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C.C.2/2019

ACB Crt., Knl.

**IN THE COURT OF THE SPECIAL JUDGE FOR SPE & ACB CASES:
AT KURNOOL.**

PRESENT: Smt.N.Srividya,
Spl.Judge for Trial of SPE & ACB Cases,
Kurnool.

Thursday, the 13th day of August, 2026

C.C.No.2/2019

Between:

The State represented by
Inspector of Police,
Anti Corruption Bureau,
Kurnool Range, Kurnool.

... Complainant

Vs.

Sri Nagoth Swamy, S/o Sakru,
aged 50 years, District Inspector,
Weights and Measures, Legal Metrology
Department, Kurnool – II,
R/o Flat No.13, Dharani Sai Apartments,
Balaji Nagar, Beside Highway, Kurnool.

... Accused Officer

This case has been coming on 31.07.2026 before me for hearing in the presence of Spl. Public Prosecutor for the State/Complainant and of Sri M.S. Prasad and Sri N. Shanmukam, Advocate for accused officer, and having stood over for consideration, till this day, this Court passed the following:

J U D G M E N T

The Accused Officer arraigned for the offence punishable U/Sec.7, 13(2) r/w 13(1)(d) of Prevention of Corruption (P.C.) Act, 1988.

02. On the complaint of one person by name B. Ramalingaiah that one person by name Nagoth Swamy who was the then District Inspector, Weights and Measures, Metrology Department, Kurnool-II, demanded bribe for issuing the renewal license dated 04.05.2017 and for verification of weights of 200 weighing stones each weighing 20 Kgs., ACB authorities laid trap.

(i) The contention of the defacto complainant through his report made to the DSP, ACB was to the effect that he was leading his life attending cultivation and business and that in the lands of his wife by name Rajyalakshmi, they started weigh-bridge business in the name and style of M/s Rajyalakshmi Farmers Warehouse situated by side of Kurnool-Kadapa highway, after obtaining proper license issued by the District Inspector, Weights and Measures, Metrology Department. It is his contention that in his weigh-bridge, there are 200 weighing stones each weighing 20 Kgs and that the weigh-bridge license is to be renewed every year so also the weighing stones for every two years. It is the contention of the defacto complainant that the District Inspector/N. Swamy after collecting fee of Rs.2,500/- (Rupees two thousand five hundred only) renewed the license of weigh-bridge of the defacto complainant after conducting inspections and that the renewal license was also issued on 04.05.2017 and the purpose of verification of weighing stones 200 in number (20 kgs each) was kept pending and in that connection, when the defacto complainant met the said officer two times, said officer by name Nagoth Swamy demanded bribe of Rs.30,000/- (Rupees thirty thousand only) for renewal of stones license and also for already conducting verification of weigh-bridge and also informed the defacto complainant that without payments of bribe amount, he would not renew the license and informed the

defacto complainant that he should pay Rs.30,000/- (Rupees thirty thousand only) towards bribe and fee of Rs.6,000/- (Rupees six thousand only) towards stone license renewal and that he would immediately attend the license renewal work and issue the same on payment of the said amounts. It is also the case of the defacto complainant that since he was not willing to pay the demanded bribe amount, he prepared the report on the same day i.e., on 14.07.2017 and submitted the same to the DSP, ACB at 7.30 P.M., seeking appropriate action by apprehending the said officer redhandedly.

(ii) As per the case of the prosecution, soon after receipt of the aforesaid report, the same was endorsed on 14.07.2017 at 7.30 P.M., to one Inspector by name M. Nagabhushanam to verify the genuineness of the contents of the complaint and antecedents of the complainant and N. Swamy, District Inspector, Weights and Measures, Legal Metrology, Kurnool and submit report and accordingly, he submitted the discreet inquiry report disclosing that the contents of the complaint are genuine and N. Swamy is carrying ill reputation of corrupt officer. The case of the prosecution is that, the said discreet inquiry endorsement was submitted on 15.07.2017 at 1 P.M. and accordingly, a case in Cr.No.10/RCT/KUR/2017 U/Sec.7 of P.C. Act, 1988 was registered and took up the investigation.

(iii) It is the case of the prosecution that in the presence of two responsible mediators pre trap and post trap proceedings were procedurally held and during post trap proceedings, the said accused by name N. Swamy was caught redhanded with the tainted currency and as such the trap became successful. It is also the case of the prosecution that during and after conclusion of post trap proceedings, several crucial documents were sized apart from the tainted currency from the possession of the accused officer.

(iv) After closure of investigation, it is the contention of the prosecution that charge sheet was filed after duly getting sanction orders from the Government to prosecute the accused officer.

03. The learned predecessor of this Court, has taken cognizance of the offence under Sec.7 and Sec.13(2) r/w 13(1)(d) of Prevention of Corruption (P.C.) Act 1988, against the Accused officer.

04. On appearance of the Accused officer, copies of documents were furnished to him as required U/S.207 Cr.P.C.

05. On 24.10.2019, this Court examined the Accused officer as required U/Sec. 239 Cr.P.C., by explaining the accusation levelled against him in his mother tongue Telugu and having understood the same, he denied and claimed to be tried. Accordingly, Charges U/ Sec.7 and 13(2) r/w 13(1)(d) of Prevention of Corruption (P.C.) Act 1988 were framed against him.

06. In order to substantiate its case, prosecution examined PWs 1 to 13 out of 14 listed witnesses. Prosecution exhibited Exs.P1 to P32 and MOs 1 to 8.

07. After closure of prosecution evidence, Accused officer was examined as required U/Sec.313 Cr.P.C., by explaining the incriminating circumstances and material appearing against him in the evidence of prosecution witnesses in his mother tongue Telugu and having understood the same, he denied entire evidence of prosecution and reported no defence evidence, but exhibited Exs.D1 to D7 in his support and submitted his written statement.

08. Now the point for consideration is;

Whether prosecution proved the guilt of the Accused Officer for the charges levelled against him, beyond reasonable doubt or not?

09. Heard both sides.

10. It is pertinent to mention here that the learned Spl.P.P. submitted his written arguments and the learned defence counsel submitted his written arguments as well as oral arguments.

11. Perused the record. Charges levelled against the accused officer are:

1. **Sec.7 of P.C. Act, 1988 defines :**

“ Any public servant who, -(a) obtains or accepts or attempts to obtain from any person, an undue advantage, with the intention to perform or cause performance of public duty improperly or dishonestly or to forbear or cause forbearance to perform such duty either by himself or by another public servant; or

(b) obtains or accepts or attempts to obtain, an undue advantage from any person as a reward for the improper or dishonest performance of a public duty or for forbearing to perform such duty either by himself or another public servant; or

(c) performs or induces another public servant to perform improperly or dishonestly a public duty or to forbear performance of such duty in anticipation of or in consequence of accepting an undue advantage from any person, shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to seven years and shall also be liable to fine.”

2. **Sec.13(2) of P.C. Act, 1988 defines :**

“Any public servant who commits criminal misconduct shall be punishable with imprisonment for a term which shall be not less than one year but which may extend to seven years and shall also be liable to fine.”

3. Sec.13(1)(d) of P.C. Act, 1988 defines

“(1) A public servant is said to commit the offence of criminal misconduct,-

(i) “ by corrupt or illegal means, obtains for himself or for any other person any valuable thing or pecuniary advantage “ or (ii) “by abusing his position as public servant obtains for himself or for any other person any valuable thing or pecuniary advantage” or (iii) “ while holding office as a public servant, obtains for any person any valuable thing or pecuniary advantage without any public interest”

12. The learned Spl.PP submitted written arguments reiterating the facts of the case. As per the written arguments, it is the contention of the prosecution that the accused officer demanded bribe of Rs.30,000/- (Rupees thirty thousand only) and also accepted the same from the defacto complainant on 15.07.2017, for the purpose of issuance of renewal license for 200 weights weighing 20 kgs each pertaining to weigh-bridge and also for the purpose of issuing weigh-bridge license renewal certificate which was already granted. The written arguments further disclose that the defacto complainant/PW1 was running Rajyalakshmi Farmers Warehouse and also attending agricultural works in his native village in the lands of his wife/PW2 situated by the side of Kurnool-Kadapa road and that in connection with the weigh-bridge, he was having 20 kgs of weights 200 in number and also weigh-bridge and that in order to get the license of the weigh-bridge renewed every year and in order to get the 200 weighing stones of 20 kgs each once in two years, approached the accused officer. The written arguments further

disclose that the accused officer who being District Inspector, Legal Metrology, renewed the license of weigh-bridge by collecting fee of Rs.2,500/- (Rupees two thousand five hundred only) after conducting inspection and also renewed the license which was issued on 04.05.2017, and in that connection, the verification of license renewal certificate, the defacto complainant met the accused officer two times and accused officer demanded bribe of Rs.30,000/- (Rupees thirty thousand only) for stones license renewal and for already conducted inspection of the weigh-bridge. The written arguments further disclose that accused officer informed PW1/defacto complainant that he has to pay Rs.30,000/- (Rupees thirty thousand only) as bribe and Rs.6,000/- (Rupees six thousand only) fee towards stones license renewal and that on 14.07.2017 evening, when PW1 contacted the accused officer over phone and enquired about weighing stone license renewal, accused officer informed PW1 to pay bribe amount of Rs.30,000/- (Rupees thirty thousand only) on the next day along with Govt. fee of Rs.6,000/- (Rupees six thousand only) and that he would immediately attend the license renewal issue. The written arguments further disclose that since PW1 was not willing to pay the bribe amount, he approached the DSP, ACB, Kurnool at 7.30 P.M., on the very same day i.e., 14.07.2017, and gave complaint to the then DSP under Ex.P1. The written arguments further disclose that the said complaint was endorsed to one Inspector by name Nagabushanam/PW13 and after getting due verification of the report of said Nagabushanam/PW13, case was registered by the DSP, ACB and proposed to lay trap on 15.07.2017.

(i) The written arguments further disclose about laying of trap by following due procedure of pre trap and post trap proceedings. The written arguments further disclose that when the trap was successful and accused officer was caught redhandedly for accepting the bribe at his own house from PW1, his arrest was effected and the cash was also seized. Further, it is the contention of the prosecution in writing that in the presence of mediators,

Daily cash book District Inspector, Kurnool-II, General cash register, District Inspector, Legal Metrology, Kurnool-II, Prosecution register, Treasury challan register, bunch of original treasury challan, official cash book, certification of verification book were seized and relevant pages were also got Photostat and then were seized for the purpose of investigation. The written arguments further disclose that the then Controller, Legal Metrology, Kurnool by name Sri N. Gopi Krishna Reddy/PW5 presence was also secured and he was also examined and his version was also recorded. The written arguments also disclose that apartment of the accused officer was searched and several documents were recovered and made up files items 1 to 7 were got prepared after seizure of several documents for the purpose of further investigation.

(ii) After getting due Sanction, Charge sheet was filed against the accused officer U/Sec.7, 13 (2) r/w 13(1)(d) of P.C. Act, 1988. As per the contention of the prosecution, they examined PWs 1 to 13 witnesses and exhibited Ex.P1 to P32 and MOs 1 to 8 on their behalf and that Ex.D1 to D7 were exhibited by the accused officer on his behalf.

(iii) The written arguments as far as the alleged first demand of bribe is concerned, was that accused officer demanded Rs.30,000/- (Rupees thirty thousand only) from PW1 and accepted the same on 15.07.2017 for showing official favour of issuance of renewal license for 200 weights weighing 20 kgs each of the weigh-bridge and also for earlier conducting verification of weigh-bridge by issuing weigh-bridge license renewal certificate. The written arguments also disclose regarding the demand of bribe for the first time was that accused officer was working as District Inspector, Weights and Measures in Legal Metrology Department, Kurnool-II, from 19.11.2014 to 15.07.2017, as per Ex.P20 which is service register and job chart of the accused officer, it clearly discloses that accused officer will verify, stamp weights, measures, weighing and measuring instruments of trading establishments. The written arguments also disclose that PW5 who is Joint Controller in Legal Metrology

Department, deposed that accused officer joined their department during 1996 and as per his duty, he has to check weigh-bridge, gold shops etc., and all weights are also to be certified by the accused officer, after verification and that the license of weigh-bridges have to be renewed once in every year and weights of the weigh-bridges are to be renewed once in two years and that as per the evidence of PW5, PW7 and Ex.P20, accused officer is a public servant and attends the works of the defacto complainant and it is his job nature.

