



HIGH COURT OF ANDHRA PRADESH
FRIDAY ,THE TWELFTH DAY OF MAY
TWO THOUSAND AND TWENTY THREE

PRSENT

THE HONOURABLE SRI JUSTICE A V RAVINDRA BABU

CRIMINAL APPEAL NO: 1654 OF 2006

Between:

1. NANDIPATI LAKSHMAN RAO, S/o. Koteswara Rao,
Senior Accountant,
O/o. District Treasury Officer,
Guntur, Guntur District.

...PETITIONER(S)

AND:

1. THE STATE OF A.P., REP BY PP., rep.by Range Inspector- II , ACB.,
Vijayawada Range, Guntur,
Guntur District, Rep.by Public Prosecutor,
High Court of A.P.,
Hyderabad.

...RESPONDENTS

Counsel for the Petitioner(s): P V KRISHNAIAH

**Counsel for the Respondents: A GAYATHRI REDDY STANDING
COUNSEL FOR ACB CUM SPL. PP**

The Court made the following: ORDER



HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

CRIMINAL APPEAL No.1654 OF 2006**Between:**

Nandipati Lakshman Rao,
S/o.Koteswara Rao, Aged 48 years,
Occ: Senior Accountant,
O/o.District Treasury Officer,
Guntur, Guntur District. Appellant

Versus

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

DATE OF JUDGMENT PRONOUNCED : 12.05.2023

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.1654 OF 2006

% 12.05.2023

Between:

Nandipati Lakshman Rao,
S/o.Koteswara Rao, Aged 48 years,
Occ: Senior Accountant,
O/o. District Treasury Officer,
Guntur, Guntur District. Appellant

Versus

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

! Counsel for the Appellant : Sri P.V. Krishnaiah,
Learned Counsel.

^ Counsel for the Respondent : Smt. A. Gayathri Reddy,
Learned Standing Counsel-
cum-Special Public Prosecutor

> Head Note:

? Cases referred:

1. 1996 CrI.L.J. 3638 (AP)
2. ILR 2017 KAR 5591
3. 1979 SCC 926
4. (2022) LiveLaw (SC) 192
5. (2011) 12 SCC 294
6. (2022) SCC OnLine SC 1724

This Court made the following:

**HON'BLE SRI JUSTICE A.V.RAVINDRA BABU****CRIMINAL APPEAL No.1654 OF 2006****JUDGMENT:**

This Criminal Appeal, under Section 374(2) of the Code of Criminal Procedure, 1973 (for short, 'the Cr.P.C'), is filed by the appellant, who was the Accused Officer (AO) in Calendar Case No.7 of 2001, on the file of the Court of Special Judge for SPE and ACB Cases, Vijayawada, (for short, 'the learned Special Judge') challenging the judgment therein, dated 17.11.2006, whereunder the learned Special Judge found the AO guilty of the 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'), accordingly convicted him under Section 248(2) Cr.P.C and, after questioning him about the quantum of sentence, sentenced him to undergo Rigorous Imprisonment for one year and to pay a fine of Rs.2,500/- in default to suffer Simple Imprisonment for three months for the charge under Section 7 of the PC Act and further sentenced him to undergo Rigorous Imprisonment for a period of one year and to pay a fine of Rs.2,500/- in default to suffer Simple Imprisonment for three 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.

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

3. The State, represented by Inspector of Police, Anti-Corruption Bureau (ACB), Vijayawada Range, Guntur District filed charge sheet pertaining to Crime No.10/ACB-VJA/2000 of ACB, Vijayawada 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 Nandipati Lakshmana Rao, S/o. Koteswara Rao, worked as Senior Accountant in the District Treasury Office (DTO), Guntur from 30.01.1997 to 24.07.2000, as such he is a '*Public Servant*' within the meaning of Section 2(c) of the PC Act.

LW.1 - Nemalikanti Balaiah, S/o. Venkateswara Rao is a native of Penumaka Village, Tadepalli Mandal and Guntur District. His father was a retired worker in PWD Department, who died while drawing service pension. Balaiah's mother Smt. Anna Mary, applied for family pension in the last week of May, 2000. LW.1 visited the Sub-Treasury Office (STO), Mangalagiri on 04.07.2000 and ascertained that the concerned pension papers were



forwarded to DTO, Guntur. LW.1 visited DTO Office, Guntur on 04.07.2000 at 02:00 p.m. and met the AO, who demanded Rs.500/- as bribe to process the said application. LW.1 was unwilling to pay the bribe as such he approached LW.10 – Sri B.R. Dumas, DSP, ACB with a written report. LW.10 - DSP, ACB registered the same as the aforesaid case, after due verification on 07.07.2000. On 07.07.2000 at about 11:45 a.m. AO was trapped by LW.10 in the premises of DTO, Guntur when he was demanding and accepting the bribe of Rs.500/- from LW.1. He was subjected to chemical test which yielded positive result. He produced the wad of currency notes from his trouser pocket. The serial numbers of the tainted amount were found tallied with the notes mentioned in the pre-trap proceedings. He was arrested and released on self bail. Government of Andhra Pradesh, *vide* proceedings in G.O.Ms.No.11, Finance and Planning (FIN.WING-ADMN.III) Department, dated 29.01.2001, issued necessary sanction to prosecute the AO. Hence, the charge sheet.

4. The learned Special Judge took cognizance of the case under the above provisions of law and, after appearance of the AO, by complying the necessary formalities under Section 207 Cr.P.C, framed charges under Sections 7 and 13(1)(d) R/w.13(2) 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.

5. To bring home the guilt of the AO, the prosecution before the Court below, examined PWs.1 to PW.9 and marked Exs.P-1 to P-16 and MOs.1 to MO.8.

6. 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 as follows:

The AO never demanded or accepted any gratification from PW.3 and he was implicated in this false case. During the year 2000, he worked as Senior Accountant in the DTO, Guntur looking after P4 seat, which relates to pensions and family pensions. Since the Shroff was promoted as Junior Assistant, he was entrusted with that work from 01.06.2000. He was very busy since then and during that time he received Ex.P-2 application and for attending to the said work, Pension Payment Order (PPO) Register is necessary which used to be with PW.4 and further it will be on rotation among the other staff members, whoever requires the same. After receipt of Ex.P-2, he asked PW.4 about



the said register with an intention to complete the work but PW.4 informed that the said register was not available with her. So, he could not attend Ex.P-2 application. On 07.07.2000, as usual, while he was attending to his office duties, at about 11:40 a.m. he came out of the office to have a tea in the tea bunk and when he reached near a tree in front of the tea bunk, one person suddenly came from his back and forcibly thrust some currency notes in his left side pant pocket and then he obstructed and that PW.3 went hurriedly without heeding to his calling. In the meantime, 7 or 8 persons came and caught hold of his hands, to whom he represented spontaneously that he neither demanded nor accepted any bribe from PW.3 and explained what all happened. PW.3 and PW.8 – DSP, ACB have close association and they worked together as CI and Station Writer of Tukaramgate Police Station, Hyderabad from 1991 to 1994. The DSP filed the case against him for statistical purpose as he had acquaintance with PW.3. PW.5 is a stock witness to the ACB and he drafted proceedings to the dictation of ACB.

