

HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

CRIMINAL APPEAL Nos. 848 of 2007 & 862 of 2007

Between:

M.Adinarayana ... Appellant
and

State-ACB rep. by Special Public Prosecutor,
High Court of A.P. ...Respondent

Between:

K.Subramanyam ... Appellant
and

State-ACB rep. by Special Public Prosecutor,
High Court of A.P. ...Respondent

DATE OF JUDGMENT PRONOUNCED: 01.05.2025

SUBMITTED FOR APPROVAL:

**THE HONOURABLE SRI JUSTICE K. SREENIVASA
REDDY**

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

JUSTICE K.SREENIVASA REDDY

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! Counsel for the appellant in : Sri M.B.Thimma Reddy
Crl.A.No.848 of 2007

! Counsel for the appellant in : Sri A.Hariprasad Reddy
Crl.A.No.862 of 2007

< Gist:

> Head Note:

? Cases referred:

- 1) (1976) 1 Supreme Court Cases 727.
- 2) 2012 (2) ALD (Crl.) 201 (AP).
- 3) (1977) 3 Supreme Court Cases 352.
- 4) AIR 1957 SC 614.

This Court made the following:

THE HON'BLE SRI JUSTICE K. SREENIVASA REDDY**Criminal Appeal Nos.848 of 2007 & 862 of 2007****Common Judgment:**

Since both the appeals arise out of the same judgment dated 27.06.2007 in C.C.No.24 of 2002 passed by the learned Special Judge for SPE and ACB Cases, Nellore (for short, 'the learned Special Judge'), they are being disposed of, by this common judgment.

2. Criminal Appeal No.848 of 2007 has been preferred by AO1, and Criminal Appeal No. 862 of 2007 has been preferred by A2, in the aforesaid C.C.

3. Vide the impugned judgment, the learned Special Judge found AO.1 guilty of the offences under Sections 7 and 13 (2) read with 13 (1) (d) of the Prevention of Corruption Act, 1988 (for short 'the Act') and found A.2 guilty of the offence under Section 12 of the Act, and accordingly convicted them of the respective offences. The learned Special Judge sentenced AO.1 to undergo rigorous imprisonment for a period of six months and to pay a fine of Rs.500/- in default to suffer simple imprisonment for

one month, for the offence punishable under Section 7 of the Act; sentenced AO.1 to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.500/- in default to suffer simple imprisonment for a period of one month for the offence under Section 13 (2) read with 13 (1) (d) of the Act, and both the sentences were directed to run concurrently. The learned Special Judge sentenced A.2 to undergo rigorous imprisonment for a period of six months and to pay a fine of Rs.500/- in default to suffer simple imprisonment for one month, for the offence under Section 12 of the Act.

4. Case of the prosecution is as follows.

AO.1 was working as Mandal Surveyor in the office of the Mandal Revenue Officer, Madanapalli. A.2 was a petition writer at MRO Office, Madanapalli town. P.W.1 bought a house site admeasuring 875 square yards in survey No.41/1 of Bandameeda Kammappalli, Madanapalli mandal, Chittoor district. He submitted an application under Ex.P3 by enclosing Ex.P2-challan, to the Mandal Revenue Officer, Madanapalli to survey his site. The

application was forwarded to AO.1 on 09.01.2001 by P.W.6-Mandal Revenue Officer. On 10.01.2001, P.W.1 informed AO.1 about making Ex.P3-application and requested to conduct survey of his site and to mark its boundaries. On that, AO.1 told P.W.1 to approach him in the office on 15.01.2001. On 15.01.2001, when P.W.1 approached AO.1, the latter demanded bribe of Rs.1000/- as illegal gratification to do the official favour. When P.W.1 pleaded his inability, AO.1 stated that the work would be done only on payment of the bribe. When P.W.1 approached AO.1 on 25.01.2001, AO.1 reiterated his earlier demand. On 05.02.2001, when P.W.1 approached AO.1 at Mandal Revenue Office, AO.1 reiterated his earlier demand and told P.W.1 to come to his office along with bribe amount on 06.02.2001. Unwilling to pay the bribe amount, P.W.1 gave Ex.P4-report to P.W.12-Deputy Superintendent of Police, ACB, Tirupati on 05.02.2001 at 2.00 PM. After conducting a preliminary enquiry, P.W.12 registered a case in crime No.3/RCT/TCT/2001 based on Ex.P4 under Ex.P20 FIR. After completion of pre-trap proceedings, the trap was laid on 06.02.2001 at 3.45 PM in