(iv) As far as the first and second demand is concerned, the written arguments disclose that PW1 in his Ex.P1 categorically mentioned about the particulars of the demand made by the accused officer and during his evidence, he categorically deposed that when he went to the accused officer for two times for renewal of license of 200 stones of weigh-bridge and for the issuance of renewal license, the accused officer demanded Rs.30,000/- (Rupees thirty thousand only) for doing the renewal of said 200 stones and for issuing renewal license of weigh-bridge and also instructed the PW1 that he should pay Rs.6,000/- (Rupees six thousand only) government fee. The written arguments also disclose that it is the evidence of PW1 which clearly corroborate with that of the facts in Ex.P1 with regard to first and second demand of the bribe amount.

(v) The written arguments also disclose that third time also accused officer demanded bribe as per Ex.P1 on 14.07.2017 evening when PW1 contacted accused officer over phone, accused officer demanded bribe of Rs.30,000/- (Rupees thirty thousand only) and instructed to pay even Rs.6,000/- (Rupees six thousand only) towards fee for doing the official favour and even in the evidence of PW1, he categorically stated that on 14.07.2017 at 4 P.M., he contacted accused officer over phone and accused officer stated that next day PW1 should come with demanded bribe amount of Rs.30,000/- (Rupees thirty thousand only) along with Rs.6,000/- (Rupees six thousand

only) towards fee for renewal of his license and with the aforesaid material on record, prosecution established that the evidence of PW1 was corroborated with the facts mentioned in Ex.P1 with regard to demand of bribe by the accused officer.

(vi) As far as the demand and acceptance of bribe by the accused officer on the date of trap is concerned, written arguments disclose that during post trap proceedings, the defacto complainant stated before the mediators that on 15.07.2017 at 2.25 P.M., he contacted the accused officer through his mobile phone and accused officer informed him to come to his residence situated at Flat No.103, Dharanisai Apartment, besides SBI, Balaji nagar, Kurnool and to pay bribe amount along with license fee and that he along with application for license renewal with the connected documents accompanied by D. Venkateswarlu i.e., PW3 proceeded to the flat of the accused officer and found accused officer in the main hall and after entering the room, asking PW3 wait near the door, and that accused officer observed PW1 and asked him to be seated in a plastic chair and reiterated his earlier demand of bribe whether brought by the PW1 or not and that immediately, PW1 along with application of renewal documents along with requisite fee of Rs.6,000/- (Rupees six thousand only) and then demanded bribe amount of Rs.30,000/- (Rupees thirty thousand only) and handed over Rs.6,000/- (Rupees six thousand only) fee first which was requested by the accused officer, counted by him and placed the same in the table first draw and later received Rs.30,000/- (Rupees thirty thousand only) bribe amount, counted the same by taking the same with his right hand and after counting, kept the same in the table draw and when PW1 asked about the renewal of his license, accused officer assured about the same that it would be done at the earliest point. It is further urged in writing that the evidence of PW1 in his cross examination clearly mentions each and every point which is in-corroboration with the evidence of PW3 who was the eyewitness for the entire situation of trap. It is

also urged in writing that when pre arranged signal was given by the PW1 to the trap party, who was in the vantage position, the said party immediately rushed into the house of the accused officer and asked him to not to be panic and immediately conducted the test of both hands which resulted into pink and also when asked about the amounts of bribe, it was accused officer who took out everything from his table and said amounts were seized. The written arguments further disclose that with the evidence of PW1 in corroboration with PW3, prosecution clearly established about the demand of bribe by the accused officer and receiving the same by the accused officer on the date of trap and about cash holding of the accused officer, redhandedly.

(vii) The written arguments further disclose that as far as the defence put up by the accused officer regarding demand and acceptance is concerned, PW1 turned hostile during the course of cross examination and deposed in different way that he along with his wife/PW2 exchanged words with the accused officer and that due to said quarrel, PW1 and his wife/PW2 and the accused officer had verbal altercation and PW1 lodged report with the ACB authorities by seeing a draft scribed police constable and that on the date of trap, PW1 went to the house of accused officer and when the accused officer stated that he was coming out of the bathroom, PW1 kept Ex.P2 file on the table and tainted currency in the upper table draw of master bedroom along with government fee of Rs.6,000/- (Rupees six thousand only) and at that time accused officer did not come out of bathroom and he alone stated that he was in the bathroom and would be coming out. The written arguments further disclose that the aforesaid defence with regard to demand and acceptance of bribe is not at all correct for the reasons that when PW1 supported his own case as per Ex.P1 in chief examination which was concluded on 02.09.2022, his evidence during cross examination conducted on 20.01.2023, after 4 ½ months, the same need not be considered under the light of judgment of Satyanarayana vs State of A.P. delivered on 31.03.1994

which clearly held that the evidence of PW1 in cross examination by the accused officer cannot be considered because the witness is not cross examined on the same day. The written arguments further disclose that had it been the true incident occurred that PW1 and PW2 quarreled with the accused officer, exchanging the words, they would have lodged case against the accused officer or vice-versa, but PW1 during the course of cross examination by the learned Spl.PP, categorically deposed that he did not lodge any case or complaint against the accused officer and that itself shows that PW1 was deposing false and created a story of some oral altercation between PWs 1 and 2 and the accused officer. The written arguments further disclose that in view of the judgment mentioned above, when PW1 fared well in his chief examination, it should be taken into consideration and when the accused officer could not establish his defence in a proper manner, the presumption U/Sec.20 of the P.C. Act would come into play and as per said section, court shall presume unless contrary is proved and the accused officer accepted and obtained the bribe, but could not prove contrarily as required under Law. The learned Spl.PP relied upon the judgment reported in Madukar Bhaskar Rao Joshi vs State of Maharastra 2000 (SCPP.2) JT 458 (SC), Hon'ble Supreme Court held that the premise to establish on the facts for drawing presumption is that there was demand or acceptance of gratification and once said premise is established, the inference is to be drawn is that said gratification is accepted as motive or reward for doing or forbearing to do any official act. The written arguments also disclose that the prosecution relied upon the judgment reported in AIR 2001 SC 318 between M. Narasinga Rao vs State of A.P., which held that finding of the Trial Court as well as High Court that the prosecution proved receiving of gratification from PW1 and in such situation, the Court is under legal compulsion to draw legal presumption that such gratification was accepted as a reward for doing the public duty.

(viii) The written arguments further disclose that pending official favour is with the accused officer as per his job chart and that when PW1 categorically deposed each and every crucial points in his chief examination, it can safely be concluded that accused officer who was having power to attend official duty of PW1, it can safely be concluded that accused officer committed the offence in the light of corroborative evidence of PWs 1, 3 to 6 and 8, who clearly disclosed about the official favour pending with the accused officer even as on the date of trap and the evidence of PWs 1 and 13, supports the case of the prosecution much particularly the CDRs disclose about the phone calls between the accused officer and PW1 and finally, the written arguments disclose that as per the settled principles of law, prosecution proved the guilt of the accused officer beyond reasonable doubt and prayed this Court to punish the accused officer as per Law and relied upon the following judgments:

- (1) State of A.P. vs P. Subash Chandra Reddy 2003 CrI.J 4776.
- (2) Prakash Chand vs State (Delhi Admin) AIR 1979 (SC) 400.
- (3) Haridev Aggarwal vs State of Punjab 2006 (3) RCR (CrI.) 82.
- (4) V. Vamana Rao vs State of A.P 2012(1) ALD CrI. 39.
- (5) K. Kumara Swami vs State 2014 (1) ALD CrI. 434 AP.
- (6) Pillimarri Venugopala Krishna Murthy vs State 2011 (2) ALD CrI. 438 AP.
- (7) B. Vittalaiah vs State of A.P.
- (8) Ramesh Harijan vs State of UO 2013 (2) ALT (CrI.) 378 (SC).
- (9) Dhaneshwar Narain Saxena vs Delhi Administration AIR 1962 SC 195, 1962 (1) CRLJ 203, Supreme Court 3 Judges Bench AIR 1955 (SC) 70 Mahesh Prasad Singh vs State of UP.
- (10) State of U.P. vs Zakrullah AIR 1998 SC 1474.
- (11) State of Maharastra vs Narasinga Rao Gangaram Pimple AIR 1984 SC 63.

- (12) The State vs A. Parthaban 2008 CrI.LJ 4772.
- (13) Subash Parbat Sonrane vs State of Gujarat AIR 2003 SC 2169.
- (14) Ramesh Kumar Gupta vs State of Madhya Pradesh 1995 CrI.LJ SC.
- (15) B. Nagul Sharief vs State of AP 2011 SCC (CrI) (1) 214.
- (16) CM Sarma vs State of AP 2011 CrI.LJ SC 975.

13. On behalf of the accused officer, the learned defence counsel submitted his written arguments and also filed written statement. The contents of written statement is similar to the written arguments submitted by the defence counsel. The gist of the written arguments is as follows:

(i) As far as the version of learned defence counsel, the very case of the prosecution is a false case foisted against the accused officer. It is urged that accused officer never committed any offence. It is urged that even as per the evidence of PW1 during the course of cross examination, Ex.P1 report was lodged by him by looking into a draft shown by a Constable. It is urged that it can safely be concluded that the contents of Ex.P1 are not the replica of mind of the PW1, but the urge of ACB authorities to lay a trap against the accused officer. It is also urged by the learned defence counsel that the contents of Ex.P1 should not be taken into consideration as they were not true intentions of PW1.

(ii) The other defence of the accused officer was to the effect that the very discreet inquiry conducted by PW3 is not in accordance with Law and that when the evidence of PW7 is to the effect that there are no adverse remarks or complaints against the accused officer prior to 15.07.2017, how PW13 endorsed on Ex.P1 that Sri N. Swamy, District Inspector, Weights and Measures, Legal Metrology, Kurnool is carrying ill reputation of corrupt officer. It is also urged that when PW13 was cross examined, he categorically admitted that accused officer submitted his response along with enclosures notice dated 11.08.2017, issued by him and that he further deposed that

during his discreet inquiry, he did not secure any memos against the accused officer during his service by then. It is urged that when no material is secured by PW13, to support his report on Ex.P1, it shall not be believed. It is also urged that PW13 categorically admitted that he did not examine any one of the traders who were running weigh-bridges except PW1. It is argued that when PW13 being the person who endorsed about the genuineness of the complaint and reputation of the accused officer and also investigating officer, he has no knowledge as to who is authorized person to issue licenses, renewal of the licenses, examine the weights and measures, inspect the weigh-bridge of different traders, his investigation should not be believed. On that point also, accused officer is entitled for benefit of doubt.

(iii) The learned defence counsel further urged that pre trap proceedings are true copy of several other trap proceedings already available in the computer of ACB authorities in their office and that the said document i.e., Ex.P6 shall not be believed. Further, it is urged that the accused officer never demanded any bribe amount and that there is no material placed by the prosecution to believe that when the accused officer and PW1 already communicated with each other over phones, it was with regard to alleged demand of bribe. The learned defence counsel also urged that accused officer was in the washroom attached to his bed room when PW1 entered his house and that PW1 planted the tainted currency and that PW1 himself categorically deposed about the same during his cross examination and when true facts are elicited from the PW1 during the course of cross examination, the prosecution cannot rely on the judgments referred to by it that the chief examination contents are to be taken into consideration. It is urged that during the course of cross examination, true facts will be elicited from the mouth of witness and in the present case on hand, PW1 disclosed each and every minute details as to what happened on the date of trap. Considering the evidence of PW1 during the course of cross examination, accused officer

is entitled for clean acquittal. The learned defence counsel also urged that when the person on whom they relied upon to build the entire case of prosecution i.e., PW1, the entire case became doubtful issue when the cross examination of PW1 was done and further urged that the evidence of PWs 3 and 4 should not be believed and looked into in the light of cross examination of PW1 as it can safely be concluded that both PWs 3 and 4 deposed as if they are the mouth piece to the prosecution. The post trap proceedings/Ex.P14 coupled with Ex.P15 and Ex.P16, do not disclose about the alleged case of the prosecution and the versions noted down in post trap proceedings, are totally false and that the true version of the accused officer when his both hands were tested by ACB authorities, was not at all depicted in Ex.P14 proceedings. It is urged that PW3 was very much present and witnessing the entire alleged process of accused officer demanding PW1 the bribe amount and the fee and that on the said demand, PW1 gave the amounts and the accused officer accepted the same, is a cooked up story by the prosecution. It is urged that as per Ex.P15 and P16 rough sketches, it is highly impossible for any person to view as to what happened in the master bedroom of the accused officer. It is urged that the very documents of the prosecution under Ex.P15 and P16 makes the very version of the prosecution false as far as the vantage positions of PW3 is concerned and even as per the evidence of PW3, he was standing in the corridor at the entrance of the house of the accused officer and when it is to be believed, nothing can be viewed as to what is happening in the room which is having attached bathroom. The learned defence counsel urged that as far as true ingredients of Charges are concerned regarding demand, acceptance of the bribe, official favour etc., are concerned, prosecution miserably failed in establishing the same. It is urged that in the light of cross examination contents of PW1 regarding the reason behind foisting a false case against the accused officer that PW1 along with his wife quarrelling with the accused officer, it is to be taken into

consideration. It is urged that in the light of said quarrel and feeling bad about the said dispute with the accused officer by PWs 1 and 2, it can safely be concluded that a false case is foisted and false trap is laid with no fault on the accused officer and that accused officer had a very good track record and that all the investigating officers in this case do not even have sufficient knowledge with regard to Weights and Measures Department and the procedural aspects. It is further urged that since they have no knowledge about the department and procedural aspects therein, the real job nature of the accused officer could not be projected by the prosecution and it is urged that none of the CDRs disclose as to what were the contents of the said calls between the accused officer and PW1. In the absence of said crucial voice transcriptions, it cannot be believed that the said phone calls were only for the purpose of service involved regarding demand of bribe or otherwise.