7. AO got examined DW.1 in support of his defence with regard to the so called thrusting theory of the currency notes into his trouser pocket by PW.3.



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 and convicted and sentenced him, as above.

9. Felt aggrieved of the same, the unsuccessful accused in C.C. No.7 of 2001, 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 whether the prosecution obtained a valid sanction to prosecute him under Section 19 of the PC Act?

2) Whether the prosecution proved before the Court below with regard to pendency of the official favour in respect of the work of the mother of PW.3 with AO prior to the date of trap and on the date of trap?

3) Whether the prosecution before the Court below proved that AO demanded PW.3 to pay bribe of Rs.500/- prior to the trap and on the date of trap and obtained the same for doing official favour and such



act on the part of AO would amount to criminal misconduct?

4) Whether there are any grounds to interfere with the judgment of the Court below?

11. **POINT No.1:** The fact that AO worked as Senior Account in the DTO, Guntur as '*public servant*' within the meaning of Section 2(c) of the PC Act is not in dispute. With regard to sanction obtained by the prosecution to prosecute the AO for the charges framed, the prosecution before the Court below examined PW.6. PW.6 is the Section Officer in Finance Department, A.P. Secretariat, Hyderabad.

12. His evidence is that, having received summons from the Court below, he brought the file pertaining G.O.Ms.No.11, dated 29.01.2001. Their office received draft final report from DG, ACB on 30.12.2000 along with copy of FIR, statements of the witnesses, mediators report and explanation of AO. After considering the material, the then Section Officer, put up the file and moved the file to Deputy Secretary and from there to Principal Secretary to Government (Finance). File was further moved to the concerned Minister of Finance. After consideration of all the material on record and due application of mind, the file was approved. After



receiving the file, the then Principal Secretary (Finance) - S.P.K. Naidu, issued the sanction proceedings against AO. Ex.P-15 is the G.O.Ms.No.11 issued ordering prosecution against AO. Since PW.6 worked under the S.P.K.Naidu, the then Principal Secretary, he knows his signature and handwriting. Ex.P-15 bears the signature of S.P.K. Naidu. During cross-examination, he deposed that specimen sanction order was also enclosed with the draft final report sent by DG, ACB. He denied that without application of mind Ex.P-15 was issued.

13. As seen from Ex.P-15, it shows the application of mind by the sanctioning authority. It reflects that having regard to the case of prosecution right from the inception of the so called work relating to the mother of PW.3 and having looked the report and the outcome of the investigation, sanctioning authority decided to issue sanction order. There is no dispute before the Court below that PW.6 had acquaintance with the signature of the signatory under Ex.P-15. The evidence of PW.6 means that they received final report from DG, ACB along with the copy of FIR, statements of the witnesses, mediators report and explanation of AO. Ex.P-15 discloses the application of mind by the sanctioning authority. It is to be noticed the DG, ACB sent the draft sanction order for notice



of the sanctioning authority with regard to the form in which sanction is to be issued. It cannot be held that there was non-application of mind by the sanctioning authority. As seen from the judgment of the Court below, the learned Special Judge relied upon the decision of the High Court of A.P. in **CBI, SPE, Hyderabad v. P. Muthuraman**¹, wherein it was held that if the sanction order is a speaking order, then the matter ends there. Otherwise, evidence should be adduced to prove that the sanctioning authority had perused the material before according sanction, which may not be in a particular form.

14. Neither in the grounds of Appeal nor during the course of hearing of the Appeal, this aspect was agitated. However, it is found that on 21.01.2021 learned counsel for the appellant/AO placed on record a decision of the Karnataka High Court in **N.A. Suryanarayana @ Suri v. State by Inspector of Police, CBI/SPE/Bangalore**². The Karnataka High Court in **N.A. Suryanarayana** (2nd *supra*), relying upon the decision of the Hon'ble Apex Court in **Mohd. Iqbal Ahmed v. State of Andhra Pradesh**³, held that the sanction order by the sanctioning

¹ 1996 CrI.L.J. 3638 (AP)

² ILR 2017 KAR 5591

³ 1979 SCC 926



authority could be proved either by producing the original sanction which itself contains facts constituting grounds, or by adducing evidence to show that the facts were placed before the sanctioning authority and the satisfaction arrived at by it.

15. Having regard to the above, looking into the evidence of PW.6 and Ex.P-15 this Court is of the considered view that the findings of the learned Special Judge holding that the prosecution obtained a valid sanction to prosecute the AO cannot be said to be erroneous. Hence, I am of the considered view that the prosecution before the Court below categorically proved that AO was a '*public servant*' within the meaning of Section 2(c) of the PC Act. Further, the prosecution proved a valid sanction under Section 19 of the PC Act to prosecute the AO for the charges under Sections 7 and 13(1)(d) R/w. Section 13(2) of the PC Act.

16. **POINT Nos.2 to 4**: Sri P.V.Krishnaiah, learned counsel, appearing for the appellant, would contend that according to the case of the prosecution, father of PW.3 - *de-facto* complainant, was a retired Government employee, who died on 21.04.2000 while drawing service pension as such mother of PW.3 applied Ex.P-2 application before the STO, Mangalagiri on 30.05.2000 to get family pension. The contention of the prosecution is that when



PW.3 was pursuing the said work, AO demanded bribe of Rs.500/- from PW.3. He would contend that the prosecution alleged that on 04.07.2000, AO demanded PW.3 to pay bribe of Rs.500/- for doing official favour, being a public servant. PW.3, for the reasons best known to him, did not disclose his designation in Ex.P-8, the report lodged by him. The movements of PW.3 used to be borne out by the General Diary and though AO disputed that neither on 30.05.2000 nor on 04.07.2000, PW.3 met AO, prosecution did not produce the general diary in support of its case. According to PW.3, in cross-examination, he did not get any authorization from his mother to look after her affairs regarding Ex.P-2. So, when he had no authorization, whatsoever, he had no right to approach AO either on 30.05.2000 or on 04.07.2000.

