



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 25TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE M.G.S. KAMAL

CRIMINAL APPEAL NO. 449 OF 2011 (C)

BETWEEN:

MUNIYELLAPPA @ T CHIKKAMUNIYELALLAPPA
S/O THORAPPA
AGED ABOUT 56 YEARS
F D A, B E O OFFICE
HOSAKOTE TALUK
BANGALORE RURAL DISTRICT

...APPELLANT

(BY SRI. M SHARASS CHANDRA., ADVOCATE)

AND:

STATE OF KARNATAKA
BY LOKAYUKTHA POLICE
(REP. BY SPL. PUBLIC PROSECUTOR)

...RESPONDENT

(BY SRI. B S PRASAD., ADVOCATE)

THIS CRL.A. IS FILED U/S.374(2) CR.P.C BY THE ADV., FOR THE APPELLANT PRAYING THAT THIS HON'BLE COURT MAY BE PLEASED TO SET ASIDE THE ORDER DT:7.4.11 PASSED BY THE PRL.S.J., BANGALORE RURAL DIST., BANGALORE IN SPL.C.NO.81/07 - CONVICTING THE APPELLANT/ACCUSED FOR THE OFFENCE P/U/S 13(1)(d)13(2) OF PREVENTION OF CORRUPTION ACT 1988. AND THE APPELLANT/ACCUSED IS DIRECTED TO UNDERGO R.I. FOR 2 (TWO) YEARS AND ALSO TO PAY A FINE OF RS.5,000/- (FIVE THOUSAND) AND IN





DEFAULT OF PAYMENT OF THE SAME, TO UNDERGO FURTHER IMPRISONMENT FOR 3 (THREE) MONTHS. FOR THE OFFENCES P/U/S 13(1)(d)13(2) OF PREVENTION OF CORRUPTION ACT 1988.

THIS APPEAL, COMING ON FOR HEARING, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE M.G.S. KAMAL

ORAL JUDGMENT

This appeal is by the appellant/accused No.1 being aggrieved by the judgment of conviction and the order of sentence dated 07.04.2011 passed in Special Case No.81/2007 by the Court of the Principal District and Sessions Judge, Bengaluru Rural District, Bengaluru, by which accused No.1/appellant herein has been convicted and sentenced to undergo rigorous imprisonment for 2 years and to pay a fine of ₹5,000/-, and in default of payment of fine, to undergo further imprisonment for 3 months for the offences punishable under Section 13(1)(d) and 13(2) of the Prevention of Corruption Act, 1988, while accused No.2 has been acquitted of the offences charged.



2. The case of the prosecution is, accused No.1/appellant herein was working as a First Division Assistant, while accused No.2 was working as a Computer Operator in the Office of Block Education Officer ('BEO' for short), Hosakote, Bengaluru Rural District, Bengaluru. The complainant one Arun Kumar was a Government School Teacher, who was transferred from Chikkaballapur Town to a school in Hosakote Taluk. He had approached the Office of the BEO, Hosakote on 14.06.2006 seeking issuance of a movement order enabling him to report to the duty at the school where he was transferred. It is in this connection, he had met accused No.1 and 2. Accused No.1 had demanded ₹500/-, while accused No.2 had demanded ₹100/- on 14.06.2006. This led to the complaint being filed by the complainant resulting in laying of trap. Accused No.1 and accused No.2 were caught while receiving ₹500/- and ₹100/- respectively at the Office of the BEO on 19.06.2006. After the investigation, charge sheet has been filed, charges have been framed.



3. Since the accused persons denied the charges, trial was conducted. The prosecution has examined five witnesses namely Arun Kumar – the complainant as PW1, Kumara Swamy – the shadow witness as PW2, Ramarathna Kumar who had filed the charge sheet after obtaining the sanction order from the concerned authority as PW3, Gangappa Gowda – the Director of Public Instruction who had accorded sanction to prosecute the accused as PW4, one Muhammed Zafar who had conducted the investigation as PW5; 20 documents have been marked as Exs.P1 to P20 and 15 material objects as MO1 to MO15. 5 documents have been marked on behalf of the accused in the course of examination of the witnesses.