(iv) The learned defence counsel urged that Ex.D1 to D7 should be taken into consideration and urged that accused officer never committed any offence and that a false case is foisted against the accused officer and prayed this Court to acquit the accused officer on benefit of doubt.

(v) The learned defence counsel relied on the following judgments in support of his arguments:

- (1) P. Sirajuddin vs State of Madra AIR 1971 SC 520.
- (2) G. Govind Rao vs State of ACB CrI.A.No.1021 and 1022 of 2006 (TS).
- (3) Ashok Tshering Bhutia vs State of Sikkim (2011) 4 SCC 402.
- (4) B. Jayaraj vs State of Andhra Pradesh, 2014 CrI.LJ 2433.
- (5) K. Shanthamma vs State of Telangana (2022) 4 SCC 574 (SC).
- (6) Inspector of Police ACB vs D. Anjaiah 2014 Law Sit (Hyd) 926 (TS High Court).
- (7) Bhajan Singh vs State of Haryana CrI.A.No.562/2007 (SC).

- (8) CBI vs Ashok Kumar Agarwal (2014) 14 SCC 295 (SC).
- (9) Sudershan Parek vs State of A.P 2008(2) ALD (CrI.) 840 (AP).
- (10) K. Giri vs State of A.P. 2008(2) ALD (CrI.) 821 AP.
- (11) Man Singh vs Delhi Administration AIR 1979 SC 1455.
- (12) Haridev Sharma vs State of Delhi AIR 1976 SC 1489.
- (13) Nuthalapati Singhaiah vs State of Andhra Pradesh 2019 (1) ALD (CrI.) 830.
- (14) T. Subramanian vs State of T.N. (2006) 1 SCC (CrI) 401.
- (15) Suraj Mal vs State (Delhi Administration) AIR 1979 SC 1408.

14. In order to prove Charges against the accused officer, the prosecution examined PWs 1 to 13 out of 14 listed witnesses and exhibited Ex.P1 to P32 and MOs 1 to 8. Whereas, the accused officer exhibited Ex.D1 to D7 during the course of cross examination of prosecution witnesses by confronting those documents.

15. The prosecution examined the following witnesses:

PW1	is the defacto complainant.
PW2	is the wife of PW1 in whose name Sri Rajyalakshmi Rural Farmers Warehouse and lorry weigh-bridge is registered and is situated in the outskirts of Nallagatla village on the Kurnool-Kadapa highway.
PWs 3 & 4	are the mediators for pre trap and post trap proceedings.
PW5	was the Asst. Controller at the relevant period of time during that period accused officer worked under him. This witness explained about the job nature of the accused officer.
PW6	is one person by name G. Yekambarachari who was placed incharge for the post of accused officer soon after the trap of accused officer.
PW7	is the Dy. Controller, Legal Metrology Department who submitted

	Ex.P19 and P20 which are suspension orders of the accused officer and service particulars and job chart of the accused officer respectively.
PW8	is the authorized repairer by name Chandra Sekhar who deposed about issuing of challan after receipt, dated 27.07.2017 of the renewal fee from PW1 for repairing the weights of PW1 weigh-bridge.
PW9	is one person by name Sudhakar, Section Officer who deposed about Sanction order/Ex.P23.
PW10	is the Nodal Officer who deposed about CDRs of two mobile numbers i.e., 95505 55550 and 78938 44019 through whom Ex.P24 and P25 are marked.
PW11	is the Nodal Officer, BSNL through whom Ex.P27 to P31 are marked inclusive of Ex.P28A. This witness spoke about CDRs of two mobile numbers i.e., 98496 57568 and 94901 65649.
PW12	is the investigating officer, the then DSP, ACB, Kurnool who registered the case against the accused officer basing on Ex.P1 endorsement therein done by PW13. This witness laid the trap.
PW13	is the Inspector who conducted discreet inquiry as per his evidence, he submitted the report and also took up investigation on the instructions of PW12 and after receipt of Sanction orders to prosecute the accused officer, he filed charge sheet.

16. Basing on Ex.P20 and the evidence of PW7/Dy. Controller, Legal Metrology Department, it can safely be concluded that accused officer is a public servant in its true sense as required under P.C. Act.

17. As per Ex.P1, PW1 was running Rajyalakshmi Rural Farmers Warehouse Weigh-bridge in the name of his wife in the outskirts of Nallagatla village on Kurnool – Kadapa highway having 200 stones of 20 kgs each to the

weigh-bridge and as per Ex.P1, PW1 approached ACB authorities as the accused officer demanded bribe of Rs.30,000/- (Rupees thirty thousand only) for two favours. As per Ex.P1, demand of bribe was for stones license renewal and for already completed verification of weigh-bridge.

18. The prosecution examined PW5 in order to find out whether there was any official favour mentioned in Ex.P1 with the accused officer or not as per Ex.P1 and the evidence of PW1. This PW5 worked as Asst. Controller, Legal Metrology Department, Kurnool between March 2014 and May 2020 and he was also incharge of Kurnool-Kadapa Region. This witness deposed that during his tenure, accused officer was incharge of Nandyal, Allagadda East Region of Kurnool and his duties are to check weigh-bridges, gold shops etc., and all weights are also to be certified by the accused officer after verification and license of weigh-bridge have to be renewed every year and he also deposed that depending upon the capacity of weighing stones, license fee will be collected and further deposed that their Department will issue license depending upon the qualification to a person to act as Repairer. This witness further categorically deposed that traders will approach the repairer to get their weights checked by them and if there is any defect, repairer will correct it and then a challan or report is to be submitted to the Inspector and Inspector will check the weights available with their department and if he found them correct, he will stamp on the weights and issues certificate of renewal to the traders. PW6 is also examined by the prosecution who is also the District Inspector who worked along with the accused officer and was made incharge of the post of the accused officer after the trap. This witness/PW6 deposed that accused officer worked as District Inspector at Kurnool-II. This witness also deposed that he has to inspect weigh-bridge, weighing instruments including weights and measures of business establishments and after verifying the same, renew the licenses. This witness

also deposed that if there are any violations, they register the case for violating Legal Metrology Act and impose the fine and compound the offence.

19. PW1 while deposing before this Court categorically deposed that accused officer demanded Rs.30,000/- (Rupees thirty thousand only) bribe for renewal of 200 stones and also for already renewed license of weigh-bridge. As could be seen from the evidence of PWs 5 and 6 and the Legal Metrology Act, 2009 as well as Rules thereunder, U/Sec.14 of Chapter-III of Legal Metrology Act, 2009, appointment of Legal Metrology Officers is done and as per the A.P. Legal Metrology Endorsement Rules, 2011, Sec.2(c) explains as the meaning of Inspector i.e., "Inspector means an officer who is appointed as such under the Act by whatsoever name called such as District Inspector", accused officer is equipped with power of renewal of license of weigh-bridge, as well as renewal of stones license as well. It can be safely concluded that the said two powers are in the hands of accused officer. As per the procedure for getting stones license renewed, PW5 categorically explained the procedure laid down for renewal of stones license. As per the evidence of PW5, licenses of weigh-bridges have to be renewed every year whereas for weights it is once in two years. He also deposed that one month prior to the expiry of license period, the traders have to apply for renewal and if the licenses are not renewed in time, cases will be booked and material will be seized. He also deposed that depending upon the capacity of weighing stones, license fee will be collected for renewal. He also deposed that the traders will approach the repairer to get the weights checked by the repairer and if there is any defect, repairer will correct the same and then traders shall submit the challan to the Inspector and the Inspector will check the weights available in the department and if they are found correct, Inspector will stamp on the weights and issue certificate of renewal to the traders.

20. During the course of cross examination of this witness, this witness clearly deposed that on 26.07.2015, accused officer renewed the license of weights 200 in number weighing 20 kgs each regarding PW1 i.e., two years prior to the incident as per Ex.D5 and D6. As such, it is clear that it is the job nature of the accused officer and it is within his power to issue the renewal license of the weights as well apart from weigh-bridge license renewal.

21. As far as the 'demand' of bribe is concerned, PW1 deposed during examination-in-chief projecting his entire case mentioned under Ex.P1. As per his version, on 04.05.2017, he met the Inspector i.e., accused officer for renewal of weigh-bridge license and obtained the same by paying fee of Rs.2,500/- (Rupees two thousand five hundred only) to the Government and that the accused officer renewed the same on the same day. This witness further deposed that verification for renewal of 200 weights of 20 kgs each was pending and in that connection, when he went and met the accused officer for two times for renewal of the license of stones, accused officer demanded Rs.30,000/- (Rupees thirty thousand only) for renewing stone license and also for already renewed license of weigh-bridge. He also deposed that he lodged Ex.P1 when the accused officer reiterated his demand over phone on 14.07.2017 at 4 P.M. when PW1 contacted the accused officer over phone. It is his evidence in chief that accused officer reiterated the payment of demand of Rs.30,000/- (Rupees thirty thousand only) towards bribe and to pay Government fee of Rs.6,000/- (Rupees six thousand only) as well and then only he will renew the license. It is also the evidence of PW1 in chief that since he was not willing to pay the bribe, he scribed Ex.P1 and approached DSP, ACB, Kurnool at 7.30 P.M., and lodged Ex.P1.

22. The learned defence counsel seriously urged that the version of PW1 though appears to be one and the same with that of Ex.P1 contents, he did not support the case of the prosecution during the course of cross examination and that the true facts were elicited during the cross examination of PW1. He urged that PW1 in his cross examination categorically admitted that Ex.P1 complaint was scribed by PW1 by seeing the draft scribed by Police Constable. The learned defence counsel urged that when PW1 admitted that the contents of Ex.P1 are the replica of draft scribed by the Police Constable, the very version of PW1 should not be believed with regard to approaching the DSP, ACB along with Ex.P1 on 14.07.2017.

23. It is the serious argument of the prosecution that the version of PW1 if changed during the cross examination, it shall not be considered and chief examination is to be looked into.

24. After careful perusal of the dates on which PW1 was examined in chief as well as the cross examination, this Court observed that the chief examination of PW1 was recorded on 02.09.2022 and the cross examination was deferred at request of the learned defence counsel and on 20.01.2023, PW1 was cross examined. After a gap of almost 5 months, PW1 was subjected to cross examination. The Hon'ble Supreme Court in its judgment delivered between Pubi Satyanarayana vs State of A.P. dated 31.03.1994, held that the evidence of PW1 in cross examination by the accused officer cannot be considered when the witness is not cross examined on the same day. In the said case, Hon'ble High Court on the context of condemning the practice of deferring the cross examination by defence lawyers, held that the said practice of deferring cross examination is only to manipulate or influence the prosecution witnesses. The Hon'ble Division Bench criticized the tactics of delaying the cross examination for the purpose of compromising the

matters or making the witness recile from prior statement made in the Court by way of evidence. The Hon'ble High Court in the said judgment, highlighted that strict proceedings of perjury should be considered when the attempts are made to tamper with the witnesses and their testimonies in the Court. The Hon'ble High Court appreciated the stand taken by the trial court Judge and observed that the Court is competent to take steps to initiate steps for perjury and appreciated the trial Court in taking steps for proceeding for perjury.

