE A.V.RAVINDRA BABU

1. Whether Reporters of Local Newspapers
may be allowed to see the judgment? Yes/No
2. Whether the copy of judgment may be
marked to Law Reporters/Journals? Yes/No
2. Whether His Lordship wish to see
The fair copy of the judgment? Yes/No

A.V.RAVINDRA BABU, J

*** HON'BLE SRI JUSTICE A.V.RAVINDRA BABU****+ CRIMINAL APPEAL No.1165 OF 2006****% 17.07.2023****# Between:**

P. Subbarayudu, S/o.Subbanna,
Aged about 58 years,
Occ:Junior Assistant, O/o.MRO,
Revenue Officer, Chapadu Mandal,
Kadapa District. Appellant/AO

Versus

The State of AP,
Rep. by Spl. Public Prosecutor for ACB cases,
High Court of A.P.
Amaravathi. Respondent.

! Counsel for the Appellant (AO) : Sri P.V.N. Kiran Kumar,
Learned Counsel, Rep.
Sri V.R.Reddy Kovvuri,
Learned Counsel.

^ Counsel for the Respondent : Sri S.M.Subhani,
Learned Standing Counsel-
cum-Special Public Prosecutor

> Head Note:**? Cases referred:**

1. (1979) 4 SCC 472
2. (2006) 1 SCC (Crl.) 41
3. (1974) 3 SCC 595
4. (1976) 1 SCC 727
5. (2016) 1 SCC 713
6. (2015) 10 SCC 152
7. (2016) 3 SCC 108
8. (2014) 13 SCC 143
9. (2022) SCC OnLine SC 1724
10. (2014) 13 SCC 55
11. (2001) 1 SCC 691

This Court made the following:

HON'BLE SRI JUSTICE A.V.RAVINDRA BABU**CRIMINAL APPEAL No.1165 OF 2006****JUDGMENT:**

The judgment, dated 31.08.2006, in Calendar Case No.22 of 2001, on the file of the Court of Special Judge for SPE and ACB Cases, Nellore (for short, 'the learned Special Judge'), is under challenge in the present Appeal filed by the Appellant – Accused Officer (AO).

2. The AO faced charges under Sections 7 and 13(1)(d) R/w. Section 13(2) of the Prevention of the Corruption Act, 1988 (for short, 'the PC Act') before the learned Special Judge. The learned Special Judge, on conclusion of trial, found the AO guilty of the charges under Sections 7 and 13(2) R/w. Section 13(1)(d) of the PC Act and convicted him under Section 248(2) Cr.P.C. After questioning him about the quantum of sentence, the learned Special Judge sentenced him to undergo Rigorous Imprisonment for six (6) months and to pay a fine of Rs.200/- in default to suffer Simple Imprisonment for one month for the charge under Section 7 of the PC Act and to undergo Rigorous Imprisonment for a period of one year and to pay a fine of Rs.300/- in default to suffer Simple Imprisonment for two months for the charge under Section

13(2) R/w. Section 13(1)(d) of the PC Act. Both the above substantive sentences shall run concurrently. The learned Special Judge by virtue of the judgment also made an order to prosecute PW.1 for the offence of perjury as he turned hostile to the case of prosecution.

3. The parties to this Criminal Appeal will hereinafter be referred to as described before the trial Court, for the sake of convenience.

4. The State, represented by Inspector of Police, Anti-Corruption Bureau (ACB), Cuddapah District, Tirupathi Range, filed charge sheet pertaining to Crime No.3/RCT-TCD/2000 of ACB, Tirupati Range for the offences under Sections 7 and 13(2) R/w. Section 13(1)(d) of the PC Act alleging, in substance, that the AO by name Pitta Subbarayudu, S/o. Subbanna, worked as Junior Assistant in the Office of MRO, Chapadu Mandal, Cuddapah District from 01.11.1999 to 19.05.2000, as such he is a 'Public Servant' within the meaning of Section 2(c) of the PC Act.

(i) LW.1 – S.R. Sivarama Lakshmi Reddy, S/o. S.R. Chinnappa Reddy is resident of Chiyyapadu Village, Chapadu Mandal and Cuddapah District. LW.4 - S.R. Chinnappa Reddy, father of LW.1 gave Ac.1.56 cents of land in S.No.584/2 to LW.1

under Gift Deed on 07.04.2000 and the same was registered in the Sub-Registrar's Office, Mydukur *vide* Document No.282. LW.1 took the pattadar passbook and title deed of his father with an intention to obtain pattadar passbook and title deed in his name for the aforesaid land. On 05.05.2000, LW.1 approached LW.5 – V. Sankaraiah, MRO, Chapadu Mandal and presented a claim form along with four passport size photos, xerox copy of registered gift deed, pattadar pass book and title deed bearing No.804/723691. LW.5 – MRO received the same, put his initial with remark 'C' for taking further action. LW.6 – T.V. Satya Kumar, Superintendent, in the MRO office, received the claim form of LW.1 and entered the same in the Tappal Distribution Register *vide* Sl.No.967/2000 at page No.82 and handed over the same to AO on 06.05.2000 with instructions to process the file and put up the same before MRO. AO has to put up the file by verifying the records. On 15.05.2000, LW.1 approached AO and enquired him about the issue. AO informed LW.1 that if he wants passbook, he has to pay an amount of Rs.800/- as bribe. He further informed LW.1 that if he pays Rs.800/- only he will process the file. LW.1 pleaded his inability to pay such amount. AO reduced the demanded bribe amount from Rs.800/- to Rs.500/- and asked LW.1 to pay the same on the next Wednesday. As there is no other go, LW.1 agreed

to pay the said amount and requested AO that he will adjust the amount and pay the same on next Wednesday. LW.1 had no intention to pay the bribe to AO as such he approached the DSP, ACB, Tirupathi – LW.9 on 16.05.2000 and presented the report. The DSP, ACB, Tirupathi registered the said complaint as a case in Crime No.3/RCT-TCD/2000 for the aforesaid offences on 17.05.2000 at 11:00 a.m.