the presence of P.W.2 and L.W.3-K.Somasundara Pillai. On that day, AO.1 further demanded the bribe and told A.2, who is his Personal Assistant, to receive the amount, and noted the names of neighbourers to whom he has to issue notices in a slip Ex.P13. On that, P.W.1 paid the amount to A.2, came out of the office and gave the pre-arranged signal. Thereupon, the raid party entered the office, conducted chemical test on the hands of AO1 and A.2, recovered the tainted amount of Rs.1,000/- (M.O.9) from A.2, and post-trap proceedings were conducted. P.W.13-Inspector of Police, ACB took up further investigation, examined the witnesses, got recorded statement of P.W.1 under Section 164 CrPC by Magistrate. After receipt of sanction order Ex.P19 to prosecute AO.1 and other relevant documents and completion of investigation, P.W.13 laid the charge sheet.

5. On appearance of accused, copies of documents were furnished to them as required under Section 207 Cr.P.C. and, on considering the material on record, charges under Sections 7, 13(2) read with 13(1) (d) of the Act against AO.1

and under Section 12 of the Act and 7, 13 (2) read with 13 (1) (d) of the Act read with Section 109 IPC, against A.2, were framed. When the respective charges were read over and explained to the accused in Telugu, they pleaded not guilty and claimed to be tried.

6. During trial, on behalf of the prosecution, PWs.1 to 13 were examined and Exs.P1 to P20 were marked, besides case properties M.Os.1 to 10. During cross-examination of P.Ws.1, 6 and 13, Exs.D1 to D6 were got marked.

7. After closure of the prosecution evidence, the accused were examined under Section 313 Cr.P.C., explaining the incriminating material found against them in the evidence of prosecution witnesses, for which they denied. D.Ws 1 and 2 were examined on behalf of AO.1 and Ex.D7 was got marked.

8. After hearing both sides and appreciating the evidence on record, the learned Special Judge found the appellants guilty, accordingly convicted and sentenced them, as stated *supra*. Challenging the same, the present Criminal Appeals were filed.

9. Learned counsel for the appellant/A.1 submitted that entire case of prosecution rests on the solitary testimony of P.W.1; that much credence cannot be given to the evidence of P.W.1 for the reason that P.W.1 has got chequered history and as many as 5 criminal cases were registered against P.W.1. He submits that there is no recovery of tainted currency from the possession of the appellant/AO.1. He further submitted that P.W.1 is not a trustworthy witness and his evidence cannot be relied upon for the reason that he changed his stands from time to time. He submits that at the earliest point of time, P.W.1 stated that when he met AO.1 on 15.1.2001, the latter demanded the alleged bribe amount, but 15.1.2001 happens to be 'Sankranti festival' and it is highly improbable that P.W.1 met AO.1 on the festival day. It is further submission that P.W.1 deposed that he happened to meet AO.1 on 25.01.2001 on which date AO.1 is alleged to have made a demand for payment of illegal gratification, but P.W.1 admitted that in his statement in Section 164 CrPC, he stated that he met AO.1 on 20.01.2001, on which date AO.1 made the demand, and this inconsistency goes

to root of the case as regards the earlier demand; that AO.1 was not present at the office on 25.1.2001 as he was on duty elsewhere. He submits that in view of the above inconsistent versions in the evidence of P.W.1 with regard to demand of bribe on earlier occasions, it cannot be said that the alleged demands on earlier dates are proved to be established beyond reasonable doubt.

He further submits that AO.1 was on duty for a period of almost one month going to fields on Prajala vaddaku palana as per the instructions of the Government and he was not present in the office, which is clear from Ex.P9-list of Mandal Surveyors' day to day activities, and hence, the earlier demands allegedly made by AO.1 on the alleged dates stated by P.W.1, cannot be taken into account. He further submitted that there is no evidence on record that A.2 is Private Assistant of AO.1 and that he received the amount at the instance of AO.1, and AO.1 cannot be held responsible for the tainted money, if any, recovered from the possession of A.2; that the same is clear from the written statement of A.2, which is marked as Ex.D7. The learned counsel submits that in view of the

aforesaid circumstances, it is not safe to reliance on the evidence of P.W.1 alone, which is uncorroborated, to maintain a conviction, but these aspects were not considered by the trial Court in right perspective. Hence, he prays to set aside the convictions and sentences recorded by the learned Special Judge against AO.1.