25. This Court is of the view that the version of PW1 during the chief examination is to be believed as there was almost five months gap in facing the cross examination by PW1. Hence, the version of PW1 in his chief examination is believed. There are several other reasons which will be during the course of further observation of this Court, will be mentioned.

26. The learned defence counsel urged that the evidence of PW13 that he is not at all having knowledge about the department in which the accused officer is working and in that context, blindly made endorsement on Ex.P1 that accused officer was carrying bad reputation as corrupt officer and that it shall not be believed. It is urged that without conducting proper preliminary enquiry, making such endorsements against the innocent accused officer, is to be curbed and his evidence should not be believed much particularly the report submitted by PW13 on Ex.P1. The learned defence counsel relied upon the judgment reported in AIR 1971 520 between P. Sirazuddin etc., vs State of Madras. On careful perusal of the judgment on which the accused officer wanted to take shelter, the factual matrix therein involving is not only appellant but several other Government employees against whom the enquiry was ordered by the then Chief Minister of the State and there was procedural lapses wherein during the course of investigation, the statements were being signed by the persons who made the statements

before the DSP and the investigating officers and among several employees who were enquired into, the appellants were made to affix their signatures on the statements. The Trial Court was asked to discharge them by way of petition U/Sec.251-A Cr.P.C. on the ground of discrimination between the appellant and other officers and the matter went upon to the Hon'ble High Court of Madras. The Hon'ble High Court at Madras found partly in favour of the appellant and held that the order of the Special Judge directing to frame charges on consideration of the statements, should be quashed. It was also directed to take up the matter once again and consider the case excluding from consideration of all statements recorded U/Sec.161(3) Cr.P.C. and Sec.164 Cr.P.C. which was found vitiated in the lapse of observation made by it. The Hon'ble Supreme Court held that the High Court rightly held in observing that the relationship between the person who complained against the appellant and the Chief Minister, was so distant that it could not be possibly have influenced him and also observed that the lodging of report against a person occupying the top position in department even if it is baseless, there is set up of a Vigilance and Anti Corruption Department which are to be entrusted to do enquires of these kinds.

27. In the present case on hand, nothing can be attributed to PW13 because he being the Inspector of Anti Corruption Bureau was endorsed to conduct discreet inquiry and the very word discreet inquiry is to be done in a manner where the accused officer should not be aware of the fact that inquiry is going on him. In the light of contents of Ex.P1, discreet inquiry would be conducted and in the present case, it was happened as per the evidence of PW1 and the factual matrix herein would not match in any manner with that of the judgment relied upon by the accused officer. In the present case on hand, there is no favour going to be secured by PW13 who happens to be the officer who conducted discreet inquiry. He belongs to ACB Department by then and

did his job conducting discreet inquiry and submitted his report. Even from the evidence of PW13, nothing is elicited from his mouth which could bring to the knowledge of this Court that PW13 is pre-notioned officer having some grudge against the accused officer so that he bent upon submitting his report against the accused officer. The evidence of PW7 also goes to show in cross examination that their file do not contain any adverse remarks or complaints against the accused officer prior to 15.07.2017, hence this Court is of the view that accused officer cannot be take shelter under the judgment relied upon by him for want of identical or similar factual matrix.

28. As far as the evidence of PW1 is concerned, as mentioned supra, PW1 supported the version mentioned in Ex.P1. Regarding the point of enmity or financial disputes if any, PW1 categorically deposed in his examination in chief that there are no disputes of any kind when he was enquired by the mediators and PW1 answered to them that there are no such transactions or enmity between him and the accused officer. But, when he entered the witness box after gap of five months, he started deposing before this Court during the cross examination admitting to the suggestion that there were exchange of words between himself, his wife/PW2 and the accused officer in connection of getting weights repaired. If at all the version of PW1 during the course of cross examination is to be believed regarding his admission made to the suggestion put to him, as mentioned above, the evidence of PW2 must be in co-relation with that of PW1. PW2 is none other than the wife of PW1. The prosecution examined her. She clearly deposed that PW1 is her husband and deposed about running of said Sri Rajyalakshmi Rural Farmers Warehouse and weigh-bridge in her name and also deposed that her husband is looking after the same. She clearly deposed that she has no knowledge about the issues of license and about for how many years license would be renewed for stones and weigh-bridge and about the amounts

to be paid towards fee and to which department of these weighing stones, weigh-bridge belong to. But, she deposed that her husband quarreled with one person in connection with weigh-bridge but she has no knowledge about its details. She also deposed that she has no knowledge whether there was a quarrel between accused officer and her husband. She also deposed that she has no knowledge about anything regarding this case. When that is the evidence of PW2, and even in the cross examination done by Spl.PP., this lady denied the suggestion that no quarrel took place with respect to weigh-bridge, it can safely be concluded that PW1 was manipulated for giving false evidence before this Court regarding so called undisclosed dispute. No particulars of dispute are mentioned by PW1. PW2 being wife of PW1 categorically stated that she has no knowledge about any dispute between her husband and the accused officer. But the evidence of PW1 was that he and his wife PW2 quarreled with the accused officer. As such, this Court did not believe the version of PW1 regarding enmity though the learned defence counsel wanted to project enmity between PW1 and the accused officer which is the reason for PW1 behind lodging Ex.P1 and laying a false trap. Hence, this Court is of the view that there are no disputes of any kind as clearly mentioned by PW1 in his chief examination which is also the version of PWs 3 and 4 who are the mediators who examined PW1 regarding the contents of Ex.P5 (photo copy of Ex.P1).

29. As far as the aspect of initial demand is concerned, PW1 evidence in chief was to the effect that on 04.05.2017, PW1 met the accused officer and paid Rs.2,500/- (Rupees two thousand five hundred only) towards Government fee and got renewed the weigh-bridge license on the same day. It is his evidence that he went to the office of accused officer for two times for renewal of weighing stones 200 in number of 20 kgs each and accused officer demanded Rs.30,000/- (Rupees thirty thousand only) for the same and also

for already renewed license of weigh-bridge and also instructed him to pay Rs.6,000/- (Rupees six thousand only) fee. It is also the evidence of PW1 that on 14.07.2017 at about 4 P.M., he contacted accused officer over phone and accused officer stated that next day i.e., 15.07.2017, PW1 should come with the demanded bribe amount of Rs.30,000/- (Rupees thirty thousand only) and also Government fee of Rs.6,000/- (Rupees six thousand only) and then only he would renew the license.

30. It is the contention of the accused officer and the arguments submitted by the learned defence counsel that CDRs do not disclose any phone call from PW1 to the accused officer much particularly on the date 14.07.2017. It is also urged by the learned defence counsel that PW10 categorically deposed that on 14.07.2017 there were no calls between 95505 55550 and 78938 44019 as per Ex.P24. It is also urged that PW1 is deposing false and it should not be taken into consideration in the light of evidence of PW10.

31. On careful perusal of the evidence of PW10, what learned defence counsel urged before this Court appears to be true, but on careful perusal of evidence of PW11 who is BSNL Nodal Officer, he categorically deposed that accused officer customer application form/Ex.P29 is for the mobile number 94901 65649 and it is in the name of accused officer along with his Aadhar card and Ex.P30 is the CDR of the said mobile number and also deposed that Ex.P27 is the customer application form of mobile number 98496 57568 standing in the name of PW1 along with his Aadhar card and Ex.P28 is the CDR report of said mobile number. This witness categorically deposed that in the CDR Ex.P28, there is one outgoing call to mobile number 78938 44019 on 14.07.2017 at 18:08 hours and the duration is 134 seconds and one SMS on the same day at 17:58 hours. The said portion was marked

as Ex.P28-A. Ex.P30 which is customer application form disclose about the mobile number of accused officer at column No.19 at the place of mobile as 78938 44019. Ex.P28-A at the correct relevant time of 4 P.M. around there is a phone call from phone number of PW1 to the phone number of accused officer for about 134 seconds. Hence, the version of PW1 that he made a phone call to the accused officer is established by the prosecution with the aforesaid material.

32. The learned defence counsel further urged that since there is no voice transcription and admittedly since there is no voice recorded by PW1 regarding phone call conversation between PW1 and the accused officer, the version of PW11 should not be believed at all in the light of cross examination of PW1. As already observed by this Court regarding the version of PW1 during the course of cross examination, that it should not be taken into consideration, this Court is of the view that the arguments of the accused officer and the defence put up by him, is not to be considered at all. Hence, this Court is of the view that the version of PW1 regarding demand of bribe made by accused officer is true and prosecution established it.

33. The learned defence counsel took another defence as there are several pre trap proceedings in the system maintained at ACB office, Kurnool and that the evidence of PWs 3 and 4 also disclose about the same and there is no evidence placed by the prosecution that Ex.P6 pre trap proceedings are genuinely recorded only for the purpose of this case. This Court is of the view that the version of PWs 3 and 4 on this aspect was to the effect that they categorically deposed about the entire procedure how they followed from the point of introducing them to PW1 by the DSP, ACB, enquiring PW1 about the genuineness of the complaint and eliciting about no disputes of any kind to the point of concluding of pre trap proceedings after seizure of MOs 1 and 2

sample of phenolphthalein powder as well as sodium carbonate powder. During the course of cross examination, whether Police Constable Srinivasulu who typed Ex.P6 contents, was throughout the proceedings or not. This PW3 deposed that Ex.P6 do not disclose that PC 2656 who typed Ex.P6, his presence though was throughout the proceedings, was not mentioned in Ex.P6. This witness also deposed that signature of said Police Constable was not obtained on Ex.P6 that he is the scribe of it. He also deposed that he do not remember whether Ex.P6 was typed on laptop or Computer but it belongs to ACB authorities and deposed that "There might be several proceedings like Ex.P6, in the laptop or computer of ACB authorities". Apart from the aforesaid points, nothing was posed to this witness in the course of cross examination. Even in the cross examination done by Spl.PP, this PW3 categorically deposed that Ex.P6 last sentence reveals that it was prepared on the computer available at the office of DSP by K. Srinivasulu on the dictation of PW3. This witness also deposed that he did not check whether there are any similar proceedings in it.

34. This Court is of the view that by cross examining by its own witnesses, prosecution established that unless and until PW3 checks the entire computer, he could not say anything and that Pw3 did not even check the computer and in the last line of Ex.P6, it is clearly mentioned that it was typed on the computer of one Constable by name K. Srinivasulu. This Court is of the view that when PW3 do not belong to the department of ACB and not working in the said office, it is quite impossible for him to find out the correct names of the Constables so also to check the computer. But, it can safely be concluded that the contents of Ex.P6 were prepared on the date of pre trap proceedings itself i.e., Ex.P6 but not copied from the previous so called alleged proformas. PW4 deposed that they did not obtain the signature of PW1 on Ex.P6 and in the cross examination, this witness categorically denied

the suggestion that there is close association between him and the ACB authorities as such he acted in the case and further deposed that he has no prior experience in writing Ex.P6 and Ex.P14 i.e., pre trap and post trap proceedings. This Court is of the view that the arguments and the defence put up by the accused officer, by way of arguments and the cross examination that from the already available material in the laptop, Ex.P6 is prepared is not correct and not convincing. This Court also observed that PW4 deposed regarding the contents of Ex.P6 regarding the bribe amount as well as the fee and also made admission that in Ex.P6, the presence of PC 2356 was not typed and signature of said person was also not obtained on Ex.P6. PW4 deposed that Ex.P6 was typed on laptop and again deposed that it was in the computer of ACB office and that during the post trap proceedings, the proceedings were typed on laptop of ACB. This witness also deposed that he has no idea that there were several pre trap and post trap proceedings in the computer and the laptop of the ACB. Under the light of these evidence of both PWs 3 and 4, this Court is of the view that Ex.P6 is truly prepared on the spot on its date of Ex.P6.