17. He would further contend that, in fact, AO was burdened with certain duties consequent to promotion of one of the Shroff and he expected PW.4 to produce PPO Register to process Ex.P-2 but as PW.4 did not handover the same, AO could not attend the work relating to Ex.P-2. The prosecution failed to prove the pendency of the official favour in the manner as alleged. PW.3 had no *locus-standi* to take up the cause of his mother without any authorization. He would strenuously contend that PW.8 - the Trap



Laying Officer, was superior officer to PW.3 when PW.3 worked at Tukaramgate Police Station, Hyderabad. So, on account of the close relationship between PW.3 and PW.8, just PW.3 obliged PW.8 in laying a false trap against AO for statistical purpose. A duty was cast upon PW.8 when he received a report like Ex.P-8 against a public servant with serious allegation of demand of bribe to make necessary antecedents verification. So, if PW.8 conducted necessary preliminary enquiry so as to ascertain the antecedents of AO and PW.3, he would have come to know the fact that PW.3 worked as subordinate to him (Trap Laying Officer once upon a time). The so called nature of enquiry that was conducted before registration of FIR was not explained by the prosecution.

18. Learned counsel for the appellant would strenuously contend further that demand and acceptance of bribe is a *sine-qua-non* to establish the charges framed against the AO. With regard to the allegations that on 04.07.2000, AO demanded PW.3 to pay bribe, evidence of PW.1 was without any corroboration. Prosecution did not prove as to how PW.3 could attend before AO leisurely in the day when he being a Police Constable was supposed to be on duty round the clock. Further, though PW.3 deposed in cross-examination that he accompanied his mother



even on 30.05.2000, no proof is filed to that effect. The contention of AO is that for statistical purpose PW.8 - the Trap Laying Officer, with his subordinate PW.3, who worked under him for some time, falsely implicated AO. AO set up a theory that on the date of trap, when he went outside to have Tea, at a Tea Bunk in the premises of DTO, PW.3 came behind him all of a sudden and thrust the amount into the trouser pant and went away in spite of calling PW.3. AO in support of his defence, examined DW.1, who supported the defence of the AO. So, even PW.3 did not specify with which hand AO took the so called bribe amount. So, the prosecution did not examine any other independent witnesses, who might have witnessed the occurrence, which was alleged to be happened in open space near a tree of tea bunk in the premises of the DTO, Guntur. If the case of the prosecution is *bona-fide*, trap laying officer would have examined the other persons at the trap place. The incident of thrusting theory could not go un-noticed by the persons present at the place of trap. In that process AO examined DW.1. Prosecution did not examine any other independent witness to falsify the defence of the accused. The evidence of PW.3 during cross-examination cannot stand to the test of scrutiny. The prosecution examined the mediator *i.e.*, PW.5 who was a stock mediator to the ACB, as such he blindly



supported the case of the prosecution. AO categorically explained in the post-trap that he never demanded any bribe from PW.3. In fact, when he canvassed the thrusting theory, it was not incorporated in the post trap in the exact version stated by AO. PW.8 - the Trap Laying Officer did not bother to inspect the general diary which was supposed to be maintained in the office of PW.3 to ascertain as to whether what type of duties PW.3 was attending either on 30.05.2000 or on 04.07.2000 and on the date of trap. The learned Special Judge did not appreciate the evidence on record properly. The prosecution failed to prove pendency of the official favour. Even otherwise, there was inability on the part of AO to process Ex.P-2 for want of PPO Register which was not handed over to AO by PW.4. Apart from this, there was no evidence of demand of bribe and evidence of PW.3 had no corroboration and the accused categorically explained the circumstances in which his hand fingers yielded positive result as such accused is liable to be acquitted under benefit of doubt. Learned counsel for the appellant in support of his contention would rely upon the decisions of the Hon'ble Apex Court in **K. Shanthamma v. State of Telangana**⁴ and **P. Parasurami Reddy v. State of A.P**⁵.

⁴ (2022) LiveLaw (SC) 192



19. Smt. A. Gayathri Reddy, learned Standing Counsel-cum-Special Public Prosecutor for ACB, appearing for the respondent-State, would contend that the prosecution examined before the Court below PW.1 - the then Sub-Treasury Officer; PW.2 - the then Junior Accountant in the DTO, Guntur; PW.4 - the Senior Accountant in the office of DTO, Guntur and PW.7 - the then Sub-Treasury Officer, Guntur to prove pendency of the official favour. The aforesaid witnesses deposed in support of the case of the prosecution. Apart from this, the prosecution also examined PW.5 - mediator and PW.8 - Trap Laying Officer with regard to the seizure of the documents pertaining to the mother of PW.3 from the custody of AO. There was no dispute before the Court below in fact pendency of the official favour in respect of the work of mother of PW.3 before the AO. The contention of AO before the Court below was that as PW.4 did not pass on PPO Register, he could not process the file. So, the prosecution before the Court below categorically proved pendency of the official favour.

20. She would further contend that PW.3, being the son of his mother, especially when his father died while drawing service pension, was duty bound to attend the work of his mother. There

⁵ (2011) 12 SCC 294



need not be any authorization to him to pursue Ex.P-2 application. The evidence of PW.3 that he accompanied his mother on 30.05.2000 and met AO on 04.07.2000 remained unshaken in his cross-examination. AO failed to probabalize that PW.3 did not attend before AO on 04.07.2000. The learned Special Judge believed the case of the prosecution with sound reasons. In this regard, there was no dispute that during the post trap on 07.07.2000 the tainted amount was recovered from the physical possession of AO. Both hand fingers of AO yielded positive result when they were subjected to chemical test. The true version of AO was recorded in the post trap proceedings. AO adduced his defence during the course of trial without any basis from the post trap. The thrusting theory setup by AO was disbelieved by the Court below with sound reasons. AO failed to prove contrary so as to rebut the presumption under Section 20 of the PC Act. The learned Special Judge rightly appreciated the evidence on record as such Appeal is liable to be dismissed.

21. In the light of the allegations of the prosecution and the evidence adduced, firstly, I would like to deal with here as to whether the prosecution before the Court below proved pendency



of the official favour relating to the work of mother of PW.3 before the AO prior to the trap and on the date of trap.