He placed reliance on the following decisions.

(i) in *Sat Paul vs. Delhi Administration*¹, the Hon'ble Supreme Court held thus (paragraphs.15 and 23):

“15. It is true that ordinarily, as a matter of practice, this Court does not review the evidence and disturb concurrent findings of fact unless those findings are clearly unreasonable or are vitiated by an illegality or material irregularity of procedure or are otherwise contrary to the fundamental principles of natural justice and fairplay. The instant case is one which falls within the exception to this rule. As shall be presently discussed, the courts below have adopted a basically wrong approach. They have not only used the statement of certain witnesses in a manner which is manifestly improper or impermissible under the law, but have also erred in accepting the testimony of the interested witnesses without due caution and corroboration, requisite in

¹ (1976) 1 Supreme Court Cases 727.

the peculiar circumstances of the case. It is therefore, necessary to have another look at the evidence and the salient features of the case.

23. *It is true that there is no absolute rule that the evidence of an interested witness cannot be accepted without corroboration. But where the witnesses have poor moral fibre and have to their discredit a heavy load of bad antecedents, such as those of PWs.1, 2, 7 and 8, having a possible motive to harm the accused who was an obstacle in the way of their immoral activities, it would be hazardous to accept their testimony, in the absence of corroboration on crucial points from independent sources. If any authority is needed reference may be made to R.P.Arora v. State of Punjab (supra), wherein this Court ruled that in a proper case, the Court should look for independent corroboration before convincing the accused person on the evidence of trap witnesses.”*

(ii) in *Chodagudi Sambasiva Rao vs. State*², the High Court of Judicature, Andhra Pradesh at Hyderabad held thus (paragraphs 34 and 38):

“34. As noticed earlier, second demand was on 24.07.1993. According to PW1 he met AO1 in his office and he was asked to come back on 26.07.1993 with Rs.5,000/-. Except the evidence of PW1 there is no other evidence either direct or corroborative as to

² 2012 (2) ALD (Crl.) 201 (AP).

the demand on 24.07.1993. It is true that merely because there is direct or corroborative evidence is not available in the matters relating to demand, the evidence of the sole witness need not be rejected provided the demand is made out from the surrounding circumstances. The evidence on record would not show existence of any such circumstances, suggesting that there was a demand by AO1 even on 24.07.1993.

38. I am unable to agree with the said reasoning since Ex.D5 is supported by the order of a competent authority in Ex.D3 pursuant to which AO1 was required to attend to survey duties on all Tuesdays and Saturdays. Even if it is assumed that AO1 was present in the office on 24.07.1993 as correct, that itself will not lead to any presumption that he demanded bribe from PW1 on the said date. Initial burden is on the prosecution to prove demand and acceptance, de hors the plea of alibi of the accused. The burden cannot be placed on the Accused Officer to prove that there was no demand made by him. The burden shifts on the accused only after it has been established by the prosecution. As noticed above there is no evidence either direct or circumstantial to prove the demand by AO1 even on 24.07.1993. The trial Court, which has placed the burden on the Accused Officer in this regard, has drawn the inference only on the basis of evidence of PW1 and Ex.P1-complaint, is not tenable.”

(iii) in *Hari Dev Sharma vs. State (Delhi Administration)*³, the Hon'ble Supreme Court held thus (paragraph No.3):

“The High Court on appeal preferred by the appellant before us did not accept the prosecution case on the first two charges on the ground that it would be unsafe to hold on the bare testimony of the complainant that Rs.20 had been paid to the appellant as alleged. Apparently, the High Court looked upon the complainant as a witness not to be believed unless his evidence was corroborated by other evidence. The High Court however accepted the other part of the prosecution case that the appellant had been caught while accepting Rs.70 as bribe from the complainant. One circumstance which appears to have impressed the learned Judge was that the complainant was being harassed by various objections raised on his application ever since 1964 when the property was purchased. It appears however that the appellant started dealing with the file only from July 1966, and the earliest of the notes made by him on the file was dated July 20, 1968. Admittedly, the complainant met the appellant for the first time on January 29, 1969 and, that being so, it is difficult to hold that the objections raised prior to this date were calculated to put pressure on the