35. After the aforesaid observations of this Court regarding the genuineness of the complaint, version of PW1, demand of bribe made by the accused officer and about pre trap proceedings and its genuineness, now the crucial point is as to what happened on the date of trap. It is the version of the prosecution that soon after pre trap proceedings under Ex.P6, through PW1, the prosecution tried to establish its version regarding post trap proceedings. PW1 went on deposing that during the course of Ex.P6, he was placed with the proposed bribe amount after tainting the same in his right side trouser pocket and after getting the instructions from DSP, ACB that unless the bribe amount is demanded by the accused officer, the tainted currency should not be touched and should not be given to the accused officer and after getting

instructions of pre arranged signal by taking out his hand kerchief to wipe his face three times, and after concluding the pre trap proceedings, they all proceeded towards the house of the accused officer. It is pertinent to mention here that PW1 categorically deposed that accused officer instructed him to come on the next day at about 2.30 P.M., to his flat No.103, Dharanisai Apartment, Balaji Nagar, Kurnool. PW1 deposed that at about 2.25 P.M., he contacted the accused officer on 15.07.2017 over phone for getting clarification of address. Again at 2.45 P.M., he contacted the accused officer over phone reaching near the house of the accused officer to find out the exact location and after reaching near the house, again after 5 minutes, PW1 made a phone call to the accused officer and accused officer told him that he was in the upstairs in flat No.103 and asked PW1 to come over to his flat. PWs 3 and 4 also deposed on the same lines. PW1 deposed that two or three minutes prior to 3 P.M., they reached the spot and after getting the instructions once again from DSP, ACB, he along with PW3 went to the house of the accused officer whereas the rest of the DSP, Constables, Inspector were waiting near the steps. PW1 further deposed that Venkateswarlu/PW3 (one of the mediators) stopped at the door of the flat of the accused officer and PW1 went inside the room of accused officer which is visible to PW3 and that by the time when PW1 entered the house of accused officer, he was sitting in a chair and asked PW1 to take the seat and after wishing the accused officer, PW1 sat on the chair by the side of a table and he took whatsapp message hard copy and other record relevant for renewal and gave the application to the accused officer and accused officer asked him whether he brought bribe amount of Rs.30,000/- (Rupees thirty thousand only) and Government fee of Rs.6,000/- (Rupees six thousand only) first for renewal of license and that after counting Rs.6,000/- (Rupees six thousand only), kept the same in his table draw and then PW1 gave Rs.30,000/- (Rupees thirty thousand only) bribe amount from the trouser pocket and the accused officer

received the same with his right hand and counted and kept it in his table draw. It is the evidence of PW1 that PW3 who was waiting outside the flat of accused officer, witnessed entire incident from the front door. PW1 also deposed about coming out and giving pre arranged signal to the DSP. PW3 deposed on the same lines and further deposed that he along with PW1 went into the house and that there was a hall at the entrance and towards south of the hall, one person was sitting who is none other than the accused officer and that PW1 went to the accused officer and that this PW3 was waiting at a distance of five feet from the accused officer. PW3 reiterated the entire version deposed by PW1 regarding giving the application, then prescribed fee of Rs.6,000/- (Rupees six thousand only) and about Rs.30,000/- (Rupees thirty thousand only) and receiving the same one by one by accused officer and keeping the same in the table draw. PW4 deposed that he along with DSP and other two constables were waiting at second floor steps and that PW1 gave pre arranged signal to the DSP and then they all rushed into the house of the accused officer who was sitting towards south corner room in front of the table.

36. It is the contention of the learned defence counsel and the defence put up by the accused officer that at that time when PW1 entered the flat of the accused officer, he shouted for the accused officer and that accused officer replied that he was in the bathroom and to stay until he comes and soon after coming, accused officer instructed PW1 to get the weights repair and file the challan and after giving shake hands with both hands by PW1 to him, PW1 left the flat and that suddenly all the ACB officials entered the house and that though he was explaining the entire situation, nothing was heard or depicted in the post trap proceedings and that when the officials came, accused officer came to know about the amounts in the table draw. It is

further urged that PW1 in his cross examination categorically deposed about the same and that it should be considered.

37. On careful perusal of the evidence of PWs 1, 3 and 4, this Court as held supra, the version of PW1 during the course of cross examination, is not considered and if at all it is presumed for a moment to be true, the first and foremost content of making phone calls by PW1 to the accused officer is to be looked into. Ex.P24, Ex.P24-A, Ex.P28 call details clearly disclose about the call details from the phone of PW1 to the phone of accused officer. Moreover, when it is the version of PW1 at the time of cross examination that out of a quarrel by PW1 and his wife with the accused officer, what made PW1 again make a phone call to the accused officer would be the crucial point. Moreover, for above three times PW1 made phone call to the accused officer and accused officer answered the same. Call details clearly disclose about the same. Apart from these observations, the record also disclose that the residential address of the accused officer might not be knowing to PW1 and with the information given by the accused officer, PW1 got the said information. This Court is also of the view that if at all there were any disputes, why PW1 entered the house of the accused officer, also will be a crucial point. All these points are not properly answered by the accused officer. Moreover, accused officer went on relying on leg less defence that out of grudge, PW1 planted the bribe amount etc., in the table draw. As far as the defence put up by the accused officer that he was in the washroom and asked PW1 to wait until he comes, the same would have been mentioned and explained to the ACB authorities at the time when his version was recorded by them during post trap proceedings under Ex.P14. But, it was not at all disclosed in Ex.P14. It was also the other defence put up by the accused officer that the ACB authorities did not depict his version in Ex.P14 and that the entire contents of Ex.P14 are false. But, the accused officer to project his

alleged innocence before this Court, filed Ex.D7 which is the explanation offered by him dated 11.08.2017 i.e., within less than one month to the notice served on him. In the said explanation, accused officer did not chose to mention about the alleged defence of washroom. Had it been the true version, he would have mentioned about the same in the said Ex.D7 explanation as well. Moreover, he being the Inspector in the Legal Metrology Department, at the time of remand, he would have mentioned about his version i.e., the alleged washroom incident was not depicted in the post trap proceedings. No attempt appears to have been made by the accused officer in the aforesaid manner. All these things goes to show that all the defences projected by the accused officer mentioned supra, i.e., washroom, enmity, planting tainted currency etc., are baseless besides being false in the light of material placed by the prosecution.

38. MOs 3 and 4 as well as MOs 5 and 6 clearly goes to show that the test results were positive and the defence put up by the accused officer that the table portion draw was not subjected to chemical test, cannot be considered because when MOs 6 and 5 are very much available, there is no necessity of checking the table draw by subjecting it to chemical test. Moreover, it was urged by learned defence counsel that the MOs 3 and 4 resultant solutions turned as lite pink but not pink and that the entire defence of shaking hands of accused officer by PW1 is true. This Court further is of the view that when the defence utterly failed in projecting the defence of enmity, planting tainted currency are a futile attempt then said defence of MOs 3 and 4 cannot be believed. All these circumstances and observations of this Court arrives at the point that the accused officer demanded the bribe of Rs.30,000/- (Rupees thirty thousand only) because he is in a position to do the official favour of renewing the stones license of the weigh-bridge and this

Court is of the view that accused officer could not answer as to why MO8 was brought by PW1 to him to his house.

39. It is pertinent to mention here that the learned defence counsel urged that as per the procedure, and the evidence of PW8, he is the person who is to verify the weighing stones and as per his evidence, he verified the same and received Rs.30,000/- (Rupees thirty thousand only) in the month of July 2017 and also issued Ex.P3A challan and on receiving the telephonic information, he verified the said stones. It is further urged that during the course of cross examination, PW8 categorically deposed that after testing the weights, if it is excess or less standard weight, he will repair the same and that on 27.07.2017, PW1 called him over phone and brought weight for the repair and after collecting Rs.30,000/- (Rupees thirty thousand only) fee from him and after issuing Ex.P3A, he handed over the receipt to PW1 along with weights on the same day and also deposed that he repaired the stones and the traders will take them to the Inspector, Legal Metrology and that the Legal Metrology Inspector will stamp the same after inspecting the weights and then issues verification certificate and that, only after repairing and issuance of challan, Inspector, Legal Metrology will issue the verification certificate and without authorized repairer repairs, and without issuing verification challan, Inspector will not issue verification certificate and that PW1 brought 200 numbers of 20 kgs each stones to his work shop for repair and that he did not visit the warehouse of PW1. It is urged that in the light of evidence of PW8, it can safely be concluded that PW1 foisted a false case against the accused officer and that he approached PW8 on 27.07.2017 after the trap and that it can safely be concluded that without approaching the repairer, PW1 wanted to harass the accused officer.

40. This Court is of the view that PW8 though mentioned the procedure, when it is the case of the prosecution that accused officer demanded the bribe from PW1, he lodged report with the ACB authorities and proceedings went on.

41. Considering all the aforesaid facts and circumstances, this Court is of the view that the prosecution successfully established about the contents of Ex.P1, official favour pending with the accused officer, demand of bribe as well as receiving of bribe by the accused officer and seizure of the documents as well as the turning the chemical resultant solutions.

42. Though it is the contention of the accused officer that his credentials mentioned under Ex.D7 are to be taken into consideration regarding his working nature and his job and appreciations received by him from several departments and District Collectors, this Court is of the view that they cannot help the accused officer in any manner for the reason that prosecution successfully established about the successful trap on the accused officer fulfilling all the ingredients of the charges levelled against the accused officer through projecting the convincing material and witnesses.

43. By examining PW9, sanction order was proved by the prosecution and thought it was the contention of the accused officer by way of cross examining PW9 that Ex.P23 is the replica of specimen sanction order and about mentioning of "them" in the sanction order instead of "him", this Court is of the view that sanction order is meant for granting permission in the form of sanction to prosecute the accused officer and grammatical and typographical mistakes appearing as pointed out by the accused officer, cannot be a ground to disbelieve Ex.P23.

44. With the evidence of PWs 12 and 13, the manner of investigation and the investigation done by the ACB authorities was mentioned. The learned defence counsel relied upon Ex.D1 to D6 and urged that when previously accused officer did not chose to demand bribe, there is no point in demanding the bribe at the given point of time as alleged by the prosecution. But, on careful perusal of Ex.P2, dated 19.06.2017, this Court observed that it is an application made to the District Inspector by PW1 and his wife seeking for renewal of weights license mentioning that it would be exhausted on 26.06.2017. It is the argument of the accused officer through his counsel that there is no necessity of filing any application and that the traders can directly get the renewal of the same. But, as per the rules, a formal application in writing is to be submitted for renewal of license, whether it is of weigh-bridge or weights. This Court is of the view that the authorities would not be knowing the actual dates renewal of each and every particular traders in the given jurisdiction as such seeking renewal of weights, measures and the weigh-bridge must be in writing. Ex.P2 clearly disclose about the same that PW1 applied for the renewal of weights. It also disclose about the already renewal of his weigh-bridge.

45. Now it is for the accused officer to establish his contention as to how he came into possession of MO8. He is bound to explain and place convincing material before this Court to consider his defence and rebut the presumption which is against him U/Sec.20 of P.C. Act. Accused officer could not create a doubt in the mind of the Court by producing Ex.D1 to D7 and rather destroyed his own defence of washroom incident by not mentioning the same in his explanation under Ex.D7.

46. The accused officer relied upon the following judgments:

(1) P. Sirajuddien vs State of Madra AIR 1971 SC 520.

The Hon'ble Supreme Court discussed the procedural violations wherein the statements were duly signed by the maker of the statements which was a procedural violation and the Hon'ble Supreme Court also held that Chief Minister identified and misconduct and ordered the Police Department and that the police has no power to grant any immunity and should follow Cr.P.C. and register the case and further the Hon'ble Supreme Court held that appellant cannot claim discrimination point simply because his subordinates were not joined as co-accused. In the said judgment, the Hon'ble Supreme Court directed the Special Judge to re-examine the case excluding all vitiated statements and self incriminating portions regarding through illegal inducement. The factual matrix in the said judgment do not in any corner suit to the present case on hand. Hence, accused officer cannot take shelter under the said judgment.

(2) G. Govind Rao vs State of ACB CrI.A.No.1021 and 1022 of 2006 (TS).

The learned defence counsel relied upon the aforesaid judgment with the contention that the Hon'ble High Court held as "Found fault with the ACB officials in not conducting discrete/preliminary enquiry with regard to the genuineness of the allegations. Held that laying trap against the accused officers without conducting discrete inquiries is not justified."

The Hon'ble High Court therein held that there are procedural lapses. While discussing about the evidence therein, the Hon'ble High Court held that there was lack of evidence with regard to demand of bribe and there was no evidence with regard to official favour discussed and also it discussed about invalid Sanction orders. Apart from all these observations, the Hon'ble High Court pointed out that the

mandatory discreet inquiry was not at all done as required under ACB manual and the Hon'ble High Court held that the ACB failed to mandate discreet inquiry and also failed to explain the delay in submitting the FIR to the Court.