(ii) On 17.05.2000, the DSP, ACB Tirupathi along with trap party members and two mediators *i.e.*, LW.2 – R. Subba Reddy, A.E.E., B.V.P. Division, Cuddapah and LW.3 – I. Anjaneyulu Reddy, Junior Assistant, B.V.P. Division, Cuddapah and LW.1 started at 01:00 p.m. and reached Chapadu at 02:30 p.m. LW.1 went into the MRO office, Chapadu and approached AO. AO asked LW.1 as to whether he come prepared with the proposed bribe of Rs.500/-. LW.1 answered affirmatively. Then, AO demanded and accepted Rs.500/- from LW.1 and asked him to come on the next day. LW.1 came out at 03:05 p.m. and gave the pre-arranged signal. The DSP, ACB, Tirupati, his trap party members along with two mediators rushed into the office of MRO, Chapadu. LW.9 – DSP, ACB Tirupathi got prepared the sodium carbonate solution into two glass tumblers and asked the AO to rinse his right hand fingers in the first glass tumbler containing

the sodium carbonate solution and on doing so, the solution turned into pink colour. Then the left hand fingers of AO were rinsed in the second glass tumbler and on doing so, there was no change in the colour. At the request of DSP, ACB, AO produced Rs.500/- currency note from his left side front shirt pocket. On the request of DSP, ACB, one of the mediators received the Rs.500/- currency note and the serial number of the same was tallied with that of the serial number mentioned in the pre trap proceedings. DSP, ACB seized the said currency note. The inner linings of the front shirt pocket of AO were subjected to sodium carbonate solution and the same turned into pink colour. The DSP, ACB seized the file containing the claim form, 4 passport size photos, xerox copy of gift deed, pattadar passbook and title deed of LW.1.

(iii) The Government of Andhra Pradesh accorded sanction to prosecute the AO *vide* G.O.Ms. No.364, dated 02.06.2001. Hence, the charge sheet.

5. The learned Special Judge took cognizance of the case under the above provisions of law. After appearance of the AO, by complying the necessary formalities under Section 207 Cr.P.C, the learned Special Judge framed charges under Sections 7 and 13(2)

R/w. Section 13(1)(d) of the PC Act against the AO, read over and explained the same to him in Telugu for which he pleaded not guilty and claimed to be tried.

6. During the course of trial, on behalf of the prosecution, PWs.1 to PW.5 were examined and Exs.P-1 to P-17 and MOs.1 to MO.8 were marked.

7. After closure of the evidence of the prosecution, AO was examined under Section 313 Cr.P.C with reference to the incriminating circumstances appearing in the evidence let in by the prosecution, for which he denied the same and got filed his written statement contending in substance that the village records are maintained by the VAO and the MRO has to receive the applications from the applicants and after entering into concerned Register, it has to be sent to VAO through RI and after due verification by RI and VAO, VAO has to prepare the passbooks and title deeds and place before the MRO and ultimately the issuing authority is the MRO. As per the District Gazette, only the MRO is the competent person to inspect the villages after obtaining applications from the concerned persons and he has to enquire all the details from the VAO and the MRO instructs the VAO to prepare the passbooks and title deeds and finally the MRO has to

issue passbooks and title deeds to the concerned. He further submitted that the concerned file was seized from the almyrah of RI on the date of trap. There were misunderstandings between him and one Yerikalaiah. He (AO) abused PW.1 for not paying the hand-loan taken from him earlier and at that time Yerikalaiah was present and he instigated PW.1 to file a false report to the ACB. On the date of trap, PW.1 came and handed over the hand loan amount of Rs.500/-, taken from him two months prior to the date of trap. Believing the same, he received the same and kept it in his shirt pocket. He never demanded and accepted bribe from PW.1. He also disclosed the same to the trap party members on the date of trap but they did not incorporate the same in the mahazar. AO in furtherance of his defence got examined DW.1 and DW.2.

8. The learned Special Judge, on hearing both sides and after considering the oral and documentary evidence on record, found the AO guilty of both the charges, convicted him under Section 248(2) Cr.P.C and after questioning him about the quantum of sentence, sentenced him, as above. Further, the learned Special Judge directed the Administrative Officer of the Court to file a complaint against PW.1 as he gave false evidence.

9. Felt aggrieved of the conviction and sentence imposed, the unsuccessful accused in the aforesaid Calendar Case, filed the present Criminal Appeal.

10. Now, in deciding this Criminal Appeal, the points that arise for consideration are as follows:

1) Whether the AO is a public servant within the meaning of Section 2(c) of the PC Act and the prosecution obtained a valid sanction to prosecute him under Section 19 of the PC Act for the charges under Sections 7 and 13(2) R/w. Section 13(1)(d) of the PC Act?

2) Whether the prosecution before the Court below proved that AO demanded PW.1 to pay bribe prior to the date of trap and on the date of trap and accepted the bribe amount from PW.1 and if so whether such act on the part of AO would amount to criminal misconduct within the meaning of Section 13(1)(d) R/w. Section 13(2) of the PC Act?

3) Whether the prosecution before the Court below proved charges, as above, against the AO beyond

reasonable doubt and whether there are any grounds to interfere with the judgment of the Court below?

11. **POINT No.1**: There is no dispute that AO was a '*public servant*' within the meaning of Section 2(c) of the PC Act as he was drawing salary from the account of the Government. There was no dispute about it. Insofar as the sanction to prosecute the AO is concerned, prosecution examined PW.4 and got marked Ex.P-16 – sanction order. According to PW.4, Section Officer, Revenue (Vig.II) Department, A.P. Secretariat, Hyderabad, he brought the original sanction order issued by the Government. On 28.10.2000, the DG, ACB has sent final report to the Vigilance Commissioner for according sanction against the AO. The DG, ACB has also sent the FIR copy and Mediators Reports-1 and 2. The file was processed in the Section and was circulated to the Officers and Minister, Revenue for issuance of sanction order. The consent of the Law Department was also taken before issuing the sanction order. After considering the material on record and after application of mind, Sri K.K. Bangar, Principal Secretary to the Government accorded sanction to prosecute the AO. Ex.P-16 is the sanction order. He can identify the signature of K.K. Bangar. Witness identified the signature of K.K. Bangar. During cross-examination, PW.4

deposed that along with the final report, the DG, ACB sent a draft sanction order. He denied that fair sanction order was prepared basing on the draft sanction order. It is not there in Ex.P-16 that the final report and the mediators reports-1 and 2 were perused by the sanctioning authority. Particulars of the documents considered by the Principal Secretary are not there in Ex.P-16. He denied that without considering the material on record and without application of mind, sanction order was issued against the AO.