22. As seen from the evidence of PW.1, the then Sub-Treasury Officer, Mangalagiri, he deposed that on 30.05.2000, their office received the application, dated 30.05.2000, from the mother of LW.1 by name N. Anna Mary for conversion to family pension of the pension received by N. Venkateswara Rao, father of Balaiah, who is no other than the husband of Mary. They received the said application along with the death certificate of N. Venkateswara Rao, pensioner, legal heir certificate, Proforma Form No.76 along with identification of thumb impression and photos. The said application was in order. Basing on the above said documents, family pension can be sanctioned by the DTO. Hence, he forwarded the application submitted by Mary, along with the enclosures to the DTO, Guntur with a covering letter sent by him. Ex.P-1 is his covering letter, dated 19.06.2000, *vide* RC.No.160/2000/A3. Ex.P-2 is the application of N. Anna Mary along with enclosures. Ex.P-3 is both halves of the pensioner *i.e.*, one copy is available with pensioner and the second copy is available with DTO. Both the halves were sent to DTO by their office. During cross-examination, he deposed that mother of LW.1



– Balaiah *i.e.*, Anna Mary submitted Ex.P-2 application personally in their office.

23. So, as can be seen from the evidence of PW.1, there was no dispute before the Court below as to the application of Ex.P-2. As per PW.1, the application of N. Anna Mary along with the enclosures, as it was in order, was forwarded to DTO. There was no dispute that it was sent under Ex.P-1 covering letter. Ex.P-3 is both halves of the pensioner.

24. Coming to the evidence of PW.2, the then Junior Accountant in the DTO, Guntur, she deposed that on 23.06.2000 she received Exs.P-1 to P-3 from DTO, Guntur. After receiving the file, she noted the same in the inward register and assigned a number as 3428 and sent them to AO (Seat P-4). AO acknowledged that he received the file dated 26.06.2000 in Distribution Register. Ex.P-4 is the inward register from 04.01.1999 to 06.07.2000. Ex.P-5 is the relevant entry at serial No.3428. Ex.P-6 is the Distribution Register from 11.04.2000 to 06.07.2000. Ex.P-7 is the relevant entry acknowledged by AO. She was examined by the Inspector, ACB.



25. Insofar as the evidence of PW.2 is concerned, her cross-examination was recorded as nil. So, the testimony of PW.2 was not challenged before the Court below. So, her evidence coupled with the entries in Exs.P-4 to P-7 reveals that she sent the file to AO and in token of the file relating to the mother of PW.3, AO made such acknowledgment on 26.06.2000. So, the evidence of PW.2 goes to prove that PW.2, after verification of the file, forwarded it to AO for further action.

26. According to the evidence of PW.4, she knows AO, who was dealing with the family pension seat. According to her, she is the custodian of PPO Register. In order to settle the family pensions, one has to verify, PPO Register. On 26.06.2000, AO asked her about PPO Register but on that day, she was not having that Register. Subsequently, till 07.07.2000, AO never asked her about that Register. She was on duty from 26.06.2000 to 07.07.2000. She came to know about the trap against AO.

27. Prosecution got declared PW.4 as hostile as she did not support the case of the prosecution on certain aspects and during cross-examination she denied that she stated before Police as in Ex.P-10. During cross-examination, she deposed that except her say, there is no recorded proof to show that AO asked her about



PPO Register on 26.06.2000. During cross-examination by the learned defence counsel, she testified that one Sivaji, Appa Rao, Madhava Rao were also working in D-4 Section and PPO Register will be moving to any of the staff members including her.

28. As seen from the evidence of PW.9 – Range Inspector-II, ACB Ex.P-10 - 161 Cr.P.C. statement of PW.4 was proved. According to Ex.P-10, AO never contacted PW.4 with request to give PPO Register. Whatever the reason may be for PW.4 for not supporting the case of the prosecution but there was no dispute as to pendency of the file relating to the mother of PW.3 with AO. There is also no dispute that one has to look into the PPO Register to process the application like Ex.P-2 and the Register used to before several persons in the office. To decide the pendency of official favour, the so called inability of the AO as canvassed by him that he could not process the file for want of PPO Register is not relevant. So, to decide the pendency of the official favour, pendency of Ex.P-2 coupled with the enclosures before AO prior to the trap and on the date of trap are the factors to be considered.

29. It is to be noticed that when PW.4 gave a statement before the Investigating Officer like in Ex.P-10, that AO never demanded her to furnish PPO Register but she deposed that on 26.06.2000



AO asked her about PPO Register but she could not give the same as it was not in her custody. The so called inability of AO is not liable to be considered here because if AO was not able to get the said Register on 26.06.2000, later nothing prevented him to get back the same. According to PW.4, subsequently till 07.07.2000 AO never asked her about the said Register though she was on duty from 26.06.2000 to 07.07.2000. Under the circumstances, the so called inability of the AO to get the said register from PW.4 on 26.06.2000 does not mean that official favour in respect of the work of mother of PW.3 was not pending with AO.

30. The evidence of PW.5 – mediator and PW.8 – trap laying officer proves the seizure of Ex.P-1 to Ex.P-3 from the physical custody of the AO during the post trap. These facts are not at all in dispute.

31. Further, there is evidence of PW.7 regarding procedural aspects. He deposed that he worked as Sub-Treasury Officer, Guntur. He was the STO in J Section. He was also holding additional charge of Family Pension. The concerned STO will forward PPOs along with Form-76, last payment certificate and two halves. Halves means two books *i.e.*, pension paper book No.1 and disbursement book No.2. Pension book will be with pensioner



and disbursement book will be with the concerned STO. The DTO will receive the concerned from the respective STOs, put his initial and send back to inward register clerk, who would enter them in the inward register. The inward clerk would in turn place the papers before the Distribution Clerk, who would enter them in the distribution register. He cannot say that after entering into the inward register, he will again enter the same in the distribution register and then relevant information will be placed before the family pension accountant, who in turn will enter in his personal register. The accountant would trace the old PPO Register and tally with the papers and if they are in order, he would prepare the proceedings authorizing the family pension and place before the DTO. After obtaining his order, the file would be sent back to STO concerned. As on the date of trap, AO was dealing with family pension authorization. He has to secure old PPO Register from PW.4, whose seat is nearer to him. Ex.P-1 bears the signature of T.D.Jaya Prasad, DTO, who received the same on 22.06.2000, which contained the number bearing No.3428.

32. During cross-examination, he (PW.7) deposed that old PPO Register will be roaming around four accountant seats, who will deal with the service pension. As on the date of trap, old PPO was



with PW.4. Even during the course of cross-examination of PW.7, AO did not dispute the custody of Exs.P-1 to P-3 with him.