³ (1977) 3 Supreme Court Cases 352.

complainant. It is hardly reasonable to think that the appellant could anticipate what in fact followed. Besides, the appellant could not have been responsible for any objection raised between 1964 and July 1966. But the main difficulty we feel in accepting the prosecution case arises out of the fact that the High Court disbelieved the part of it which, according to the prosecution, was the genesis of the case. Having disbelieved the story that the appellant had asked for a bribe of Rs100 of which Rs 20 was paid in advance, we do not think the High Court could reasonably proceed on what was left of the prosecution case to affirm the order of the conviction passed by the trial court. The prosecution case was one integrated story which the trial court had accepted, If the High Court did not find it possible to accept a vital part of the story, it is difficult to see how the other part, which did not stand by itself, could be accepted. It was not the prosecution case that Rs 70 which was recovered from the appellant was the amount that the appellant had asked for from the complainant. This was a new case made by the High Court. Undoubtedly there are circumstances in this case which are highly suspicious against the appellant, but the High Court having disbelieved an essential part of the prosecution case on which the other part was dependant, we do not consider it safe to sustain the conviction of the appellant. Accordingly, we allow the appeal and set aside the

order of conviction and sentences passed against the appellant.”

10. On the other hand, learned counsel for the appellant/A.2 contended that A.2 is a petition writer at the office of the Mandal Revenue Officer, Madanapalle and he has nothing to do with the transaction made by AO.1 as he was only present in the office and writing petitions for the persons who approach the office of the MRO. It is his further submission that there is no evidence to establish that A.2 abetted AO.1 to commit any offence punishable under the Act. He submits that even if recovery of tainted currency from A.2 is accepted, there is no evidence to show that A.2 received the same having knowledge that the same was bribe amount, and under Ex.D7-written statement, A.2 offered plausible explanation at the earliest point of time, for receipt of the amount from P.W.1. He submit that A.2 cannot be made liable for the offence alleged and hence, he prays to set aside the conviction and sentence recorded against the appellant/A.2 and acquit him of the said charges.

11. On the other hand, the learned Additional Public Prosecutor appearing for respondent/A.C.B. submitted that the evidence of P.W.1 is consistent and cogent with regard to the earlier demands and the demand made on the date of trap, by AO.1 for bribe for doing official favour; that an official favour was pending with AO.1 as on the date of trap; that there is no reason for P.W.1 to foist a false case of this nature against AO.1, unless AO.1 demanded the bribe amount. It is his submission that contradictions, if any, in the evidence of P.W.1 would not go to the root of the case of the prosecution. As regards acceptance, he submits that A.2, who was writing petitions at the office of the MRO, was close to AO.1 and on the date of trap, on the instructions of AO.1, he accepted the tainted currency from P.W.1, which is evident from the evidence of P.W.1, and the chemical test conducted on A.2 gave positive result, and hence, he is liable for the offence punishable under Section 12 of the Act. The trial Court, upon considering the evidence on record, rightly convicted and sentenced the appellants and there are no grounds to interfere with the impugned judgment.

12. Now, the point for consideration is whether the prosecution is able to bring home the guilt of appellant/AO.1 for the offences punishable under Sections 7 and 13 (2) read with 13 (1) (d) of the Act, and for the offence punishable under Section 12 of the Act against appellant/A.2, beyond all reasonable doubt, and whether the judgment passed by the learned Special Judge needs any interference by this Court?

13. In the case on hand, the charges framed against appellant/AO.1 are punishable under Section 7 and 13 (2) read with 13 (1) (d) of the Act. The essential ingredients of the offence under Section 7 of the Act are -

- i) that the person accepting the gratification should be a public servant;
- ii) that he should accept the gratification for himself and the gratification should be as a motive or reward for doing or forbearing to do any official act or for showing or forbearing to show, in the exercise of his official function, favour or disfavour to any person.

14. Insofar as Section 13 (1) (d) of the Act is concerned, its essential ingredients are:

- (i) that he should have been a public servant;

(ii)that he should have used corrupt or illegal means, or otherwise abused his position as such public servant, and

(iii)that he should have obtained a valuable thing or pecuniary advantage for himself or for any other person.

15. Coming to appellant/A2, the charge against him is punishable under Section 12 of the Act. Under Section 12 of the Act, whoever abets any offence punishable under this Act, whether or not that offence is committed in consequence of that abetment, shall be punishable.