12. As seen from Ex.P-16, it reveals that the sanctioning authority having regard to the case of the complainant as set out in the report, further the post trap proceedings and the outcome of the investigation decided to issue sanction order. Though Ex.P-16 did not spell out literally the list of documents but it discloses that the sanctioning authority has gone through the allegations with reference to the report of PW.1 and post trap proceedings. He further looked into the relevant documents seized by the DSP, ACB during the course of investigation, which undoubtedly shows application of mind by the sanctioning authority. According to the evidence of PW.4, he can identify the signature of the sanctioning authority and he categorically identified the signature of the sanctioning authority. The Court below found favour with the case

of the prosecution with regard to Ex.P-16, coupled with the evidence of PW.4. Having regard to the above, this Court is of the considered view that the contention of AO before PW.4 that the sanctioning authority did not peruse the material is not tenable. The law is well settled with the procedure to prove a sanction order like Ex.P-16. The Hon'ble Apex Court in **Mohd. Iqbal Ahmed v. State of AP**¹ held as follows:

“The valid sanction can be proved by sanctioning authority in two ways: either (1) by producing the original sanction which itself contains the facts constituting the offence and the grounds of satisfaction; or (2) by adducing evidence alinude to show that the facts were placed before the sanctioning authority and the satisfaction arrived at by it.”

13. The Hon'ble Apex Court referred the above said decision in **State, through Inspector of Police, AP v. K. Narasimhachary**². The learned Special Judge placed reliance on the aforesaid two decisions. Hence, I am of the considered view that the prosecution before the learned Special Judge proved a valid sanction under Section 19 of the PC Act so as to prosecute the AO for the charges under Sections 7 and 13(2) R/w. Section 13(1)(d) of the PC Act. The point is answered accordingly.

¹ (1979) 4 SCC 472

² (2006) 1 SCC (CrI.) 41

POINT Nos.2 & 3:

14. Sri P.V.N. Kiran Kumar, learned counsel, representing Sri V.R. Reddy Kovvuri, learned counsel for the appellant, would contend that insofar as the pendency of official favour is concerned, the prosecution did not prove the same before the learned Special Judge. The AO was working as only the Junior Assistant. There was Revenue Inspector to scrutinize the request of PW.1 and MRO has to supervise the scrutiny work of RI. AO examined DW.2 to speak about the procedure relating to the issuance of pattadar passbooks. In fact, the DSP, ACB did not seize any document from the almyrah of AO but he seized the documents from the almyrah of the RI. So, AO had nothing to do with the documents seized by the Investigating Officer. Absolutely, the evidence on record did not prove pendency of official favour of PW.1 before the AO either prior to the date of trap or on the date of trap. With regard to the allegations of demand of bribe prior to the trap and on the date of trap, he would contend that PW.1 did not support the case of prosecution in this regard. According to his evidence, AO did not ask him to pay the bribe. On the other hand, even according to PW.1, when PW.1 approached AO, AO demanded PW.1 to repay the earlier hand loan obtained from him.

So, PW.1 did not depose that AO demanded him bribe amount. On the other hand, the demand was relating to the loan amount borrowed by PW.1 from AO. So, when PW.1 turned hostile to the case of prosecution, absolutely there is no evidence that prior to the date of trap, AO demanded him to pay the bribe. Even the evidence of PW.1 means that during the post trap also he paid the amount demanded by AO *i.e.*, the loan amount. There was a spontaneous version by AO in the post trap as if he (AO) borrowed the amount from him (PW.1). That version is not correct. The Trap Laying Officer did not record the correct version put forth by AO during the post trap. The amount that was received by AO was only the amount payable by PW.1 to AO which was obtained by way of hand loan but not the bribe amount. Though PW.1 turned hostile to the case of prosecution, the learned Special Judge found favour with the case of prosecution on assumptions and presumptions. The presumption under Section 20 of the PC Act has no application to the case on hand. There was no preliminary enquiry conducted by the Investigating Officer prior to registration of FIR. The registered FIR reached the Court with all delay of 23 hours. All these things were not considered by the learned Special Judge. The evidence on record is not sufficient to convict AO as such the Appeal is liable to be allowed. In support of his

contentions, he would rely upon the decisions of the Hon'ble Apex Court in ***Darshan Lal v. Delhi Administration***³, ***Sat Paul v. Delhi Administration***⁴, ***N. Sunkanna v. State of AP***⁵, ***P. Satya Narayana Murthy v. District Inspector of Police, State of A.P. and another***⁶, ***Krishna Chander v. State of Delhi***⁷ and ***Satvir Singh v. State of Delhi***⁸.

15. Sri S.M.Subhani, learned Standing Counsel-cum-Special Public Prosecutor for ACB, appearing for the respondent-State, would contend that there is evidence of PW.3 – Superintendent in the MRO Office, to speak to the fact that on receipt of the application from of PW.1, they entrusted it to the AO, who was a clerk with instructions to put up proper note. So, the prosecution examined PW.3 to prove pendency of official favour. The documents were seized from the custody of AO during the post trap. The contention of AO that they were seized from the RI cannot stand to any reason. AO had knowledge of the contents in the post trap which reveals that documents were seized from the custody of AO. He would not have kept quiet all the period till the

³ (1974) 3 SCC 595

⁴ (1976) 1 SCC 727

⁵ (2016) 1 SCC 713

⁶ (2015) 10 SCC 152

⁷ (2016) 3 SCC 108

⁸ (2014) 13 SCC 143

date of trial if the documents were not seized from his custody. The Court below with proper reasons held that official favour in respect of the work of PW.1 was pending with AO. Insofar as the demand of bribe prior to the date of trap and on the date of trap, PW.1 deposed that AO demanded an amount of Rs.500/- from him. PW.1 deposed about the demand prior to the date of trap and on the date of trap but intelligently so as to help the AO, he deposed false as if such demand was only to repay the amount due by PW.1 to AO. In the earliest version in the post trap, AO did not disclose that PW.1 was due of any amount to him. On the other hand, the version of AO in Ex.P-14 when the DSP, ACB asked him about the tainted amount is that he received the tainted amount from the complainant for processing and issuing pattadar passbook and he also stated that he has taken the hand loan of Rs.500/- from the complainant to go to Pavugada. Amount was recovered from the physical custody of the AO. PW.1 paid the amount to AO only on demand which was also admitted by PW.1. So, whether such a demand was towards bribe or towards repayment of loan is the matter to be considered. AO miserably failed to probabilize his defence. He would have revealed the same in the post trap if his evidence is true. The learned Special Judge on proper analyzation of the evidence on record, rightly found

guilty of the AO, convicted and sentenced him as such there are no grounds to interfere with the conviction.