In the present case on hand, the discreet inquiry was conducted by PW13. Several questions were posed to PW13 with regard to the procedures followed by the Weights and Measures, Legal Metrology Department. For those questions, PW13 answered that he has no knowledge about the same, but categorically deposed that his discreet inquiry revealed about the antecedents against the accused officer that he carried ill reputation of corrupt officer. Hence, accused officer cannot take shelter under the aforesaid judgment.

(3) Ashok Tshering Bhutia vs State of Sikkim (2011) 4 SCC 402.

The learned defence counsel relied upon the aforesaid judgment with the contention that the Hon'ble Supreme Court held as "there must be some suitable preliminary enquiry into the allegations by responsible officer. Such a course has not been adopted by the prosecution though the law declared by this Court is binding on everyone in view of the provisions of Article 141 of the Constitution, which would by all means override the statutory provisions of the Cr.P.C."

The Hon'ble Supreme Court in the aforesaid judgment, addressed the issue of irregular investigation and also observed that defects in investigation do not vitiate a trial if cognizance has been taken and no miscarriage of justice occurred. The Hon'ble Supreme Court discussed in its judgment about the judgments reported in AIR 1971 SC 520 and also AIR 1992 SC 604 wherein it was held that a public servant was charged with act of dishonesty, there must be some suitable preliminary enquiry into the allegations and it should be handed over to a suitable responsible officer and when such a course has not

been adopted by the prosecution, it seriously effects the provisions of Indian Constitution vide Article 14.

In the relied judgment by the accused officer, it is a case of disproportionate assets and Ex.D4 which was submitted by the appellant before the Hon'ble Supreme Court though submitted along with his explanation, the Trial Court did not chose to consider the same which was projecting the defence of the accused officer that his assets were from known source of income as declared under Ex.D4 and as such, the appellant therein felt that it is miscarriage of justice and asserted that the failure to segregate the income period, the check period, violated his rights under Article 21. It was the contention of the appellant that Trial Court failed to consider the income declared in Ex.D4 and maintained that the investigation was valid and Ex.D4 was not satisfying the statutory requirements. In the said backdrop of the contention of the appellant before the Hon'ble Supreme Court, the Hon'ble Supreme Court recalculated and determined the appellant's likely savings and set aside the conviction concluding that the amounts derived out of recalculating the assets, over nine years was marginal sum that every government employee could save.

In the present case on hand, PW12 was the then DSP, ACB who received Ex.P1 and endorsed the same to PW13 to conduct discreet inquiry and inturn PW13 conducted the same and submitted his report in Ex.P1 itself. Hence, the accused officer cannot take shelter under aforesaid judgment wherein the entire factual matrix is different and responsible officer was directed to conduct the discreet inquiry in this case and it was conducted.

(4) B. Jayaraj vs State of Andhra Pradesh, 2014 CrI.LJ 2433.

The learned defence counsel relied upon the aforesaid judgment with the contention that the Hon'ble Court held as "Mere recovery of

currency notes cannot constitute the offence under section 7 unless it is proved beyond all reasonable doubt that the accused voluntarily accepted the money knowing it to be a bribe. Conviction set aside.”

The Hon’ble Supreme Court observed that demand is *sine quo non* and mere recovery of currency notes does not constitute the offence without proof of voluntary acceptance of a bribe and also held that demand of illegal gratification must be proved beyond reasonable doubt and in the said case, the complainant turned hostile and did not support the demand and no other witness testified to the said demand and the prosecution failed to examine essential element of crime. As such, the Hon’ble Supreme Court held that the legal presumption U/Sec.20 of P.C. Act, can only be invoked if acceptance is proved which in turn required proof of demand. It held that since demand was not proved, presumption could not be applied.

In the present case on hand, PW1 fared well during the course of chief examination and PWs 3 and 4 supported the version of PW1 and PWs 3 and 4 supported the version of PW1 and the defences put up by the accused officer during the course of cross examination of PW1 after five months, did not find its legs from his own wife/PW2 and the independent witnesses i.e., PWs 3 and 4. Hence, the factual matrix is completely different from that of the relied judgment of the accused officer. Prosecution proved the demand as well as acceptance of bribe by the accused officer and hence presumption U/Sec.20 is invoked.

(5) K. Shanthamma vs State of Telangana (2022) 4 SCC 574 (SC).

The learned defence counsel relied upon the aforesaid judgment with the contention that the Hon’ble Supreme Court held as “ The version of PW1 in his chief examination about the demand made by the appellant from time to time is an improvement. Hence, it is not reliable.

Thus, demand which is sine quo non for establishing offence under Sec.7 not established. Hence conviction of appellant set aside.”

The Hon’ble Supreme Court while deciding the appeal from the State of Telangana held that the prosecution with the help of the complainant testimony could not prove the essential ingredient of Sec.7 i.e., proof of demand. The contention of the appellant was that the complainant testimony was an improvement. His contention was that since a notice was already issued informing the society that the said society was exempted from paying the tax, the demand of bribe to issue a final assessment order was highly improbable and doubtful. Considering the contention raised by the appellant and after perusal of stage managed demand and acceptance register and the contention of the appellant that she was in her washroom when the recovery of tainted currency was planted, the Hon’ble Supreme Court set aside the conviction and acquitted the appellant and observed that proof of demand is sine quo non and prosecution failed to prove the demand as the complainant’s testimony regarding repeated demands found to be unreliable improvement and due to non support of independent witness in supporting the complainant, alleged to have accompanied the complainant into the chambers of the accused officer. The Hon’ble Supreme Court observed that it weakened the trap proceedings and thereby allowed the appeal.

In the present case on hand, the factual matrix is completely different and phone call CDRs are very much available and prosecution established the demand from the testimony of PW1 coupled with the documents relied upon by them. Independent witnesses PWs 3 and 4 supported the case. Hence, the accused officer cannot take shelter under the said judgment.

(6) Inspector of Police ACB vs D. Anjaiah 2014 Law Sit (Hyd) 926 (TS High Court).

The learned defence counsel relied upon the aforesaid judgment with the contention that the Hon'ble High Court held as " Section 20 of Prevention of Corruption Act, 1988, proof of acceptance of illegal gratification can follow only if there is proof of demand only when these two ingredients are established, presumption under Sec.20 of P.C.Act, would follow. It is true that PW1 is denying, his having grudge against AO but when the totality of the circumstances i.e., his falsity on the aspect of demand is considered, his bearing grudge against AO cannot be totally ignored."

In the referred judgment, accused officer pleaded *alibi* by placing G.D. entries stating that he was at Hyderabad on an investigating a case on the date of alleged demand. The Hon'ble High Court concluded that the prosecution is bound to prove two important vital ingredients i.e., demand of illegal gratification and voluntary acceptance and held that without proof of demand, no presumption U/Sec.20 can be drawn. The Hon'ble High Court observing the fact of immediate seizure of G.D. entries Ex.P7, which was seized immediately, after the trap, observed that the entries of Ex.P7 are credible and held that the prosecution failed to independently prove the acceptance of bribe and also observed that PW2 failed to witness the alleged transaction and also noted lack of corroboration for the respondent alleged guilty conduct. In the referred case, it was the ACB are preferred appeal against the acquittal judgment of the Trial Court. The Hon'ble High Court upheld the judgment of the Trial Court and conformed the acquittal of the respondent.

In the present case on hand, accused officer never pleaded *alibi* and moreover all the witnesses fared well and prosecution successfully

established and proved the demand of bribe and acceptance of bribe by the accused officer beyond reasonable doubt and presumption U/Sec.20 of the Act was drawn, which was not rebutted by the accused officer. Hence, accused officer cannot take shelter under the aforesaid judgment.

(7) Bhajan Singh vs State of Haryana CrI.A.No.562/2007 (SC).

The learned defence counsel relied upon the aforesaid judgment with the contention that the Hon'ble Supreme Court held as " In such a case, where an FIR is lodged clearly with a view to spite the other party because of a private and personal grudge and to enmesh the other party in long and arduous criminal proceedings, the court may take a view that it amounts to an abuse of the process of law."

In the referred judgment, the Hon'ble Supreme Court discussed about delay in lodging FIR and also ruled that the testimony of an injured witness carries special weight and is highly reliable unless discredited by the major contradictions. The Hon'ble Supreme Court further ruled that the Trial Court acquitted the three other appellants was perverse as it ignored direct evidence relying on hypothetical medical evidence and made all six accused vicariously liable U/Sec.149 IPC. As could be seen, the factual matrix of the said judgment, was with regard to the charges U/Sec.148, 302, 307 r/w 149 IPC and the contention raised by the appellants that prosecution failed to examine independent eyewitness and relied heavily on related witnesses and that there is a delay in lodging FIR and also informing the same to the Magistrate. The appellants contended that medical evidence did not corroborated the ocular testimony and that the Hon'ble High Court erred interfering in the trial Court's acquittal.

In the present case on hand, there was no delay at all in registering FIR and the factual matrix was with regard to the attack and

incised wounds suffered by the injured victim in referred case, but in the present case on hand, private and personal grudge was not at all established by the accused officer. Hence, accused officer cannot take shelter under the said judgment.

(8) CBI vs Ashok Kumar Agarwal (2014) 14 SCC 295 (SC).

The learned defence counsel relied upon the aforesaid judgment with the contention that the Hon'ble Supreme Court held as "the prosecution has to satisfy the court that at the time of sending the matter for grant of sanction by the competent authority, adequate material for such grant was made available to the said authority. This may also be evidence from sanction order, in case it is extremely comprehensive, as all the facts and circumstance of the case may be spelt out in the sanction order. However, in every individual case, the court has find out whether there has been an application of mind on the part of the sanctioning authority concerned on the material placed before it. It is so necessary for the reason that there is an obligation on the sanctioning authority to discharge its duty to give or withhold sanction only after having full knowledge of the material facts of the case. Grant of sanction is not mere formality. Therefore, the provisions in regard to the sanction must be observed with complete strictness keeping in mind the public interest and the protection available to the accused against whom the sanction is sought. It is to be kept in mind that sanction lifts the bar for prosecution. Therefore, it is not an acrimonious exercise but a solemn and sacrosanct act which affords protection to the government servant against frivolous prosecution." (Para 13 and 14)

In fact, Para 13 and 14 in the relied judgment do not disclose about the content mentioned by the learned defence counsel in the written arguments as supra. The Hon'ble Supreme Court made an observation

that the observations made in the judgment in M.M. Rajendran that a circular dated 06.05.1999 were issued directing all the investigating officers to give strict adherence to the observations made by the Hon'ble Supreme Court and that accordingly, CBI manual was added adding Para 22.16 wherein it directed that it was imperative that along with S.P.s report, the branches must send the copies of all the relied upon the relied material including the statements recorded U/Sec.161 Cr.P.C. as well as Sec.164 Cr.P.C. by the Magistrate to the competent authority to grant sanction for prosecution. The Hon'ble Supreme Court further observed that the investigating officer concerned shall be deputed to the competent authority to produce the relevant material for perusal of the competent authority and should the fact also be recorded in the case diary of the case concerned. The Hon'ble Supreme Court in the aforesaid judgment, reproduced the para 22.16 of CBI manual.

At para-14, the Hon'ble Supreme Court discussed about the three judge bench judgment reported in AIR 1998 SC 889 by extracting the relevant part giving directions to CBI as “ The CBI Manual based on statutory provisions of the Cr.P.C. provides essential guidelines for the CBI's functioning. It is imperative that the CBI adheres scrupulously to the provisions in the Manual in relation to its investigative functions, like raids, seizure and arrests. Any deviation from the established procedure should be viewed seriously and severe disciplinary action taken against the officials concerned.”