33. Having regard to the above, this Court is of the considered view that the contention of the appellant/AO that there was no pendency of the official favour before AO cannot be accepted. Having admitted the custody of Exs.P-1 to P-3 with him, appellant cannot contend that there was no pendency of the official favour. His so called inability to get back the file from PW.4 does not mean that no official favour in respect of the work of the mother of PW.3 was pending with him. The evidence of PW.4 was negated by Ex.P-10 and even assuming for a moment that she was not able to furnish the PPO Register to AO on 26.06.2000, as she was not in custody by then, but later AO never asked her to furnish the said Register. So, even AO failed to probabalize his defence that he had no chance to look into the PPO Register right from 26.06.2000 to 04.07.2000. Hence, I am of the considered view that the prosecution before the Court below categorically proved pendency of the official favour in respect of the work of mother of PW.3 prior to the trap and on the date of trap with AO.

34. Now, this Court would like to deal with as to whether the prosecution before the Court below proved that on 04.07.2000 *i.e.*,



prior to the date of trap and on 07.07.2000 *i.e.*, during the post-trap AO demanded PW.1 to pay bribe of Rs.500/- and accepted the same.

35. As seen from Ex.P-8, the report of the *de-facto* complainant - PW.3, the substance of the allegations are that his father N. Venkateswara Rao, retired employee, while drawing service pension died on 21.04.2000 and his mother N. Anna Mary was the legal heir as such he (*de-facto* complainant) on behalf of his mother complied necessary applications in three sets and handed over the same in the last week of May in STO and he was pursuing the same on account of the old age of his mother and when he enquired in STO office, Mangalagiri on 04.07.2000, he learnt that it was forwarded to the DTO, Guntur and then he went to DTO, Guntur and enquired about the same and came to know that file is with the Senior Accountant Lakshmana Rao (AO) and when he enquired him about the file, he took him to a Tea Stall outside the office and after having tea, he demanded bribe of Rs.500/- to complete the process relating to the family pension and, though he expressed his inability, he insisted to pay the bribe amount. This is the substance of the allegations in Ex.P-8, which was written in Telugu.



36. Turning to the evidence of PW.3 - the *de-facto* complainant, his evidence is to the effect that his father, while drawing service pension as retired Government employee, died on 21.04.2000 and his mother N. Anna Mary, submitted Ex.P-2 application before the STO, Mangalagiri on 30.05.2000 claiming family pension in her name. Due to the old age of N. Anna Mary, he (PW.3) used to look after the affairs relating to Ex.P-2. On 04.07.2000, he went to the STO, Mangalagiri enquired about the status of Ex.P-2 and learnt that it was forwarded to DTO, Guntur. He went to Guntur and came to know that AO was the concerned clerk relating to the file and approached him at 02:00 p.m. and enquired about Ex.P-2. AO took him outside the DTO office at a Tea stall and had the tea and demanded him to pay bribe of Rs.500/- for processing Ex.P-2 application. Though he pleaded his inability to pay bribe, AO informed him that unless the bribe amount is paid, his work would not be done. He agreed to pay the amount to AO. As he was not willing to pay the amount, he approached the DSP, ACB, Vijayawada and presented report on 06.07.2000. Ex.P-8 is the original report. DSP, ACB asked him to come on 07.07.2000 morning hours along with the proposed bribe of Rs.500/-.



37. Insofar as the pre-trap proceedings are concerned, PW.3 deposed that on 07.07.2000 at 08:00 a.m. he attended the DSP, ACB, Vijayawada where he was introduced with the mediators and mediators asked him to confirm the contents of the report and he confirmed the same and on instructions of DSP, ACB, Vijayawada he gave Rs.500/- to one of the mediators, whose particulars were noted, and at the instructions of DSP, ACB one Constable prepared Sodium Carbonate Solution and applied phenolphthalein powder to the currency notes and asked the constable to keep the amount in the left side empty shirt pocket of him and it was done and he was instructed to pay the amount to AO only on further demand. His evidence insofar as the post-trap proceedings are concerned is that at 10:15 a.m., he, trap party members and staff left to DTO, Guntur. They reached there at 11:30 a.m. DSP, ACB reiterated the earlier instructions to them. Trap party members took vantage positions. Then, he proceeded to AO, who was in the seat. AO enquired him on seeing as to whether he brought the demanded bribe amount. He replied in affirmative. Then, AO came out from his office and he followed him. They reached near a Tea bunk, which is within the premises of DTO and they stood under a tree. On demand of AO, he gave the bribe amount to AO, who took the amount with his hand and kept it in his pant pocket. He does



not remember with which hand the AO took the bribe amount. Then, he relayed a pre-arranged signal. Trap Party came there. He pointed out that though he gave the amount to AO, DSP and trap party members took the AO into his office. He was directed by the DSP, ACB to wait outside. One hour thereafter he was called by the DSP, ACB and enquired as to what happened. He narrated the same. Ex.P-2 application is in his hand writing. He accompanied his mother to the STO, Mangalagiri at the time of presenting Ex.P-2. He scribed application dated 08.05.2000 for receiving funeral expenses on the death of his father and it is Ex.P-9.

38. As seen from the evidence of PW.3, as above, it has support from the contents of Ex.P-8 report and the pre-trap proceedings under Ex.P-12 and post trap proceedings under Ex.P-14.

39. Here, PW.5 is the mediator and PW.8 is the Trap Laying Officer. The evidence of PW.5 - one of the mediators, reveals that at the instructions of his Superior Officer on 06.07.2000, he appeared before the DSP, ACB at 08:00 a.m. on 07.07.200. DSP, ACB introduced PW.3 to them. As per the instructions of DSP, ACB they confirmed the contents of report from PW.3. He further has spoken about the production of the proposed bribe amount by PW.3, application of phenolphthalein powder to the amount,



conducting of the chemical test and further keeping the amount by the Police Constable into the empty shirt pocket of PW.3 with an instruction to pay the amount to AO on his further demand. He further deposed that during the post trap on receipt of the pre-arranged signal, they reached to the spot where PW.3 and AO were standing and DSP, ACB ascertained the identification of AO and they took AO into his office and DSP, ACB got conducted sodium carbonate solution test to both hand fingers and they yielded positive result and on enquiry AO took out the tainted amount from out of his left side pant pocket and the serial numbers of the currency notes as mentioned in pre-trap were found tallied during the post trap. The evidence of PW.8, insofar as the pre-trap and post-trap proceedings are concerned, is consistent with that of the evidence of P.5. So, what is evident by virtue of the evidence of PW.3, PW.5 and PW.8 coupled with Exs.P.8, P.12 and P.13 is that the evidence of PW.3 has corroboration from Ex.P-8 and pre-trap and post-trap proceedings. Further, the evidence of PW.5 and PW.8 is consistent and it is in accordance with the contents in the pre-trap and post-trap proceedings. So, the particulars of the currency notes which were kept in the shirt pocket of PW.3 during pre-trap proceedings and the particulars of the currency notes that were seized from AO during the post-trap proceedings are one



and the same. So the amount that was seized from the AO was the amount which was kept into the shirt pocket of PW.3 during the pre-trap. So now it is a matter of appreciation as to whether the evidence adduced by the prosecution is believable or not.