16. In view of the rival contentions advanced, firstly, I would like to deal with as to whether the prosecution before the learned Special Judge proved pendency of the official favour of PW.1 before the AO prior to the date of trap as well as on the date of trap.

17. Turning to the evidence of PW.1 regarding this aspect, he deposed that his father gave him Ac.1.56 in S.No.584/2 under a gift deed in the year 2000. Ex.P-1 is the xerox copy of the gift deed, dated 07.04.2000. One month thereafter, he approached MRO, Chapadu Mandal and presented Form 1-A along with Ex.P-1 and further the pattadar passbook and title deed in the name of his father and also passport size photos. Ex.P-2 is the Form 1-A signed by him. Ex.P-3 is the pattadar passbook and Ex.P-4 is the title deed passbook in the name of his father. Ex.P-5 is the photographs four in number of him. He met AO 15 days after he presented Form 1-A to ask him about the passbook. Insofar as submission of these documents is concerned, PW.1 supported the case of the prosecution. It is altogether a different aspect that according to him the demand made by AO was only to repay the amount borrowed by him from AO and it will be dealt with

hereinafter. So, the evidence of PW.1 with reference to Exs.P-1 to P-5 is not under challenge during the course of cross-examination by the learned defence counsel.

18. PW.2 is the trap mediator who deposed in relation to the post trap proceedings to the effect that after recovery of the tainted amount from the possession of AO, DSP, ACB asked AO about the file of PW.1 and AO produced the same, which is Exs.P-1 to P-5 (already marked). The file was seized by the DSP, ACB. AO also produced his Personal Register, which is Ex.P-10. The Office Superintendent produced Distribution Register, which is Ex.P-11. Attendance Register of AO was also seized by the DSP, ACB, which is Ex.P-12.

19. Coming to the evidence of PW.3, who was the concerned Superintendent in the MRO Office, the prosecution examined him to prove the procedural aspects and to speak about certain things with regard to application of PW.1. His evidence is that he knows the AO, who worked as Junior Assistant in the MRO Office, Chapadu. He used to deal with 'C' seat *i.e.*, passbooks, title deeds, mutations *etc.*, under the ROR Act. PW.1 applied for pattadar passbook and title deed and he (PW.3) received the said application in Tappals on 06.05.2000, which was entered into the

Distribution Register and distribution No.967 was allotted. Exs.P-1 to P-5 are received in their office. D.R. number was assigned to the said application in Ex.P-11 at Page No.82. The relevant entry is Ex.P-11(A). On 06.05.2000, the application along with the enclosures was handed over to AO, who was the concerned clerk after obtaining his acknowledgment in Ex.P-11(A). Ex.P-11(A) contains the signature of AO. The procedure is that after receipt of the application along with enclosures, concerned Junior Assistant has to verify 10-1 village account 1-B and documents produced by the parties. After preparation of the passbook and title deed, concerned Junior Assistant has to place the same before the MRO for his signatures. He further deposed that in this case AO had to verify the village records and after making entries in the passbook he has to put up before the MRO.

20. PW.5 is the Trap Laying Officer. With reference to the post trap proceedings and seizure of documents, he deposed that when he asked AO to produce the file relating to PW.1, he produced the file from his almyrah and he seized the same. Exs.P-1 to P-5 were attested by him and the two mediators. When he asked the AO about the Tappal Register, PW.3 produced the same and he seized them. Again he asked the AO to produce the Personal Register of

AO. AO produced the same and he seized it. He also seized the Attendance Register of the MRO office produced by the MRO.

21. To contend that there was no official favour of PW.1 pending with AO, he got examined DW.2, who is the Panchayat Secretary. According to DW.2, from 1987 to 1991, he worked as Village Assistant, Chitwel Mandal, Cuddapah District. From 1991 to 1999, he worked as Supernumerary Junior Assistant at Chitwel and Koduru. From 1999 to 2001 he worked as VDO, Koduru. He used to maintain 10-1, No.2 Adangals, ROR Records, R.S.R. village maps and other village records. During that time, the application for mutation of pattadar passbook and title deed would be presented to MRO and MRO would entrust the same to MRI. The Revenue Inspector would go to the village, conduct enquiry with reference to the village records. RI would prepare pattadar passbooks and title deeds and then would place it before the MRO for his signature. After obtaining the signatures of MRO, pattadar passbooks and title deed would be sent to the Village Assistant for delivery. The Superintendent or any other staff member working in the MRO office has no authority to process the application for mutation.

22. As evident from the cross-examination part of PW.1, there is no dispute that PW.1 submitted Ex.P-1 xerox copy of gift deed in his name given by his father, Ex.P-2 - Form 1-A, Ex.P-3 - pattadar passbook and Ex.P-4 - title deed in the name of his father and Ex.P-5 - photographs 4 in number to PW.3 – Office Superintendent in the MRO office. AO did not challenge the testimony of PW.3 in this regard. According to the case of prosecution, and evidence of PW.2, the mediator, and PW.5, the Trap Laying Officer, those documents during the course of post trap were seized from the custody of AO and AO produced those documents when the Trap Laying Officer asked him to produce the file relating to PW.1. During cross-examination of PW.2, AO did not challenge his evidence that those documents are produced by the AO. As pointed out, the evidence of PW.1 is very specific that when the DSP, ACB asked AO about the file relating to PW.1, he produced the same and it contains Exs.P-1 to P-5 (already marked). So, it is not the case of AO during cross-examination of PW.2 that those documents were not produced by him. Without challenging the testimony of PW.2 in this regard, AO got suggested to PW.5 that he did not seize any file from the AO. Even during 313 Cr.P.C examination written statement also AO agitated the same. It is to be noticed that PW.2 was an independent mahazar witness and he