4. Accused persons were examined under Section 313 of the Cr.PC. They denied the incriminating material brought on record against them.

5. The Trial Court had framed the following points for its consideration:



- "1) *Whether the investigation conducted by P.w. 5 Mr. Mohammed Zaffer Inspector of Lokayuktha police is proper and valid?*
- 2) *Whether Mr.Gangappa Gowda was competent to accord sanction and if so whether the order of sanction issued against Accused No.1 is valid?*
- 3) *Whether prosecution has proved beyond all reasonable doubt that Accused No.1 and 2 being the public servants, demanded for bribe money of Rs.500/- and Rs.100/- respectively to do official favour on 14.6.2006 in the office of BEO at Hosakote and received a sum of Rs.500/- and Rs.100/- respectively 19.6.2006? on*
- 4) *Whether the accused have committed an offence punishable under section 13 (1) (d) and 13 (2) of Prevention of Corruption Act 1988?*
- 5) *What order?"*

On appreciation of evidence, the Trial Court answered point Nos.1 to 3 in the affirmative and consequently, passed the judgment of conviction against accused No.1 for the offences punishable under Section 13(1)(d) and 13(2) of the Prevention of Corruption Act, acquitted accused No.2, and sentenced accused No.1 as noted above. Being aggrieved, the present appeal.

6. Learned counsel appearing for the appellant taking this Court through the records submits that, there



is a serious discrepancy with regard to the very filing of the complaint. He submits that, the complaint is at Ex.P2, which is dated 19.06.2006 indicates that, the alleged demand was made on 14.06.2006, whereas PW1, in his cross-examination recorded on 11.08.2008, in paragraph No.7, has deposed that, the demand was made on 15.06.2006 and he has not stated the same in his complaint. Thus, he submits that, the very fact of demand allegedly made by accused No.1 has not been proved by the prosecution. He submits that, no charge in this regard has been framed either.

6.1. He refers to the deposition of PW2 to contend that, originally, a handwritten complaint was given, which has not been produced and the complaint produced by the prosecution is the typed version. He refers to the deposition of PW2 wherein he had stated that, since there were corrections in the hand written complaint, the complainant was asked to type and submit the complaint. Thus, he insists that, there is manipulation in the very



presenting of the complaint casting doubt on the initiation of the proceedings at the hands of the prosecution.

6.2. Referring to deposition of PW5 found at paragraph No.50 he submits that, the said witness had admitted that, the accused had no competency to issue a movement order; at the time of trap, the accused did not have the movement order of the complainant. He also refers to paragraph No.54 of the deposition of PW5 to point out that, PW5 learnt that no work relating to the complainant was pending at the time of seizing of the documents. He also refers to paragraph No.55 of the deposition of PW5 to contend that, the documents were obtained from the Manager of the BEO Office. Referring to this part of the case of prosecution, he contends that, no work was either pending with the accused or the accused was having competency to issue the movement order.

6.3. Referring to the deposition of PW4 the Joint Director of Public Instruction, he submits that, by PW4's own admission as per paragraph No.9 of the deposition, he



had not ascertained the exact date on which the papers were received by the accused and he did not know as to when the demand was made by the accused. Thus, he submits that, the very foundational fact of demand and acceptance of bribe has not been proved and established by the prosecution as required under law, and in the absence of the same, no case can be built up against the accused.

6.4. He refers to the statement of the accused recorded under Section 313 of Cr.PC to question No.117, wherein the accused has stated that, he had handed over the movement order to the Manager on 15.06.2006, he did not have any file belonging to the complainant at his end and he had not demanded any bribe.

6.5. Thus, referring to the aforesaid material evidence, learned counsel vehemently contends that, there are serious lapses, omissions and contradictions in the case of the prosecution sufficient enough to acquit the accused. Hence, seeks for allowing the appeal.