16. The allegations against appellant/AO.1 is that he, being a public servant, working as Mandal Surveyor in the Office of the Mandal Revenue Officer, Madanapalle, Chittoor District, accepted Rs.1,000/- from P.W1 on 06.02.2001 at about 3.00 p.m. at his office pursuant to this previous demands on 15.01.2001, 25.01.2001 and on 05.02.2001, as illegal gratification or bribe for doing official favour of surveying his house site situated in Survey No.41/1 of B.K.Palli village, Madanapalle Mandal, Chittoor District and to fix boundaries of the said house site, thereby, he obtained a pecuniary advantage by corrupt or

illegal means. The allegation against appellant/A.2 is that he abetted AO.1 to commit an offence punishable under the Act.

17. The entire case of the prosecution rests on the solitary testimony of P.W1 with regard to the alleged demand of illegal gratification by appellant/AO.1 and acceptance thereof by appellant/A2 on the instructions of appellant/AO.1. When a case rests on the solitary testimony of a witness, it is settled law that it must be consistent, cogent and trustworthy and it has to be placed in the category of 'wholly reliable'. In such a case, there is no legal bar to base conviction basing on the testimony of solitary witness. On this aspect, it is pertinent to refer to a decision in *Vadivelu Thevar vs. the State of Madras*⁴, wherein it was held thus: (Paragraph No.10)

“Generally speaking oral testimony in this context may be classified into these categories, namely:

(i)wholly reliable

(ii)wholly unreliable

⁴ AIR 1957 SC 614.

(iii)Neither wholly reliable nor wholly unreliable

In the first category of proof, the Court should have no difficulty in coming to its conclusion either way it may convict or may acquit on the testimony of a single witness, if it is found to be above reproach on suspicion of interestedness, incompetence or subornation. In the second category, the court equally has no difficulty in coming to its conclusion. It is in the third category of cases, that the Court has to be circumspect and has to look for corroboration in material particulars by reliable testimony, direct or circumstantial.”

18. Coming to the evidence, P.W1 is the person who set the criminal law into motion by lodging Ex.P4-report to P.W12/DSP, ACB. In his evidence, P.W1 deposed that for the purpose of surveying the land, he submitted Ex.P3-application in the Office of the MRO, Madanapalli by enclosing relevant documents on 08.01.2001; on 10.01.2001, he went to the office of the MRO and met appellant/AO.1 and requested to survey the land; on that, he was asked to come on 15.01.2001; that on 15.01.2001, he again went to the appellant/AO.1 and reiterated his

request, on that, the appellant/AO.1 demanded bribe of Rs.1,000/-; that when he expressed his inability, the appellant/AO.1 told him to come again; on 25.01.2001, he again approached appellant/AO.1 and reiterated his request, for which, the latter stated that in view of the Independence Day, it was difficult to survey the land and asked about the amount demanded; that thereafter, on 05.02.2001, when he met appellant/AO.1, the demand was reiterated by appellant/AO.1 stating that he would survey only after the amount is paid. It is his further evidence that unwilling to pay the same, he lodged report under Ex.P4 to P.W12. Pursuant to Ex.P4-report, the case was registered under Ex.P20-FIR.

19. P.W2, who was working as Assistant Director of Sericulture, Tirupati deposed about his participation as a witness to the pre-trap proceedings under Ex.P7 and post-trap proceedings under Ex.P14.

20. P.W3 was working as Mandal Revenue Inspector in the Office of the MRO, Madanapalle during the relevant point of time. His evidence is to the effect that he knows

A2, who used to write petitions sitting in the verandah of his office and there is no connection in between appellant/AO.1 and A.2, but A.2 used to follow appellant/AO.1 whenever he was called.

21. P.W4 worked as VAO of B.K.Palli village, during the relevant point of time. P.W6 worked as Mandal Revenue Officer, Madanapalli at the relevant point of time. His evidence is to the effect that his office received Ex.P3-application along with Ex.P2-challan, on 09.01.2001 and it was entered in the Central Distribution Register at Serial No.29 and forwarded to appellant/AO.1 on 09.01.2001 itself. The relevant entry in the said register is Ex.P16A.

22. The evidence of P.W10, who worked as Deputy Tahsildar in the Office of the Mandal Revenue Officer, Madanapalli during the relevant point of time, is on the same lines as that of P.W6.