had no interest in the case of the prosecution. There is a clear whisper in the post trap proceedings that when the DSP, ACB questioned AO about the file relating to PW.1, AO produced the same. So, the testimony of PW.2 has support from the contents of post trap proceedings and in this regard there was no cross-examination of PW.2. PW.5, the Trap Laying Officer, denied the case of AO in this regard that those documents are not taken from the custody of AO. It is to be noticed that the evidence of PWs.2 and PW.5 is very specific that insofar as other documents are concerned *i.e.*, Tappal Register (Ex.P-10), it was produced by PW.3. Insofar as the Personal Register is concerned, AO produced it (Ex.P-11) and further the Attendance Register was produced by the MRO, which is Ex.P-12. So, the post trap proceedings are very clear that Exs.P-1 to P-5 were produced by AO and other documents *i.e.*, Ex.P-10, Ex.P-11 and Ex.P-12 were produced by PW.3, AO and PW.3 respectively. Insofar as the custody of Exs.P-1 to P-5 is concerned, they were seized from AO. Apart from this, the evidence of PW.3, who was no other than the Superintendent in the MRO Office, is very clear that Exs.P-1 to P-5 are received in their office and the application of PW.1 was entered into Distribution Register and Distribution No.967 was allotted and further the application along with the enclosures were handed

over to AO, who was the concerned clerk, after his acknowledgment in Ex.P-11(A). As evident from Ex.P-11(A), there is purported signature of the AO. Evidence of PW.3 is not under challenge during the course of cross-examination, despite the signature of AO in Ex.P-11(A). So, without there being any basis, AO contended before the learned Special Judge that Exs.P-1 to P-5 were not produced by him during the post trap, which is not at all tenable. So, insofar as seizure of those documents are concerned, prosecution categorically established that those documents were produced by AO during the post trap as such they were seized.

23. Insofar as the duties which the AO was supposed to perform are concerned, admittedly, though he was not an Officer who can issue the pattadar passbooks and revenue title deeds but the evidence of PW.3 is very clear and the procedure is that they receive applications along with the enclosures. The concerned Junior Assistant has to verify 10-1 village account, 1-B and other documents produced by the parties and after preparation of the pattadar passbooks and title deeds, he has to place the same before the MRO for his signatures. He specifically deposed that AO has to verify the village records and after making entries in the passbooks has to put up before the MRO. Nothing contra is

elicited during his cross-examination. Though, he deposed in cross-examination that VAOs would maintain 10-1 accounts and adangals etc., but according to the procedure spoken to by PW.3, AO had to take certain steps to process the request of PW.1. The evidence of PW.3 is categorical in this regard. AO examined DW.2 who was not at all concerned with the office of PW.3 to support his defence. The substance of the evidence of DW.2, as referred to above, is that the Superintendent or any other staff member working in the MRO Office has no authority to process the application for mutation. During his cross-examination by the learned Special Public Prosecutor, he admitted that MRO would make the office order distributing the work to the concerned Junior Assistants, Senior Assistants and Additional Revenue Inspectors. He denied that the Junior Assistant who deals with 'C' seat has to verify 10-1 Adangal and prepare pattadar passbook and title deeds and place before the MRO for his signature. He deposed that he never worked in Chapadu Mandal, Cuddapah District. So, admittedly, DW.2 has nothing to do with the affairs in the office of PW.3. Even according to him, there used to be an office order from MRO distributing certain works to Junior Assistants, Senior Assistants and Revenue Inspectors. In that view of the matter and in view of the categorical evidence of PW.3, it is

very clear that AO-1 had to necessarily take certain steps to process the request of PW.1. When he was not entrusted with such work, he would not have acknowledged receipt of Exs.P-1 to P-5, especially by signing in Ex.P-11(A). Under the circumstances, this Court is of the considered view that the prosecution before the Court below categorically proved pendency of official favour in respect of the application of PW.1 with AO prior to the date of trap and as on the date of trap.

24. Now, this Court has to decide as to whether the evidence on record proves that AO demanded PW.1 to pay the bribe to do official favour prior to the date of trap and on the date of trap and accepted the bribe from PW.1. Turning to the evidence of PW.1, in this regard, he deposed about the facts regarding submission of Exs.P-1 to P-5 before the concerned MRO. This portion of the evidence was discussed in the earlier paragraphs. So, his further evidence is that their Village Servant Yerikalaiah informed him that his file is pending with AO. He met the AO 15 days after presenting Form 1-A to MRO to ask him about his passbook. When he approached AO, he demanded him to pay the amount borrowed by him previously and AO abused him in that connection. He told him that it is not proper to abuse him like that

as such he felt insulted due to the said incident. Village Servant Yerikalaiah told him that AO would not issue him passbook unless he pays the amount indebted to him and advised him to go to ACB office and present a report against AO. Accordingly, he drafted the report with his own handwriting and presented to ACB Officer, Cuddapah accompanied by Yerikalaiah. Witness says that Yerikalaiah told him as to how to draft the report. Ex.P-6 is the said report. At the request of Yerikalaiah, he brought Rs.500/- on the next day *i.e.*, on 17.05.2000 and both of them went to ACB Office, Cuddapah. Yerikalaiah paid Rs.500/- to the DSP, ACB. He was asked about the correctness of the contents of his report and stated that the contents are correct since Yerikalaiah instructed him like that. He has spoken about applying phenolphthalein powder to the currency note and further deposed that they reached the office of AO at 02:30 p.m. Insofar as the post trap proceedings are concerned, his further evidence is that during the post trap he approached the AO and AO asked him whether he brought the money taken from him and PW.1 replied in the affirmative and AO received the said money. Then, he came out and ACB party went into the office room of AO and caught him. He waited outside the office room. After some time, he was asked to go away. He did not remember whether ACB Inspector examined

him. He gave a statement before the Magistrate under Section 164 Cr.P.C. The statement shown to him bears his signature. Police were present when he gave statement before the Magistrate and they threatened him to give such a statement. AO never demanded him for bribe. The learned Special Public Prosecutor got declared him as hostile and during cross-examination he deposed that he borrowed Rs.500/- from AO two months prior to the trap. He denied that he did not borrow any amount from AO and that AO demanded him to pay the bribe of Rs.800/- and later he reduced it Rs.500/- and AO did not ask him to repay the alleged hand loan and on his own he drafted the report and Yerikalaiah did not advise him to give any complaint and that he alone went to the ACB Office on 17.05.2000. He further denied the case of the prosecution with reference to pre trap and post trap proceedings.

25. The evidence of PW.2, mediator to the pre trap and post trap proceedings, means that they noted the number of the denomination of the currency note during pre trap and post trap proceedings and the amount seized from the physical possession of AO was tallied with the pre trap proceedings. Further the chemical test conducted to right hand fingers of AO yielded positive result and the test conducted left hand fingers of AO

yielded negative result. The inner linings of the shirt pocket of AO also yielded positive result. The evidence of PW.5, the Trap Laying Officer, is consistent with the evidence of PW.2. So, the case of prosecution is that the amount was produced by the AO during the post trap and his right hand fingers yielded positive result. There is no dispute that the amount was recovered from the possession of AO during the post trap.