40. Turning to the contention of the appellant that PW.3 had no authorization, whatsoever, from his mother to pursue Ex.P-2, during cross-examination, PW.3 deposed that he did not obtain authorization letter from his mother to look after her affairs regarding Ex.P-2. He did not make a mention in Ex.P-8 that he accompanied his mother on 30.05.2000 while she went to office of STO, Mangalagiri for submitting Ex.P-2. It is to be noticed that the father of PW.3 died while drawing service pension as retired government employee. It is not in dispute that the mother of PW.3 is old aged. It is not the defence of the AO that PW.3 was not competent to look after the affairs of his mother. There need not be any authorization to PW.3 from his mother to pursue the application under Ex.P-2. In fact, when PW.3 categorically deposed in chief-examination that Ex.P-2, the application of his mother to claim family pension, was in his handwriting and further Ex.P-9, the application of his mother for receiving the funeral expenses, was also in his handwriting, there is no cross-examination



challenging the evidence of PW.3 in this regard. So, when PW.3 being the son of his mother happened to scribe Exs.P-2 and P-9, nothing improbable could be found on the part of PW.3 in pursuing the application under Ex.P-2. In fact, PW.3 was duty bound to assist his mother in claiming the family pension. He had every *locus-standi* to champion the cause of his mother. The contention of the appellant/AO that PW.3 did not file any authorization and did not prove his *locus-standi* to pursue the application of his mother cannot stand to any reason.

41. Though PW.1, during cross-examination, deposed that the mother of LW.1 – Balaiah *i.e.*, Anna Mary submitted Ex.P-2 application personally in their office but he was not supposed to note down the particulars of the persons who accompanied the mother of PW.3 while submitting Ex.P-2. The fact that Ex.P-2 was in the hand writing of PW.3 altogether excludes the contention of AO that PW.3 had no interest to pursue the application under Ex.P-2. As seen from Ex.P-8, report lodged by PW.3 also there was a mention specifically that on behalf of his mother, he got filed all three sets of documents and was pursuing the application of her mother. Hence, this Court is not convinced to accept the



contention of AO that PW.3 had no authorization from his mother to look after the affairs relating to Ex.P-2.

42. During cross-examination, PW.3 testified that he accompanied his mother on 30.05.2000 also to pursue Ex.P-2. As this Court already pointed out there was every possibility to do so. He deposed in Cross-examination that Krishnalanka Police Station, Vijayawada was maintaining general diary which discloses the duties allotted to each of its staff and their movements. The general diary does not disclose about his movement of his visiting STO, Mangalagiri as well as DTO, Guntur on 30.05.2000 and 04.07.2000. He denied that he did not visit the office of STO, Mangalagiri on 30.05.2000 and further he did not go to DTO, Guntur on 04.07.2000 and did not meet the AO there. It is to be noticed that, admittedly, PW.3 was a Police Constable and he did not disclose about his designation in Ex.P-8. There need not be a mention in Ex.P-8 about the occupation of PW.3. Absence of such a mention in Ex.P-8 cannot be with any *mala fide* intention. Further, it is also borne out from the record that PW.3 did not disclose his identity to the effect that he belonged to Police Department on the date of so called demand of bribe on 04.07.2000 to AO. If it was disclosed, AO might not have



demanded the bribe of Rs.500/- from PW.3. However, non-mention of the designation of PW.3 either in Ex.P-8 or non-disclosure of the same to AO either on 04.07.2000 or on 07.07.2000 cannot be taken as factors to disbelieve the case of the prosecution.

43. Now the fact remained is that even according to the evidence of PW.8, the Trap Laying Officer, PW.3 is a Police Constable and he and PW.3 worked together in Tukaramgate Police Station, Hyderabad. He did not verify the movements of PW.3 on 30.05.2000 and 04.07.2000 from the general diary of Krishnalanka Police Station. He did not seize the general diary entries of the Krishnalanka Police Station. He did not collect any record to show that PW.3 went to the office of DTO, Guntur and met the AO on 04.07.2000. It is to be noticed that simply because PW.3 was a Police Constable as on 30.05.2000 and 04.07.2000 and especially when he submitted Ex.P-8 report in his individual capacity, having felt grievance against AO, when AO allegedly demanded bribe of Rs.500/- he was not supposed to prove entries in the general diary. There is no denial of the fact that the movements of each and every Police Constable or Police Official discharging the official duties would be born out by the entries in



the general diary. PW.3 was not cross-examined before the Court below as to whether either on 30.05.2000 or on 04.07.2000 whether he was on duty or not. If it was elicited during the cross-examination that on those specific dates he was entrusted with other official duties, then there would be a probability that while discharging the official duties he was not supposed to pursue his personal activities by visiting either the office of STO or the office of DTO. Apart from this, as evident from the judgment of the Court below, AO had taken steps to summon the general diary but the concerned in the Krishnalanka Police Station submitted a Memo with information that they made search for the documents in the Police Station but they could not trace out the same. It is to be noticed that there was no answer elicited from PW.3 by doing necessary cross-examination that per day how many hours PW.3 has to attend duty and further his attended duty timings on those days. Without eliciting anything in this regard from PW.3, AO cannot contend that the prosecution did not produce the movement register of PW.3 relating to the dates of 30.05.2000 and 04.07.2000. On the other hand, the various circumstances shown by this Court goes to prove that PW.3 drafted with his hand writing Ex.P-2 as well as Ex.P-9 championing the cause of his mother. So, when his mother was old aged, it is rather possible



that a man like PW.3 would certainly take his mother to the office of STO and would further pursue her claim.