7. *Per contra*, learned counsel for the respondent submits that, the accused himself had admitted in his answer to question No.117 recorded under Section 313 of Cr.PC of he preparing the movement order at the instructions of the Office Manager. He further submits that, in the very statement the accused had admitted that, on 19.06.2006 while he was on duty, the complainant had come to him, kept the envelope on his table and upon instructions by some persons, he had opened the envelope and found currency notes had fallen on the ground, and he had handed over the notes to the persons who had come, who he had later learnt to be the Lokayuktha Police. Thus he submits that, the recovery of currency notes from the possession of the accused has been proved as such it was incumbent upon the accused to discharge his burden in terms of Section 20 of the Prevention of Corruption Act. Since the accused had failed to discharge the said burden, the Trial Court has drawn the presumption which cannot be found faulted.



7.1. He refers to the deposition of PW1 as well as PW2 the shadow witness, who had deposed that, the incident took place on 19.06.2006, where accused No.1 is stated to have demanded payment of ₹500/- for the purpose of issuing the movement order. He submits that, the said witnesses have withstood the test of cross-examination. Thus, the factum of demand and receipt of bribe has been proved beyond reasonable doubt, which has been rightly taken note of by the Trial Court. Hence, seeks for dismissal of the appeal.

8. Heard and perused the records.

9. Point that arises for consideration is "whether the Trial Court is justified in convicting the accused for the offence punishable under Sections 13(1)(d) and 13(2) of the Prevention of Corruption Act?"

10. There is no dispute of the fact that, the accused No.1/appellant, at relevant point of time, was working as an FDA in the Office of the BEO, Hosakote. It is also not



disputed that, the complainant PW1, who was working as a Government School Teacher, had gone to the BEO Office seeking his movement order.

11. Accused No.1 has admitted to have prepared the movement order of the complainant-PW1 on 15.06.2006. In his answer to question No.117 recorded under Section 313 of Cr.PC by the Trial Court, accused No.1 has stated as under:

“ತಾ. 15.06.2006 ರಂದು ನಮ್ಮ ಕಛೇರಿಯ ಮ್ಯಾನೇಜರ್‌ರವರು ವರ್ಗಾವಣೆ ಆದೇಶವನ್ನು ತಂದು ನನಗೆ ಕೊಟ್ಟರು ನಾನು ಚಾಲನೆ ಆದೇಶವನ್ನು ತಯಾರು ಮಾಡಿ 15ನೇ ತಾರೀಖು ಮ್ಯಾನೇಜರ್‌ಗೆ ಕೊಟ್ಟೆ. ನನ್ನ ಹತ್ತಿರ ಯಾವುದೇ ಕಡತ ಬಾಕಿ ಇರಲಿಲ್ಲ ಮತ್ತು ನಾನು ಪ್ರಾ.ಸಾ 1 ರವರನ್ನು ಲಂಚ ಕೊಡುವಂತೆ ಒತ್ತಾಯಿಸಿಲ್ಲ ಮತ್ತು ನಾನು ಲಂಚ ಪಡೆದಿಲ್ಲ.”

12. From the perusal of the aforesaid answer given by the accused to question No.117, three things emerge. Firstly, that on 15.06.2006, the Office Manager had handed over him the transfer order and the accused had prepared the movement order. Secondly, on 19.06.2006, the complainant had gone to the Office of accused No.1. Thirdly, the accused had handed over the currency notes



to the Lokayuktha Police, which according to the accused, had fallen out from the envelope. It cannot therefore be said that, accused No.1/appellant was totally unconnected to the facts and circumstances narrated by the complainant PW1 i.e., issuance of movement order, as sought to be contended by learned counsel for accused No.1/appellant.

13. As regards demand and acceptance is concerned, PW1, in his deposition at paragraph No.3, has stated as under:

"3. By 12.15 all of us left in a vehicle. We left Bangalore and reached Hoskote by 12.50 near the B.E.O office of Hoskote we stopped the vehicle. The vehicle was parked at 100 feet from BEO Office. Thereafter pancha No. 1 accompanied me when I went to BEO office.. I stood in adjoining Muniyellappa and asked him about the movement order. Then Muniyellappa asked me whether I have brought the money and order is ready. I gave the money, he received it with right hand and he kept the same into his right pant pocket. Then I contacted Prakash and he also demanded Rs.100/-. I gave it and he received with the right hand and kept it in his left side shirt pocket. Thereafter I came out and gave the signal as the one suggested to me."