The Hon'ble Supreme Court in the judgment relied upon by the accused officer, i.e., CBI vs Ashok Kumar Agarwal, upheld the decision of the Hon'ble High Court and remanded back the case to the Trial Court observing that the CBI manual and judicial precedence required sanctioning authority to examine all relevant material but not gist of S.Ps report. The Hon'ble Supreme Court held and gave direction to the

Trial Court that the Trial Court must record a finding on whether the irregularity in sanctioning, occasioned any failure of justice. In the relied judgment, the sanction order was challenged before the Trial Court and the Trial Court dismissed the same stating that the validity of the sanction order will be examined during the trial. The aggrieved party therein approached the Hon'ble Delhi High Court and subsequently, the Hon'ble High Court by setting aside the said order, remanded back the matter to the Trial Court to determine if there is any failure of justice. Aggrieved by the said order, the CBI approached the Hon'ble Supreme Court by making several observations regarding CBI manual, in the case of disproportionate assets. The Hon'ble Supreme Court upheld the decision of the Hon'ble High Court of Delhi and remanded back the case to the Trial Court to examine the validity of sanction order whether it carries any injustice or results into failure of justice. In the present case on hand, PW9 was the Officer through whom Ex.P23 sanction order was exhibited. This PW9 categorically deposed that their office received preliminary report from D.G., ACB along with copy of FIR, pre trap and post trap proceedings, final report from D.G., ACB containing the gist of statements of witnesses and documents and then file was circulated and at that time, the Prl. Secretary to the Government concerned department, ordered for circulation of Vigilance Commission, Ministers and accordingly file was circulated and then received by their office and placed before Prl. Secretary and he after perusal of the entire material available on record, applied his mind and accorded sanction. The cross examination of this witness regarding the sanction order is concerned, was to the effect that Ex.P23 do not contain that on 27.07.2017, PW1 got his weights repaired through PW8 and produced 3A Challan receipt and issuing of renewal certificate by PW6 regarding weights of PW1,

inspecting of weigh-bridge by the accused officer three times prior to trap under Ex.D1 to D3. This Court is of the view that the crucial point after consideration before the sanctioning authority, after perusal of the entire record, was to issue sanction to prosecute the accused officer or not. Subsequent to issuance of license for the weights regarding the previous renewal license etc., are not necessary. This Court is of the view that accused officer cannot take shelter under the judgment of Hon'ble Supreme Court wherein the statements of witnesses were not at all placed before the sanctioning authority and sanction orders were issued. Moreover, in the present case on hand, gist of statements along with FIR, report etc., are all placed before the sanctioning authority. For these reasons, accused officer cannot take shelter under the aforesaid judgment.

(9) Man Singh vs Delhi Administration AIR 1979 SC 1455.

The learned defence counsel relied upon the aforesaid judgment with the contention that the Hon'ble Supreme Court held as " It is sufficient if accused officer probable explanation of defence – strict standard proof – Not necessary."

In the referred judgment, the Hon'ble Supreme Court held that the accused officer is not required to prove their defence beyond reasonable doubt and it is sufficient to offer the probable explanation to rebut the statutory presumption. The factual matrix goes to show that the appellant was facing charges under P.C. Act and demanded and accepted the bribe of Rs.5/- from the complainant to prevent his shop from being challaned and a raid was conducted where the complainant offered money and appellant allegedly pocketed. In the said case, complainant was a fruit vendor. The Vigilance Inspector subsequently recovered money from the appellant and his fingers turned into pink upon being dipped in sodium carbonate solution. The contention of the

prosecution was that the recovery of money proved as illegal gratification and thereby invoked Sec.4 of P.C.Act (old Act), and appellant projected the defence that it was a settlement of a prior debt stating that the complainant owed him from a previous transactions involving Rs.10/- note used to purchase juice.

The Hon'ble Supreme Court by setting aside the conviction by the Hon'ble High Court and Trial Court, observed that while recovery of money was proved, the appellant provided reasonable explanation and crucially the complainant himself testified to a prior dispute regarding the return of change from juice purchase.

In the present case on hand, accused officer projected a defence that there was disputes between him, PWs 1 and 2. Surprisingly, PW2 being wife of PW1, did not support the version of PW1 and could not even mention the details of dispute. But, PW1 in his cross examination went on admitting the defence of the accused officer that he and PW2 fought with the accused officer. Involving PW2 in the dispute was the evidence of PW1 in the cross examination, but PW2 did not support the version of PW1. The observations made by this Court supra, for not believing the version of the accused officer is sufficient and this Court is of the view that the judgment relied upon by the accused officer will not help him in any manner.

(10) Haridev Sharma vs State of Delhi AIR 1976 SC 1489.

The learned defence counsel relied upon the aforesaid judgment with the contention that the Hon'ble Supreme Court held as “ No conviction can be sustained on the basis of mere trap incident when the vital parts of the prosecution case which formed genesis for the trap incident cannot be accepted.”

In the said case, contention of the prosecution was that the accused officer used his official position and demanded and accepted

the illegal gratification to process the property sale permission and the defence put up by the appellant was that by denying and he visited the complainant's shop to demand Rs.70/- as compensation for a friend to get them stitch cloths and were spoiled by the complainant. In the said case, the Spl. Judge, Delhi convicted the appellant and sentenced to undergo one year of RI. On appeal before the Hon'ble High Court, the Hon'ble High Court disbelieved the first two charges but upheld the conviction based on the recovery of Rs.70/-. Finally, the Hon'ble Supreme Court set aside the conviction observing that the prosecution case was a integrated story and since the Hon'ble High Court was disbelieved the genesis of the case i.e., initial demand and part payment and it is unsafe to sustain the conviction on the remaining part which was dependent on the initial narrative and set aside the conviction.

In the present case on hand, the factual matrix is completely different and this Court believed the entire version of the prosecution case which was projected before this Court through its witnesses, documents and material objects. There is no point to disbelieve the case of the prosecution. In the referred judgment, the genesis of initial demand and payment of partial amount was not believed by the Presiding Officer but convicted the accused on the basis of recovery of money. But, in the present case on hand, there are no suspicious circumstances wherein the Court is precluded from believing the case of the prosecution. Hence, accused officer cannot rely upon the said judgment.

(11) Nuthalapati Singhaiah vs State of Andhra Pradesh 2019 (1) ALD (CrI.) 830.

The learned defence counsel relied upon the aforesaid judgment with the contention that the Hon'ble High Court held as " Prevention of

Corruption Act 1998 – Section 20 – Presumption under – Invocation of – Scope – Allegation that accused, while working as Assistant Engineer in APSPDCL demanded Rs.30,000/- as bribe from complainant for restoration of electricity connection to his mill – Complainant, examined as PW-1, did not support the case of prosecution but stated that as accused did not take amount given by him and pushed it with his both hands, he kept amount in drawer of table of accused and came back and relayed signals to ACB officials – And, therefore, declared hostile – Even evidence of other witnesses supporting version of PW-1 – Evidence brought forth before Court thus, does not suffice to prove demand allegedly made by accused from PW-1 – Prosecution having failed to prove alleged demand made by accused, merely considering fact that chemical test proved positive, trial court could not have invoked presumption adumbrated under S.20 of Act, for arriving at guilt of accused – Criminal appeal allowed – Judgment of trial court convicting accused for offences under Sec.7 and 13(1)(d) r/w Sec.13(2) of Act, set aside – And accused acquitted of charges leveled against him.”

In the relied judgment, the Hon'ble High Court examined whether positive chemical test alone could trigger the presumption U/Sec.20 of P.C. Act. The Hon'ble High Court relied upon the judgment of the Hon'ble Supreme Court in Jayaraj vs State of A.P. and Sunkanna vs State of A.P. held that proof of demand is pre requisite and presumption of acceptance without establishing the demand of illegal gratification, charge U/Sec.7 and 13 fails. The Hon'ble High Court stressed upon the point that PW1 did not support the prosecution case but Court found that prosecution failed to prove the demand and Hon'ble High Court consequently allowed the appeal setting aside the conviction and sentence and acquitted the appellant.

In the relied judgment, the factual matrix was to the effect that the complainant did not chose to support the case of prosecution from the inception. He completely changed version of the case of prosecution. He went on deposing that he and accused when met each other, only conversation took place and that accused was saying that he would look after the matter and there is no other conversation between them. PW1 therein further testified that when he admit the giving the amounts to the accused, accused did not take money, but instead pushed him away with his hands. Even in the cross examination, PW1 admitted that accused never asked for any bribe as such he was declared as hostile.

In the present case on hand, the factual matrix is completely different as mentioned above. PW1 fared well in the chief examination and in corroboration with Ex.P1, he deposed but after gap of five long months, when PW1 entered the witness box, he changed his version for the reasons mentioned in detail, this Court gave its findings. Hence, accused officer cannot take shelter under the aforesaid judgment as PW1 fared well in chief examination unlike the PW1 in the relied case.

(12) T. Subramanian vs State of T.N. (2006) 1 SCC (CrI) 401.

The learned defence counsel relied upon the aforesaid judgment with the contention that the Hon'ble Supreme Court held as "Where two views reasonably possible from the very same evidence, prosecution cannot be said to have proved its case beyond reasonable doubt."

In the relied judgment, the factual matrix was to the effect that the appellant E.O. of Sri Swarnathaneswara Temple, demanded and accepted Rs.200/- as illegal gratification from the complainant to falicitate the grant of patta for a temple land and a trap was followed by Vigilance and ACB Department and appellant was found in possession chemically treated currency notes. The contention of the prosecution

was that the appellant demanded money to show official favour and the receipt of amount established guilt under P.C. Act, 1947. Per contra, the accused put up defence that money was received as lease rent arrears on behalf of third party/PW6 and also contended that there was prior enmity and previously disciplinary action was initiated against the complainant's cousin and legal proceeding against the complainant for land encroachment. The Spl. Judge at the trial Court acquitted the appellant, finding explanation regarding lease arrears probable. However, the Hon'ble Madras High Court reversed the judgment of the Trial Court and convicted the appellant whereas appellant approached the Hon'ble Supreme Court and the Hon'ble Supreme Court allowed the appeal and restored the Trial Court acquittal judgment. The Hon'ble Supreme Court held that mere recovery of amount does not constitute an offence without proof of demand and acceptance and observed that the explanation offered by the appellant was reasonable and the evidence suggested a conspiracy by the witnesses to wreak vengeance and as such when there are two views possible, High Court should not have interfered with the acquittal and finally, the Hon'ble Supreme Court acquitted the appellant setting aside the conviction judgment.

In the present case on hand, the accused officer suggested PW1 that there were exchange of words between PW1, his wife and the accused officer. It was admitted by PW1. The place of said dispute, time and whether any other persons alleged to have witnessed the incident or not, was not at all mentioned. PW2 as mentioned earlier, did not support the version of PW1. But, in the relied judgment, accused placed documents in his support and also examined two witnesses and Ex.D1 to D10 were produced to project his defence regarding lease rent arrears and the previous enmity of disciplinary action, legal proceedings etc. Hence, the Hon'ble Supreme Court upheld the acquittal judgment

of the Trial Court. Hence, accused officer cannot take shelter under the said judgment under assumption that he also projected such sort of defence.

(13) Suraj Mal vs State (Delhi Administration) AIR 1979 SC 1408.

The learned defence counsel relied upon the aforesaid judgment with the contention that the Hon'ble High Court held as "Where witnesses make two inconsistent statements in their evidence either at one stage or at two stages, the testimony of such witnesses becomes unreliable and unworthy of credence and in the absence of special circumstances no conviction can be based on the evidence of such witnesses."

In the relied judgment, police personnel were the accused of demanding bribe of Rs.2,000/- to assist complainant in an ongoing criminal case and delay was alleged struck for Rs.1,000/- out of Rs.350/- was paid initially and out of the said amounts, Rs.100/- was intended for the appellant and appellant subsequently was convicted under P.C. Act and Hon'ble Delhi High Court upheld the same. The contention of the appellant before the Hon'ble Supreme Court was that he was falsely implicated and that he never made any demand for bribe and that no money was recovered from him, but the prosecution urged that the recovery of money from appellants bushirt was sufficient evidence to sustain the conviction. The appellant contention was accepted and the Hon'ble Supreme Court made the observations that the presence of inconsistent testimony of PWs 6, 8 and 9 implicating three accused in examination in chief and later the claiming the name of one person stating that he refused the bribe, the Court held that appellant was insuperable from the evidence against another accused who was acquitted and the witnesses were unreliable. The Hon'ble Supreme Court also found omission in FIR as the complaint contents do

not disclose demand made by the appellant and finally the Hon'ble Supreme Court observed that mere recovery of money in the absence of relied circumstances of payment or voluntary acceptance, suggested for acquittal on the ground of unsustainable and unreliable evidence.

The factual matrix therein is completely different with that of the present case on hand and none supported the version of accused officer. Hence, accused officer cannot take shelter under the said judgment.