26. Now, it is a matter of appreciation to decide as to whether the evidence on record would prove the demand alleged to be made by AO to PW.1 to pay the bribe and consequent payment of bribe by PW.1 to the AO in the manner as alleged. To decide as to whether the evidence adduced by the prosecution is convincing or not in respect of the allegations of demand and acceptance of bribe, necessarily this Court has to look into the antecedents of PW.1 because AO examined DW.1 to brand PW.1 as a litigant. Further, this Court has to look into the contention of AO that no preliminary enquiry was conducted before the trap and further there is delay in sending FIR to the Court because FIR was registered on ante date etc. The Accused Officer examined DW.1, the Inspector, ACB. According to the evidence of DW.1, PW.1 is complainant in two other cases of ACB Department but they did

not display the photo of PW.1 that he is a black mailer and used to threaten the public servants to file cases against them. He does not know whether there are any criminal cases pending against PW.1 and as to whether any rowdy sheet was pending. He verified and found that there is no record to show that PW.1 is a rowdy sheeter. They did not send photo of PW.1 and pamphlets to any Government office that PW.1 is a blackmailer. It appears that the AO examined DW.1 to establish that previously PW.1 was a complainant in two other ACB cases. As admitted by DW.1, on demand for a bribe by the public servants under a complaint made by PW.1, the present case and two other cases were filed against the public servants and in this case and other two cases the trap was successful. So, simply because PW.1 was a complainant in two other ACB cases, apart from this case, it cannot be held that PW.1 had questionable antecedents. Nothing can be found from the chief-examination of DW.1 to suspect the evidence of PW.1 as doubtful. So, simply because PW.1 was figured as complainant in two other ACB cases, it does not mean that he had any questionable antecedents.

27. Learned counsel for the appellant cited a decision of the Hon'ble Apex Court in **Sat Paul** (4th *supra*) to brand PW.1 as of

questionable character. Coming to the present case on hand, AO failed to probabilize that PW.1 had any questionable antecedents. The above said citation is of no use to the defence of the AO.

28. Coming to the contention of the AO that no preliminary enquiry was conducted before registration of FIR, the evidence of PW.5 – Trap laying Officer is very clear in this regard. According to him on 16.05.2000 while he was in the office of Inspector, ACB, Cuddapah PW.1 came and presented a report *i.e.*, Ex.P-6 against AO. Then he made confidential enquiry with regard to the complainant and verified the antecedents and reputation of AO through his informants and his staff and learnt that there was no bad motive to PW.1 against AO in presenting Ex.P-6. On 17.05.2000 he informed the contents of the complaint to the Head Office and obtained prior permission for registering the case against the AO as such he registered the FIR and issued the same to all concerned. The FIR and original complaint were sent to the DG, ACB, Hyderabad. During cross-examination, he deposed that there is no endorsement in Exs.P-6 and P-17 about the factum of conducting confidential enquiry by him. He volunteers that he mentioned the same in the Case Diary but he did not produce the C.D. into the Court. He did not record the statements of the

persons whom he enquired during the confidential enquiry since it is not the practice. He denied that he did not conduct any confidential enquiry. As seen from Ex.P-6, PW.5 received the same on 16.05.2000 at 04:00 p.m. Registration of FIR was on 17.05.2000 at 11:00 a.m. So the evidence of PW.5 is quite clear that in the meantime he made confidential enquiry. He is not supposed to record any statements from anybody relating to the confidential enquiries conducted. According to him, he recorded about the factum of confidential enquiry in the Case Diary. Nothing contra is suggested to PW.5 to contradict his statement. AO did not take any steps for calling upon PW.5 to produce the Case Diary. Having regard to the above, and as the nature of enquiry was confidential, I am of the considered view that the evidence of PW.5 is quietly convincing. Merely because there was no endorsement about the confidential enquiry, case of the prosecution cannot be disbelieved. On the other hand, PW.5 had sufficient time to conduct confidential enquiry because he registered the FIR on the next day. Hence, the contention of AO in this regard is not tenable.

29. Turning to the delay in reaching FIR to the Court, according to his answers in cross-examination, the journey time from Cuddapah to Nellore is 5 hours, where the Court of Special Judge

for ACB Cases is located, which is a far of place from Cuddapah. It is no doubt true that according to the evidence of PW.5 and endorsement in Ex.P-17, FIR was received by the Court on 18.05.2000 at 10:15 a.m. through HC 804/ACB/TPT. So, admittedly, there was a delay in FIR reaching to the Court. Now, it is a matter of appreciation whether such delay caused any prejudice to the AO. There is evidence of PW.2, the mediator to the effect that during the post trap proceedings the DSP, ACB has given copy of FIR and he and other mediators read over the contents of FIR and PW.1 acknowledged the correctness of the contents of the FIR. Ex.P-8 is copy of FIR which contains his signature and signature of the other mediator. As evident from Ex.P-8 copy of FIR, it contains the signature of PW.2 and other mediators with date as 17.05.2000. So, though the original FIR reached to the Court with delay but the signature of PW.2 and another mediator on the copy of FIR *i.e.*, Ex.P-8 cannot be manufactured. When the ACB Court was located in a different District and the actual journey time was 5 hours, the delay in FIR reaching to the Court cannot be viewed with an eye of suspicion. I do not see any reason in the circumstances of the case for an investigation agency like ACB to register the FIR with ante date. Nothing was elicited by AO to probabilize such a defence.

30. Now, I would like to proceed further to deal with as to whether the prosecution proved the essential ingredients of Sections 7 and 13(2) R/w. Section 13(1)(d) of the PC Act. Before going to deal with, it is pertinent to look into the principles relating to the citations relied upon by learned counsel for the appellant.

31. In **Krishna Chander** (7th *supra*), the Hon'ble Supreme Court dealing with Sections 7 and 13(2) R/w. Section 13(1)(d) of the PC Act, categorically held that proof of demand and acceptance of bribe is a *sine-qua-non* for conviction under Sections 7 and 13(1)(d) R/w. Section 13(2) of the PC Act t. It is a case where there was no substantive evidence available with regard to the demand and acceptance of illegal gratification. Looking into the evidence available on record and the legal position and further taking into consideration the fact that the complainant turned hostile, the Hon'ble Apex Court allowed the Appeal filed by the Appellant.