44. It is no doubt true even from the admissions of PW.3 and PW.8 they together worked for some time in Tukarakgate Police Station, Hyderabad, AO wanted to take an advantage by contending that as PW.8 had well acquaintance with PW.3, used PW.3 to implicate the AO in a false trap case for statistical purpose. Both PW.3 and PW.8 flatly denied the defence theory during the course of their cross-examination. It is to be noticed that laying a trap against a public servant is a serious issue. AO did not elicit anything from the mouth of PW.8 that whether Government fixed any targets to them to book a particular number of cases in a month or year. Such a defence of AO before the Court below was nothing but unreasonable. It is rather improbable to assume that PW.8 for statistical purposes used PW.3 to lay a false trap case against AO. Under the circumstances, the contention of AO that he was implicated falsely by PW.8 using PW.3 for statistical purpose cannot stand to any reason. In fact, when this Court already pointed out non-mentioning of the designation of PW.3 either in Ex.P-8 or before the AO is not going to affect the case of prosecution in any way.



45. Turning to the contention of the appellant that PW.5 is a stock witness, this Court would like to make it clear that according to the evidence of PW.5, on 06.07.2000 he was instructed by his superior to attend before the DSP, ACB on 07.07.2000 and accordingly he attended. It is elicited from the mouth of PW.5 during cross-examination that he acted as mediator in four ACB cases and deposed in C.C. No.37 of 2000 on 21.06.2005. Basing on the above, the contention of the AO is that PW.5 is a stock mediator. It is to be noticed that it is not the case of the AO that pre-trap and post-trap proceedings were not at all conducted. PW.5 was bound to assist the DSP, ACB when he was directed by his superior officer. Though, PW.5 deposed that he acted as mediator in four ACB cases, it is not elicited whether present case is subsequent to other cases or not. Under the circumstances as PW.5 was a public servant, he was bound to assist ACB officials whenever requested. The evidence of PW.5 cannot be tainted as stock witness. Absolutely, PW.5 had no reason to depose false against the AO. As seen from the evidence of PW.8, Trap Laying Officer, after receipt of Ex.P-8 from PW.3 at 02:00 p.m. on 06.07.2000, he endorsed the same to LW.11 – K. Veerabhadra Rao, Range Inspector-II, ACB, Vijayawada for verification of the antecedents of AO and PW.3. He received the



same by way of endorsement on Ex.P-8 from the said Range Inspector on 07.07.2000 at 08:30 a.m. Then he sought permission to lay a trap from DG, ACB and registered the same as a case in Crime No.10/ACB-VJA/2000 of ACB, Vijayawada Range at 08:30 a.m. Ex.P-16 is the original FIR. Admittedly, as seen from Ex.P-8, there was an endorsement by the DSP, ACB to cause antecedents verification and after getting the necessary information only he registered the FIR. With regard to this part of evidence of PW.8, there is no cross-examination. Nothing is suggested before PW.8 - the Trap Laying Officer that he fabricated the endorsement as regards the antecedents' enquiry. It is to be noticed that the type of preliminary enquiry or antecedents' enquiry may be confidential. PW.8 need not depose in detail as to the type of enquiry conducted. Even otherwise, when he specifically deposed that he conducted necessary antecedents enquiry, the said evidence of PW.8 was not at all challenged during the course of his cross-examination. Under the circumstances, I am of the considered view that the contention of the AO that prosecution did not explain as to what was the antecedents enquiry and preliminary enquiry conducted before registration of the FIR is not tenable. Though PW.8 had acquaintance with PW.3 and even the



antecedents enquiry revealed the same but PW.8 was not debarred from laying trap against AO basing on the report of PW.3.

46. AO did not deny that the tainted amount was recovered from his possession. He suggested a theory before PW.3 that on 07.07.2000 at about 11:40 a.m. when AO was proceeding from his office to tea bunk to have tea as he was a sugar patient, suddenly he (PW.3) went behind while he was crossing the tree and forcibly thrust the tainted amount in his left side pant pocket and the AO obstructed the same with his hands and without hearing, the AO he hurriedly relayed pre-arranged signal. So, the contention of AO before the Court below was that PW.3 thrust the amount into his shirt pocket outside the office.

47. A look at the post trap proceedings reveals that the Trap Laying Officer claimed to have recorded the version of AO. The version of AO before the Trap Laying Officer in the presence of mediators is that on 07.07.2000, PW.3 came to him and asked about pension papers of his mother and he replied that he will attend and then he asked him to come out with him and he followed him to the tea stall and when they reached there, the complainant gave the bribe amount without his demand and that he accepted the same with his left hand and kept it in the pant



pocket and then trap party surrounded him. It is to be noticed that so called thrusting theory was not there in Ex.P-14 – post trap proceedings. Absolutely PW.5 - the mediator or PW.8 - the trap laying officer had no necessity to distort the version of AO in the post-trap proceedings. AO had knowledge of the contents of Ex.P-14 because he received a copy of it. So, for the first time, after a long lapse, contrary to the version in Ex.P-14 - post-trap proceedings, AO agitated before the Court below that PW.3 thrust the amount into his shirt pocket for no fault of him. In support of his defence he examined DW.1.

48. As seen from the evidence of DW.1, he is doing a private job. He went to the office of DTO, Guntur to meet his friend, who was working there. He did not find him. He waited and came out and had tea in the tea bunk while he was waiting under a tree at about 11:00 a.m. he found AO came out from his office and reached towards the tree. One person behind him speedily thrust some currency notes in the left side pant pocket of AO. AO obstructed with his hands. The person went running away. In the meanwhile, 7 or 8 persons apprehended the AO, who disclosed that they are ACB officials. During cross-examination by the learned Special Public Prosecutor, DW.1 deposed that he did not have any official



work or bills of his own as on 07.07.2000. He did not make any attempt or to resist the person, who thrust the amount into pant pocket of AO and they did not try to caught hold of him. He met his friend in treasury office at 12:30 p.m. He did not inform about the alleged incident to anybody. He denied that he did not go to the office of his friend on 07.07.2000 and he did not witness anything.

49. It is to be noticed that, absolutely, DW.1 was a chance witness. AO did not examine the so called friend of DW.1 namely Ramesh Babu, who was said to be working in the office of AO to support the theory of DW.1. Apart from this, one has to look into the natural reaction of AO when somebody without his fault thrust the currency notes into his trouser pocket. It is to be noticed that the defence of AO is bereft of necessary details as to why he kept quiet without raising any cries or without moving forward to chase PW.3 so as to catch him. Apart from this, the natural reaction of AO when PW.3 thrust the amount would be to pick up the amount from the trouser pocket and throw it away on PW.3. Apart from this, DW.1 did not try to catch the person who thrust the amount into his shirt pocket. All this goes to show that the defence of the AO before the Court below is nothing



but an afterthought. The conduct of AO was not that of reasonable prudence when PW.3 allegedly thrust the amount into the trouser pocket. Absolutely, there was no necessity for PW.5 and PW.8 to mention a different version in the post-trap proceedings as against the thrusting theory. Hence, I am of the considered view that AO miserably failed to probabalize his defence before the Court below. Having regard to the above, I am of the considered view that the evidence adduced by the prosecution is fully convincing.