47. For all the foregoing reasons, this Court is of the view that prosecution successfully established its case and proved all charges against the accused officer beyond reasonable doubt and thereby provided the presumption. But the accused officer miserably failed to rebut the same successfully. His act of demanding and accepting bribe amounts to misconduct. Hence, this Court is of the view that prosecution proved the guilt of the accused officer beyond reasonable doubt.

48. In the result, accused officer is found guilty for the offences punishable under Sec.7 and 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988 and he is convicted under Sec.248(2) Cr.P.C.

Dictated to the Stenographer, transcribed and typed by him, corrected, signed and pronounced by me in the open Court, this the 13th day of August, 2026.

**Spl. Judge for Trial of SPE&ACB Cases,
Kurnool.**

49. Accused officer is heard on quantum of sentence. He stated that PW1 out of grudge and anger, foisted a false case against him. Accused Officer also stated that he and his wife are though blessed with four

daughters, none of them are taking care of either the accused officer or his wife and that accused officer and his wife are suffering from B.P., Sugar, Thyroid ailments. The accused officer further prayed this Court to consider the health situation as well as family situation and prayed to view leniently. Saying so, accused officer stated that PW1 spoiled his career.

Heard both the learned defence counsel and learned Spl.PP. The learned defence counsel after reiterating the version of the accused officer, prayed this Court to consider the loneliness of wife of the accused officer if he is sent behind bars for full length conviction and prayed this Court to impose lesser punishment so that accused officer can take care of his wife. On the other hand, learned Spl.PP urged that the facts of the case are to be taken into consideration and the nature of the accused officer in demanding bribe. The learned Spl.PP prayed to impose sentence as per Law.

Considering the facts and circumstance of the case and the version of the accused officer as well as learned defence counsel and learned Spl.PP., this Court is of the view that there are no grounds to shower lenient view on the accused officer as the act of the accused officer demanding and receiving bribe is heinous and social crime supporting to convert the Nation into a corrupt Nation. Hence, this Court is of the view that sentencing the accused officer to undergo Rigorous Imprisonment for a period of three (3) years and to pay a fine of Rs.1,00,000/- (Rupees one lakh only) for the offence punishable U/Sec.7 of P.C. Act, 1988, and in default of payment of fine, to undergo simple imprisonment for a period of six (6) months and further sentencing accused officer to undergo Rigorous Imprisonment for a period of three (3) years and to pay a fine of Rs.1,00,000/- (Rupees one lakh only) for the offence punishable U/Sec.13(2) r/w 13(1)(d) of P.C. Act, 1988 and in

default of payment of fine, to undergo simple imprisonment for a period of six (6) months, would meet the ends of justice.

50. In the result, Accused Officer is sentenced to undergo Rigorous Imprisonment for a period of three (3) years and to pay a fine of Rs.1,00,000/- (Rupees one lakh only) for the offence punishable U/Sec.7 of P.C. Act, 1988, and in default of payment of fine, to undergo simple imprisonment for a period of six (6) months. Further, accused officer is sentenced to undergo Rigorous Imprisonment for a period of three (3) years and to pay a fine of Rs.1,00,000/- (Rupees one lakh only) for the offence punishable U/Sec.13(2) r/w 13(1)(d) of P.C. Act, 1988 and in default of payment of fine, to undergo simple imprisonment for a period of six (6) months. Both the sentences shall run concurrently. The period of remand already undergone by the accused officer i.e., from 16.07.2017 to 10.08.2017 shall be set off U/Sec.428 Cr.P.C. Accused officer is informed about his right to prefer appeal before Appellate authority for which he stated that he came to know about his right.

Total fine amount payable by Accused officer is Rs.1,00,000/- + Rs.1,00,000/- = Rs.2,00,000/- (Rupees two lakh only).

MO-8 i.e., cash of Rs.30,000/- (Rupees thirty thousand only) shall be confiscated to State after appeal time is over. Rest of the Material Objects MOs.1 to 7, shall be destroyed, after expiry of the appeal time or after disposal of the appeal, whichever is earlier.

Free copy of judgment is furnished to the Accused officer, and accused officer acknowledged the receipt of free copy of judgment.

Copy of the judgment shall be marked to the Controller, Legal Metrology Department, Vijayawada, as per Rule-73 of Criminal Rules of Practice.

Dictated to the Stenographer, transcribed and typed by him, corrected, signed and pronounced by me in the open Court, this the 13th day of August, 2026.

Sd/- N. Srividya,
**Spl. Judge for Trial of SPE&ACB Cases,
 Kurnool.**

Appendix of Evidence
Witnesses Examined

For prosecution:

Prosecution Witness No.	Name of the Witness	Description
1	B. Ramalingaiah	Defacto complainant.
2	B. Rajeswari	Wife of defacto complainant.
3	D. Venkateswarlu	One of the mediators.
4	K. Suresh	Another mediator.
5	M. Gopi Krishna Reddy	The then Asst. Controller who explained about the job nature of the accused officer.
6	G. Yekamrachari	Who placed incharge for the post of accused officer soon after the trap of accused officer.
7	K. Thamos Ravi Kumar	Dy. Controller, Legal Metrology Department who submitted service particulars and job chart of the accused officer.
8	Chandra Sekhar	Authorized repairer.
9	Sudhakar	Section Officer
10	Geetha	Nodal Officer who deposed about CDRs of mobile Nos. 95505 55550 and 78938 44019.
11	K.Y. Narasimha Prasad	Nodal Officer, BSNL who deposed about CDRs of mobile Nos. 98496 57568 and 94901 65649.

12	C. Jaya Ramaraju	The then DSP, ACB, Kurnool who registered the case against accused officer.
13	M. Nagabushanam	Inspector who conducted discreet inquiry and later investigated the case and filed charge sheet.

For Defence:

-None-

Exhibits Marked**For prosecution:**

Exhibit No.	Description of the Exhibit	Proved by /Attested by
1	Complaint.	PW1
2	Attested photocopy of application, dt. 19.06.2017.	PW1
2A	Receipt for payment of amount for renewal of weighing bridge, dt. 04.05.2017.	PW1
2B	Verification certificate, dt.04.05.2017.	PW1
3	Renewal certificate of stones, dt. 27.07.2017 with enclosure received after trap (2 pages).	PW1
3A	Verification challan.	PW8
4	Sec.161 Cr.P.C. statement of PW2.	PW2
5	Copy of complaint.	PW3
6	Pre trap proceedings.	PW3
7	Attested photocopy of daily cash book (4 sheets).	PW3
8	Attested photocopy of general cash register (4 sheets).	PW3
9	Attested photocopy of prosecution register (4 sheets).	PW3
10	Attested photocopy of treasury challan register (2 sheets).	PW3
11	Attested photocopy of treasury challan (2 sheets).	PW3
12	Attested photocopy of official cash receipt book (3 sheets).	PW3
13	Attested photocopy of certification of verification	PW3

	book (3 sheets).	
14	Post trap proceedings.	PW3
15	Rough sketch-I.	PW3
16	Rough sketch-II.	PW3
17	Attested photocopy of Rs.2,000/- notes.	PW3
18	Authorization letter.	PW7
19	Proceedings of Controller, dt. 17.07.2017.	PW7
20	Service particulars and job chart of accused officer.	PW7
21	Part of Sec.161 Cr.P.C. statement of PW8.	PW8
22	Authorization letter.	PW9
23	Sanction orders, dt.06.11.2018.	PW9
24	CDR of phone numbers 9550555550 and 7893844019.	PW10
24A to D	Relevant entries in CDR.	PW10
25	65-B IEA Certificate.	PW10
26	Authorization letter issued by alternate Nodal Officer, BSNL, Vijayawada.	PW11
27	Customer application form of mobile No.9849657568 in the name of PW1 along with Aadhar card.	PW11
28	CDR of mobile No.9849657568.	PW11
28-A	Relevant entry in Ex.P28.	PW11
29	Customer application form of mobile No.9490165649 in the name of accused officer along with Aadhar card.	PW11
30	CDR of mobile No.9490165649.	PW11
31	Covering letter addressed by the then Asst. General Manager/B. Sridhar to Joint Director, ACB Rayalaseema, dt. 09.02.2018.	PW11
32	Original FIR.	PW12

For Defence:-

Exhibit No.	Description of the Exhibit	Proved by /Attested by
1	Attested copy of verification certificate for the period from 25.05.2015 to 24.05.2016.	PW1
2	Attested copy of receipt, dt. 25.05.2015.	PW1
3	Attested copy of verification certificate for the period from 30.05.2016 to 29.05.2017.	PW1
4	Attested copy of receipt, dt. 30.05.2016.	PW1
5	Verification certificate, dt. 27.06.2015.	PW3
6	Receipt, dt. 27.06.2015.	PW3
7	Response along with enclosures.	PW13

Material Objects Marked

For Prosecution:

Material Object No.	Description of the Exhibit	Proved by /Attested by
1	Sample of phenolphthalein powder.	PW3
2	Sample of sodium carbonate powder.	PW3
3	Resultant solution of right hand of accused officer.	PW3
4	Resultant solution of left hand of accused officer.	PW3
5	Resultant solution of chemical test done on Rs.2,000/- rupee notes with the aid of cotton swab.	PW3
6	Cotton swab.	PW3
7	Sample of sodium carbonate powder.	PW3
8	Cash of Rs.30,000/- (Rs.500 x 60)	PW3

For Defence:

-Nil-

**Sd/- N. Srividya,
Spl. Judge for Trial of SPE & ACB
Cases, Kurnool.**

CALENDAR AND JUDGMENT

IN THE COURT OF THE SPECIAL JUDGE FOR TRIAL OF SPE & ACB
CASES, KURNOOL.

C.C.No.2/2019

1.	Date of Offence	Prior to 14.07.2017
2.	Date of Report or Complaint	15.07.2017
3.	Date of Apprehension of the Accused	16.07.2017
4.	Date of Release on bail	10.08.2017
5.	Date of Commencement of trial	02.09.2022
6.	Date of close of the trial	24.07.2025
7.	Date of Sentence of Order	13.08.2026
8.	Explanation of delay and remarks	-

Complainant	The State represented by Inspector of Police, Anti Corruption Bureau, Kurnool Range, Kurnool.
Accused	Sri Nagoth Swamy, S/o Sakru, aged 50 years, District Inspector, Weights and Measures, Legal Metrology Department, Kurnool – II, R/o Flat No.13, Dharani Sai Apartments, Balaji Nagar, Beside Highway, Kurnool.
Offence	Public servant taking gratification other than legal remuneration in respect of an official act punishable U/Sec.7 of Prevention of Corruption Act, 1988 and a public servant is said to commit the offence of criminal misconduct if he by corrupt or illegal means or by otherwise abusing his position as a public servant obtains for himself or for any other person any valuable thing or pecuniary advantage for offence punishable U/Sec.13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988.
Finding	Accused Officer is found guilty.
Sentence or Order	In the result, accused officer is found guilty for the offences punishable under Sec.7 and 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988 and he is convicted under Sec.248(2) Cr.P.C. Accused officer is sentenced to undergo Rigorous Imprisonment for a period of three (3) years and to pay a fine of Rs.1,00,000/- (Rupees one lakh only) for the offence punishable U/Sec.7 of P.C. Act, 1988, and in default of payment of fine, to undergo simple imprisonment for a period of six (6) months.

Further, accused officer is sentenced to undergo Rigorous Imprisonment for a period of three (3) years and to pay a fine of Rs.1,00,000/- (Rupees one lakh only) for the offence punishable U/Sec.13(2) r/w 13(1)(d) of P.C. Act, 1988 and in default of payment of fine, to undergo simple imprisonment for a period of six (6) months. Both the sentences shall run concurrently. The period of remand already undergone by the accused officer i.e., from 16.07.2017 to 10.08.2017 shall be set off U/Sec.428 Cr.P.C. Accused officer is informed about his right to prefer appeal before Appellate authority for which he stated that he came to know about his right.

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**Sd/- N. Srividya,
Spl. Judge for Trial of SPE & ACB Cases,
Kurnool.**

Copy submitted to:

The Registrar(Judl.), High Court of Andhra Pradesh, Nelapadu, Guntur District, PIN Code No.522237.

The Director General, Anti-Corruption Bureau Headquarters, 2nd floor, A.P.Bus Bhavan, Vijayawada.

Copy to:

The Deputy Superintendent of Police, Anti-Corruption Bureau, Kurnool.

The Special Public Prosecutor, A.C.B.Court, Kurnool.