The said aspect of the matter is reiterated by PW2 who is a shadow witness. Paragraph No.3 of his deposition reads as under:

"3. First we went to the table of Chikkamuniyellappa. Arunkumar asked about the order. Then he asked whether he has brought money. There was a talk in regard to what is the amount to get print out. The money was demanded for giving the order. Thereafter complainant gave 500/-bunch to Chikkmuniyellappa. He received the same in right hand and kept it into the right pant pocket. Then we went to Prakash. He gave 100/- to him. He received it and kept in left side shirt pocket. Thereafter we came out and gave signal. Inspector, second witness entered the office along with the staff. They surrounded."

These two witnesses have withstood the test of cross-examination and nothing has been elicited to discredit their version. Clearly, on the date of incident, the accused had indeed demanded payment of ₹500/-, which the witnesses have testified he having received the same from his right hand and keeping it in his right pant pocket. There is no omission, discrepancy or contradiction in the versions of PW1 and PW2, and there is no reason to doubt the testimony of these witnesses in this regard.



14. The Hon'ble Apex Court, in the case of **Neeraj Dutta Vs. State (Government of NCT of Delhi)**¹ has, in paragraph No.88, held as under:

"88. What emerges from the aforesaid discussion is summarised as under:

88.1. (a) Proof of demand and acceptance of illegal gratification by a public servant as a fact in issue by the prosecution is a sine qua non in order to establish the guilt of the accused public servant under Sections 7 and 13(1)(d)(i) and (ii) of the Act.

88.2. (b) In order to bring home the guilt of the accused, the prosecution has to first prove the demand of illegal gratification and the subsequent acceptance as a matter of fact. This fact in issue can be proved either by direct evidence which can be in the nature of oral evidence or documentary evidence.

88.3. (c) Further, the fact in issue, namely, the proof of demand and acceptance of illegal gratification can also be proved by circumstantial evidence in the absence of direct oral and documentary evidence.

88.4. (d) In order to prove the fact in issue, namely, the demand and acceptance of illegal gratification by the public servant, the following aspects have to be borne in mind:

(i) if there is an offer to pay by the bribe-giver without there being any demand from the public servant and the latter simply accepts the offer and receives the illegal gratification, it is a case of acceptance as per Section 7 of the Act. In such a case, there need not be a prior demand by the public servant.

¹ (2023) 4 SCC 731



(ii) On the other hand, if the public servant makes a demand and the bribe-giver accepts the demand and tenders the demanded gratification which in turn is received by the public servant, it is a case of obtainment. In the case of obtainment, the prior demand for illegal gratification emanates from the public servant. This is an offence under Sections 13(1)(d)(i) and (ii) of the Act.

(iii) In both cases of (i) and (ii) above, the offer by the bribe-giver and the demand by the public servant respectively have to be proved by the prosecution as a fact in issue. In other words, mere acceptance or receipt of an illegal gratification without anything more would not make it an offence under Section 7 or Sections 13(1)(d)(i) and (ii), respectively of the Act. Therefore, under Section 7 of the Act, in order to bring home the offence, there must be an offer which emanates from the bribe-giver which is accepted by the public servant which would make it an offence. Similarly, a prior demand by the public servant when accepted by the bribe-giver and in turn there is a payment made which is received by the public servant, would be an offence of obtainment under Sections 13(1)(d)(i) and (ii) of the Act."

15. As regards submission of learned counsel for the appellant of the discrepancy of the date of the first demand whether it was 14.06.2006 or 15.06.2006, the same pales into insignificant inasmuch as what is pertinent to note is, the proof of demand and acceptance of the bribe on the date of trap was successfully laid. Further, accused had fully understood the case of the prosecution.



No prejudice resulting any miscarriage of justice is pointed out. Therefore, minor discrepancy in mentioning date is of no consequence.

16. In the facts and circumstances narrated above and in the light of the proposition of law, this Court does not find any illegality in the judgment of conviction and order of sentence passed by the Trial Court.

17. Accordingly, the appeal fails and the same is ***dismissed***; the judgment of conviction and the order of sentence passed by the Trial Court are confirmed.

Sd/-
(M.G.S. KAMAL)
JUDGE

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List No.: 1 Sl No.: 1