50. Turning to the contention of learned counsel for the appellant/AO that the Trap Laying Officer did not examine any persons, who were present at the time of trap, this Court would like to make it clear that in a case of this nature, as already the Trap Laying Officer secured mediators and resorted to the scientific test to ascertain as to whether the amount that was recovered from the possession of AO was the amount which was given by PW.3 in the post-trap proceedings, he was not supposed to examine the persons who were said to be present at the time of trap.

51. It is no doubt true according to the decisions of the Hon'ble Apex Court in **K. Shanthamma** (4th *supra*) and **P. Parasurami**



Reddy (5th *supra*), cited by learned counsel for the appellant/AO, the demand for bribe is *sine-qua-non* to establish the charges under Sections 7 and 13(1)(d) R/w. Section 13(2) of the PC Act. Apart from this, even the Hon'ble Apex Court in **Neeraj Dutta v. State (Government of NCT of Delhi)**⁶, presided over by a Constitution Bench while dealing with the essential ingredients of Sections 7 and 13(1)(d) R/w.13(2) of the PC Act, held that proving the allegations of demand is a *sine-qua-non* to establish the charges. When this Court already pointed out the evidence of PW.3 that when he met the AO on 04.07.2000, he demanded the bribe of Rs.500/- is fully convincing. Apart from this, there is evidence of PW.3 with regard to the incident happened in the post-trap that on further demand, he gave the tainted amount to AO. The amount was recovered from the physical possession of AO for which the prosecution adduced cogent evidence. Accused failed to probabilise his defence that PW.3 thrust the amount into his trouser pocket. Under the circumstances, I am of the considered view that the prosecution has established the essential ingredients of demand as contemplated under Sections 7 and 13(1)(d) R/w.13(2) of the PC Act. Evidence on record categorically proved the fact that on demand only PW.3 paid the bribe of Rs.500/- to

⁶ (2022) SCC OnLine SC 1724



the AO. The act of the AO in making such demand and accepting the amount of Rs.500/- by way of demand squarely attracts the essential ingredients of Section 7 of the PC Act. Further, it attracts the act of criminal misconduct as defined under Sections 13(1)(d) R/w.13(2) of the PC Act. It is nothing but obtaining the pecuniary advantage by AO from PW.3 on demand which amounts to criminal misconduct under the above provision of law.

52. In **Neeraj Dutta** (6th *supra*), the Hon'ble Apex Court held that upon proof of foundational facts and facts in issue, a presumption under Section 20 of the PC Act would arise in favour of the case of the prosecution. As AO dealt with the tainted amount, now there arises a presumption under Section 20 of the PC Act. Section 20 of the PC Act runs as follows:

“20. Presumption where public servant accepts gratification other than legal remuneration —

(1) Where, in any trial of an offence punishable under Section 7 or Section 11 or clause (a) or clause (b) of sub-section (1) of Section 13 it is proved that an accused person has accepted or obtained or has agreed to accept or attempted to obtain for himself, or for any other person, any gratification (other than legal remuneration) or any valuable thing from any person, it shall be presumed, unless the contrary is proved, that he accepted or obtained or agreed to accept or attempted to obtain that gratification or that



valuable thing, as the case may be, as a motive or reward such as is mentioned in Section 7 or, as the case may be, without consideration or for a consideration which he knows to be inadequate.

(2) Where in any trial of an offence punishable under Section 12 or under clause (b) of Section 14, it is proved that any gratification (other than legal remuneration) or any valuable thing has been given or offered to be given or attempted to be given by an accused person, it shall be presumed, unless the contrary is proved, that he gave or offered to give or attempted to give that gratification or that valuable thing, as the case may be, as a motive or reward such as is mentioned in Section 7, or, as the case may be, without consideration or for a consideration which he knows to be inadequate.

(3) Notwithstanding anything contained in sub-sections (1) and (2), the court may decline to draw the presumption referred to in either of the said sub-sections, if the gratification or thing aforesaid is, in its opinion, so trivial that no interference of corruption may fairly be drawn.”

53. As this Court already pointed out the prosecution is able to establish the allegations of demand and acceptance of bribe by AO, it clearly proves the essential ingredients of Sections 7 and 13(1)(d) R/w.13(2) of the PC Act. AO miserably failed to rebut the presumption available to the case of the prosecution.

54. As seen from the judgment of the learned Special Judge, the learned Special Judge analyzed each and every contention raised



by the AO before the Court below and with sound reasons negated the contentions of the AO. The judgment in Calendar Case No.7 of 2001, dated 17.11.2006, on the file of the Court of Special Judge for SPE and ACB Cases, Vijayawada is well considered by appreciating the evidence on record in proper perspective. Hence, no other conclusion can be possible except the conclusion that the prosecution before the Court below with cogent evidence established the charges framed against the AO beyond reasonable doubt. Hence, I see no reason to interfere with the impugned judgment.

55. In the result, the Criminal Appeal is dismissed as such the judgment in Calendar Case No.7 of 2001, dated 17.11.2006, on the file of the Court of Special Judge for SPE and ACB Cases, Vijayawada stands confirmed. MO.7, tainted currency notes of Rs.500/-, is ordered to be returned to PW.3. MOs.1 to 6 and MO.8 is ordered to be destroyed after appeal time is over, if available before the Court below.

56. The Registry is directed to take steps immediately under Section 388 Cr.P.C to certify the judgment of this Court to the learned Special Judge for SPE and ACB Cases at Vijayawada and on such certification, the learned Special Judge shall take



necessary steps to carry out the sentence imposed against the appellant/accused in Calendar Case No.7 of 2001, dated 17.11.2006, and to report compliance to this Court. Registry is directed to dispatch a copy of this judgment along with the lower Court record, if any, to the Court below on or before 19.05.2023. A copy of this judgment be placed before the Registrar (Judicial), forthwith, for giving necessary instructions to the concerned Officers in the Registry. A copy of this judgment shall also be forwarded to the Head of the Department of AO for information and further action, if any.

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

JUSTICE A.V.RAVINDRA BABU

Date: 12.05.2023
DSH