32. Turning to the decision in **Satyanarayana Murthy** (6th *supra*), the Hon'ble Apex Court held that it is only on proof of acceptance of illegal gratification, a presumption can be drawn under Section 20 of the PC Act that such gratification was received for doing or for bearing to do any official act. Unless there is proof

of demand of illegal gratification and proof of acceptance, such presumption will not follow.

33. In **Satvir Singh** (8th *supra*), the Hon'ble Apex Court while holding that the demand and acceptance of the bribe was not proved, restored the order of acquittal granted by the trial Court. It was a case where the trial Court acquitted the accused and the High Court of Delhi reversed the order of acquittal and the Hon'ble Apex Court restored the order of acquittal. So, what is evident from the above is that for an offence under Sections 7 and 13(1)(d) R/w. Section 13(2) of the PC Act, the proof of demand and acceptance of bribe are *sine-qua-non* and further to draw a presumption under Section 20 of the PC Act, those facts are to be proved necessarily.

34. Apart from the above, the Constitutional Bench of the Hon'ble Apex Court in **Neeraj Dutta v. State (Government of NCT of Delhi)**⁹, also considered its earlier judgments and held that it is the duty of the prosecution to prove the essential ingredients of Sections 7 and 13(1)(d) R/w.13(2) of the PC Act and to prove the foundational facts and upon proving of such

⁹ (2022) SCC OnLine SC 1724

foundations facts, a legal presumption under Section 20 of the PC Act would arise.

35. It is the PW.1 - complainant who lodged Ex.P-6 which literally whispers that AO demanded him to pay bribe of Rs.800/- to do official favour and later reduced it to Rs.500/-. PW.1 turned hostile to the case of the prosecution and introduced one Village Servant Yerikalaiah as if he advised AO to draft a report and to present it to ACB. Even he admitted that he gave statement before the Magistrate under Section 164 Cr.P.C. The learned Special Public Prosecutor contradicted the evidence of PW.1 with reference to Ex.P-6 and 164 Cr.P.C statement. It is a case where AO was sailing with the evidence of PW.1. He did not venture to suggest anything to PW.1 that he is deposing false. So, the evidence on record goes to show that PW.1 had collusive course with AO and appears to have given false evidence. AO did not examine the so called Yerikalaiah, whose name was referred to by PW.1 in his chief-examination in support of his defence.

36. It is quietly mean even from the testimony of PW.1 that AO demanded him to repay the amount borrowed by him (PW.1) from him (AO) previously to do official favour. Even his evidence in relation to post trap proceedings means that AO demanded him to

pay such amount. So, absolutely, there is evidence of PW.1 with reference to Ex.P-1 and further with reference to Ex.P-14 - post trap proceedings that there was a demand from AO to pay Rs.500/-. There is substantive evidence of PW.1 in this regard with regard to demand and payment of Rs.500/- to AO in consequence of such a demand. PW.2 deposed about the recovery of the tainted amount from AO. According to the evidence of PW.5 - Trap Laying Officer, after conducting chemical test, he asked the AO about the tainted currency note received and AO admitted that he received the amount from PW.1 and produced the same by picking from his left side shirt pocket. So, obviously according to the evidence of PW.5, AO gave a spontaneous statement with reference to the amount received from PW.1. The evidence of PW.5 in this regard has support from Ex.P-14 - post trap proceedings. Though PW.2 fully supported the case of prosecution that firstly chemical test was conducted to both hand fingers of AO and after that amount was recovered from the possession of AO but during the course of cross-examination by the learned defence counsel, he answered that first the AO produced the tainted amount and after that chemical test was conducted. The learned Special Public Prosecutor re-examined PW.2 and after going through Ex.P-14, he deposed that tainted currency note was produced by AO after the

chemical test was conducted to his both hands and the events are happened in that sequence. So the discrepancies spoken to by PW.2 deserve no importance. It is not a case where the AO disputed that he did not receive the amount from PW.1. So, by virtue of Exs.P-1 and P-14 the testimony of PW.1 about the purpose for which he gave the amount to AO was negated. So, prosecution has categorically established that AO demanded PW.1 to pay Rs.500/- prior to the date of Ex.P-1 and further demanded him to pay such amount during the post trap and in consequence of demand only he paid that amount.

37. Now, the crucial thing that has to be considered here is as to whether AO demanded such amount as bribe or in respect of the so called hand loan given by him to PW.1. During the course of cross-examination, PW.2 denied that the true events were not reflected in Ex.P-14 - post trap proceedings. Even PW.5 - Trap Laying Officer denied the defence of AO in this regard. PW.2 was the independent mahazar witness. He was not a stock mediator to the ACB. Absolutely, PW.2 and PW.5 had no reason to mention different version than that was stated by AO during the post trap. Now, a look at Ex.P-14 reads that after recovery of the tainted amount after conducting chemical test to both hand fingers of AO

and when the right hand fingers of AO yielded positive result, the DSP questioned the AO about the tainted amount and then AO took out Rs.500/- currency note from his left side shirt pocket and produced the same before him by stating that he has received the tainted amount from PW.1 for processing and issuing pattadar passbook and subsequently he also stated that he has taken hand-loan of Rs.500/- from the complainant to go to Pavugada. So that was the spontaneous version made by AO while collecting the tainted amount from his left side shirt pocket. Admittedly, the version of AO that he took out the amount of Rs.500/- from the complainant for processing and issuance of pattadar passbook is nothing but inculpatory and as it is somewhat a confession in nature. The Court cannot rely upon it. But insofar as the next version that he took the amount from the complainant as hand loan to go to Pavugada is exculpatory statement meant to give clean chit to him and this Court can certainly look into the same. So, if the exculpatory statement of AO is considered it is his version that he took an amount of Rs.500/- from PW.1 as hand loan to go to Pavugada. Here, PW.1 deposed that AO demanded him to repay the loan amount which he borrowed from AO previously. So, according to PW.1, he borrowed the amount from AO previously. According to the spontaneous version of AO which

is exculpatory, he borrowed amount from PW.1. It is to be noticed that if PW.2 and PW.5 have any intention to distort the real version of AO, they would not have recorded the exculpatory statement of AO during the post trap and they would have recorded only the inculpatory statement of AO. So, the contention of AO that Ex.P-14 does not reflect his true version cannot stand to any reason. So, the exculpatory version of AO which was spontaneous falsifies the evidence of PW.1 that the demand made by AO was relating to repayment of the amount by PW.1 to AO. AO was not supposed to demand PW.1 the alleged amount due to him and to link up the same for doing official favour. No man of reasonable prudence would make such a demand when he was bound to do official favour in respect of complainant merely on the ground that the complainant was allegedly due some amount to him. So, it is a case where PW.1 appears to have given false evidence deliberately and intentionally. He wanted to link the demand made by AO with regard to the so called alleged loan due by him to AO. The spontaneous version of AO falsifies the evidence of PW.1. When AO was endorsing the theory of PW.1 fully, he did not chose to examine Yerikalaiah in support of his defence.