23. P.W11 was working as Section Officer in the General Administration Department during the relevant point of time. He deposed about issuance of Ex.P19-Sanction Order

to prosecute the appellant/AO.1. There is no dispute with regard to the fact that appellant/AO.1 is a public servant within the definition of Section 2 (c) of the Act.

24. P.W12 was working as Deputy Superintendent of Police, ACB, Tirupati during the relevant point of time. He deposed about lodging of Ex.P4-report by P.W1, registration of the crime under Ex.P20-FIR and conducting pre-trap proceedings under Ex.P7, laying of trap, conducting post-trap proceedings under Ex.P14, seizure of relevant documents and conducting investigation in the subject crime. P.W13, who worked as Inspector of Police, ACB, Tirupathi during the relevant point of time deposed that he assisted P.W12 during pre-trap and post-trap proceedings, recorded statement of P.W1 under Section 161 CrPC and also got recorded his statement under Section 164 CrPC, and filed charge sheet after obtaining Ex.P19-Sanction Order.

25. There is no dispute with regard to the fact that appellant/AO.1 is a public servant within the definition of Section 2 (c) of the Act. It is the contention of the learned

counsel for appellant/AO.1 that P.W1 has chequered history and according to his own admission in his evidence, as many as five cases were registered against him. It is his submission that there is inconsistency in the evidence of material prosecution witness P.W.1 with regard to the vital part of the prosecution story *i.e.* the alleged demand made on 15.01.2001 and 25.01.2001 and if the said part of the prosecution story is held to be not accepted, conviction cannot be based on the other part, which cannot stand by itself in the absence of proof of the vital part beyond reasonable doubt. In the case on hand, according to the evidence of P.W1, the first demand made by appellant/ AO.1 was on 15.01.2001. Admittedly, 15th of January of every year happens to be Sankranthi festival and it is a holiday, and no office functions on that day. Furthermore, the evidence of P.W1 is silent with regard to the place of meeting appellant/AO.1. There is any amount of ambiguity as regards the P.W1 meeting appellant/AO.1 on 15.01.2001 and appellant/AO.1 demanding the bribe.

26. As regards the demand made on 25.01.2001, it is the evidence of P.W1 that on 25.01.2001 he met appellant/AO.1, who demanded the bribe amount. P.W.1 admitted that he stated in his statement recorded under Section 164 CrPC that he met the appellant/AO.1 on 20.01.2001. Therefore, there is material contradiction in the evidence of P.W1 with regard to the date of the demand by appellant/AO.1. According to the learned counsel for appellant/AO.1, as per the diary register seized from the office of the MRO on the date of the trap, AO.1 was on duty at Chinnathippa Samudram, which is about 15 kilometers away on 25.01.2001. Further, the appellant/AO.1 relied on Ex.P9-list of Mandal Surveyors' day-to-day activities to the effect that appellant/AO.1 was not present in the office for almost one month going to fields on 'Prajala Vaddaku Palalana' as per the instructions of the Government and hence, the question of demand of bribe by him either on 20.01.2001 or 25.01.2001 does not arise. Therefore, in view of the inconsistency in the evidence of P.W1 with regard to his earlier statement as regards the date of alleged second demand by appellant/AO.1 and in view of

recitals in Ex.P9, this Court is of the opinion that there is any amount of ambiguity with regard to demand of bribe made by appellant/AO.1 on 25.01.2001. This Court has no hesitation to hold that the prosecution failed to establish the alleged demands made by appellant/AO.1 on the earlier dates.

27. In order to attract the offences alleged against the appellant/AO.1, it is essential that all the essential ingredients of aforesaid offences have to be made out. It is just and necessary that earlier demand which has been made by the appellant/AO.1 has to be proved, so as to lead the informant i.e. PW.1, to lodge a complaint before PW.12. Earlier demands are integral part of subsequent demand and acceptance.

28. There cannot be any dispute that the prosecution case is one integrated story. However, in view of the aforesaid discussion, it is difficult to accept a vital part of the story i.e. earlier demands made by the appellant/AO.1 on 15.01.2001 and on 25.01.2001, which is the genesis of the case. In the absence of the same, the other part of the

prosecution story did not stand by itself and the same is also not acceptable.

29. Furthermore, there are circumstances which are highly suspicious against the accused. Even as per the admission of P.W1, that he was involved in five or six criminal cases, which were pending before the Judicial Magistrate of First Class, Madanapalli and that one of the cases is a murder case and the same ended in acquittal. As per his admissions, on earlier occasion, appellant/AO.1 seized kerosene of P.W.1 when he was selling the same near Seshamahal area unauthorizedly without valid license. In Ex.D5-explanation submitted by the appellant /AO.1, a plausible explanation was given by him that he told P.W.1 that unless he produces title deed relating to the property, it is not possible to survey the land, but P.W.1 did not get the title deed. When a case rests upon the evidence of solitary testimony of a witness, his evidence must be unimpeachable and above board. Because the appellant/AO1 insisted for production of the title deed to survey the land of P.W.1 and in view of the previous

incidents of seizure of kerosene when the same was being sold by P.W.1 unauthorizedly, etc. must have caused annoyance to P.W.1. For that reason, the possibility of ensuing misunderstandings or ill-feeling between P.W.1 and the appellant/AO.1 cannot be ruled out. These circumstances indicate that P.W.1 has not come with true version of the case. The conduct of P.W.1 is not above board. Therefore, P.W.1 cannot be termed as a wholly reliable witness. In such a case, his evidence requires corroboration. There is no accompanying witness. Except his evidence, there is absolutely no evidence, either direct or circumstantial, to establish the alleged demands made by the appellant/ AO.1. Admittedly, even as per the case of prosecution, there is no recovery of tainted money from the possession of the appellant/AO.1. Hence, this Court has no hesitation to hold that an implicit reliance cannot be placed on the solitary testimony of P.W.1 to base the conviction, and it can be said that the prosecution failed to prove the guilt of the appellant/AO.1 beyond reasonable doubt.

30. As regards appellant/A.2, he is a petition writer at MRO Office, Madanapalli town. According to evidence of P.W.1, at the time of trap, appellant/AO.1 instructed appellant/A.2 to receive the bribe amount, and on that, he paid the amount to appellant/A.2, who counted the same and stated it was Rs.1,000/-, and when appellant/A.O.1 told him to keep the amount, he kept the amount in his pant pocket. There is no dispute with regard to the fact that tainted money was recovered from A2 and chemical test conducted on the hands of A.2 gave positive result. Mere recovery of tainted currency, by itself, is not a ground to find a person guilty of the offence under Section 12 of the Act. The appellant/A.2 gave explanation vide Ex.D6 stating that on 6.2.2001 at about 3.00 PM, when he was in compound of the office, PW1 requested him to accompany to the room of Revenue Inspector, but the official was not in the room at that time; that at that time, P.W.1 gave him Rs.1,000/- and requested to keep the same with him and he would come within one hour as some persons were waiting for him outside as he is indebted to them. There is no evidence on record to show that appellant/A.2

accepted the tainted money, having knowledge that it is a bribe or illegal gratification. There is also no evidence to establish that appellant/A.2 established appellant/AO.1 to commit any offence punishable under the Act. As observed by this Court in the foregoing paragraphs, this Court concluded that the prosecution failed to establish its case as against the appellant/AO.1 beyond reasonable doubt. In view of the aforesaid discussion, this Court has no hesitation to hold that the prosecution failed to establish the guilt of the appellant/A.2 beyond all reasonable doubt for the charge leveled against him.

31. For the foregoing discussion, this Court is of the opinion that the prosecution failed to establish the guilt of the appellants for the charges leveled against them beyond all reasonable doubt. The trial Court has not considered the evidence on record in right perspective and erred in convicting and sentencing the appellants. Hence, the impugned judgment passed by the trial Court is liable to be set aside.

32. In the result, both the Criminal Appeals are allowed, setting aside the convictions and sentences recorded against the appellants, in the judgment dated 27.06.2007 in C.C.No.24 of 2002 passed by the learned Special Judge for SPE and ACB Cases, Nellore. The appellants are found not guilty of the charges leveled against them and are accordingly acquitted of the said charges and they are set at liberty. Fine amounts, if any, paid by them shall be refunded to them.

Consequently, miscellaneous petitions, if any, pending in these Criminal Appeals shall stand closed.

K. SREENIVASA REDDY, J

Date: 01.05.2025
DRK

HON'BLE SRI JUSTICE K. SREENIVASA REDDY

Criminal Appeal Nos.848 of 2007 & 862 of 2007

Date: 01.05.2025

DRK