38. The Hon'ble Apex Court in **Neeraj Dutta** (9th *supra*) had an occasion to deal with as to whether its earlier three Judge Bench decisions in **B. Jayaraj v. State of A.P**¹⁰ and **P. Satyanarayana Murthy** (6th *supra*) has any conflict with its three Judge Bench decision in **M. Narasinga Rao v. State of AP**¹¹ and finally held that there is no conflict between the judgments in the aforesaid three cases. The Hon'ble Apex Court categorically held that those two earlier decisions are not in conflict with the subsequent decision. The Hon'ble Apex Court keeping in view the above, gave series of clarifications and directions and held that even if the complainant turns hostile or has died or is unavailable to let in evidence during the trial, demand of illegal gratification can be proved by letting in the evidence of another witness who can again let in evidence either oral or documentary. The prosecution can prove the case by circumstantial evidence. The Hon'ble Apex Court further held therein that on proof of the fact in issue, Section 20 of the PC Act mandates the Court to raise a presumption that the illegal gratification was for the purpose of motive or reward and it has to be raised as a legal presumption.

¹⁰ (2014) 13 SCC 55

¹¹ (2001) 1 SCC 691

39. In the light of the above though the complainant herein turned hostile by deposing false that the demand made by AO was in connection with repayment of the earlier loan but this Court can as well rely upon certain circumstances to decide as to whether there was a demand for illegal gratification. The strong circumstances relied upon by the prosecution are that:

- (i) Pendency of official favour of PW.1 with AO;
- (ii) AO dealt with the tainted amount during the course of post trap and that prior to Ex.P-1 AO demanded PW.1 to pay Rs.500/- ; and
- (iii) AO further demanded PW.1 during the post trap to pay such amount and that the amount was recovered from the possession of AO.

40. As pointed out the demand made by AO to PW.1 to pay Rs.500/- was categorically proved and such demand was not disputed during the course of cross-examination. So, the Court has to look into the purpose for which AO demanded Rs.500/-. According to PW.1, it was in accordance with repayment of loan. As pointed out, evidence of PW.1 was falsified by the contents of Ex.P-14 where it contained the spontaneous explanation of AO. AO would not have made such a mention in

the post trap if really the demand was made to PW.1 to pay the earlier debt. AO was not supposed to link up that demand to do official favour. All these circumstances which are cogently established by the prosecution unerringly points out and leads to a conclusion that the demand made by AO was only towards bribe for doing official favour. Basing on the circumstances which are established by the prosecution, as above, the only inference which can be safely drawn is that the AO demanded PW.1 to pay Rs.500/- as bribe for doing official favour.

41. In the light of the above, I am of the considered view that though PW.1 turned hostile to the case of prosecution but PW.1 categorically deposed about the demand made by AO but he falsely deposed as if the demand was for some other purpose and the purpose for which PW.1 introduced cannot stand to any reason. On the other hand, the various circumstances referred to above leads to an irresistible conclusion that the demand was made by AO only for the purpose of bribe.

42. As the prosecution has proved categorically the foundational facts, it has the benefit of presumption under Section 20 of the PC Act insofar as the charge under Section 7

of the PC Act is concerned. AO miserably failed to prove contrary. The theory of PW.1 and the theory of AO is found to be false. Hence, AO miserably failed to rebut the presumption under Section 20 of the PC Act. So, the presumption under Section 20 of the PC Act further lends an assurance to the case of the prosecution as regards the charge under Section 7 of the PC Act. As seen from the judgment of the trial Court, the learned Special Judge rightly held the pendency of official favour of PW.1 before AO and further appreciated the evidence on record properly. The findings of the learned Special Judge that the prosecution proved the charges under Sections 7 and 13(1)(d) R/w. Section 13(2) of the PC Act are on sound reasons and they cannot be said to be erroneous. The act of the AO in demanding PW.1 to pay the bribe amount and further obtaining of the said amount is nothing but pecuniary advantage, which amounts to criminal misconduct. Hence, I hold that the prosecution has amply proved the charges, as above, before the learned Special Judge beyond reasonable doubt.

43. The learned Special Judge with proper reasons further found that PW.1 appears to have given false evidence

deliberately and rightly directed for his prosecution for the offence of perjury. Hence, I am of the considered view that the prosecution before the Court below proved both the charges against the Accused Officer beyond reasonable doubt as such there are no merits in the Appeal and the Appeal must fail.

44. In the result, the Criminal Appeal is dismissed as such the judgment, dated 31.08.2006, in C.C. No.22 of 2001 on the file of the Court of Special Judge for SPE and ACB Cases, Nellore stands confirmed in all respects. MO.3, tainted currency note of Rs.500/-, is ordered to be returned to PW.1. MOs.1 and 2 and 4 to 8 are ordered to be destroyed after appeal time is over, if available before the Court below.

45. The Registry is directed to take steps immediately under Section 388 Cr.P.C to certify the judgment of this Court along with the trial Court record, if any, to the learned Special Judge for SPE and ACB Cases at Nellore on or before 24.07.2023 and on such certification, the learned Special Judge shall take necessary steps to carry out the sentence imposed against the Appellant/Accused Officer in Calendar Case No.22 of 2001, dated 31.08.2006, and to report compliance to this Court. Registry is further directed to mark a copy of the judgment to the concerned Judicial First Class

Magistrate, where the perjury complaint against PW.1 is pending. A copy of this judgment be placed before the Registrar (Judicial), forthwith, for giving necessary instructions to the concerned Officers in the Registry.

Consequently, Miscellaneous Applications pending, if any, shall stand closed.

JUSTICE A.V.RAVINDRA BABU

Date: 17.07.2023
DSH