

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

CRIMINAL APPEAL NO(s). 515 OF 2004

BALUSAMY

Appellant (s)

VERSUS

STATE OF TAMIL NADU

Respondent(s)

(With office report)

Date: 24/02/2011 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE HARJIT SINGH BEDI
HON'BLE MR. JUSTICE CHANDRAMAULI KR. PRASAD

For Appellant(s) Ms. Madhusmita Bora,Adv.
Mr. S. Srinivasan,Adv.

For Respondent(s) Mr. S. Thananjayan,Adv.

UPON hearing counsel the Court made the following
O R D E R

The appeal is dismissed.

[SUMAN WADHWA]
COURT MASTER

[VEENA KHERA]
COURT MASTER

Signed order is placed on the file.

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 515 OF 2004

BALUSAMY .. APPELLANT(S)

vs.

STATE OF TAMIL NADU .. RESPONDENT(S)

O R D E R

Heard the learned counsel for the parties.

We find that the judgments of the Trial Court and
the High Court are based on the statements of PW.2-the
complainant, PW.3-brother-in-law of PW.2(Agriculture

Officer) and PW.8-the Investigating Officer. In addition the phenolphthalein test proved positive and proved the prosecution story that the Rs.1500/- which had been taken as a bribe and had been recovered from the pocket of the accused. The courts below have also drawn a presumption under sub-section (1) of Section 20 of the Prevention of Corruption Act, 1988 against the accused. The courts below have also found that as the accused had given two conflicting statements under Section 313 of the Cr.P.C. his defence could not be believed.

The learned counsel for the appellant has however relied upon the judgment of this Court reported in 2009(6) SCC 587 (A. Subair vs. State of Kerala) to contend that

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despite the provision of sub-section (1) of Section 20 of the Act the prosecution was nevertheless called upon to prove the demand as well as the acceptance and in the absence of any such evidence no presumption could be drawn. There can be no quarrel with this proposition. However, in the facts of the present case we find that the demand and acceptance had been proved by PWs 2 and 3. In the cited case the two main witnesses i.e. PWs. 1 and 2 had been declared hostile and as the bribe was only of Rs.25/- led the Court to hold that it was so trivial that the presumption under Sub-section (1) of Section 20 could not be drawn, in the light of the provisions of Sub-section (3) of Section 20. We thus find no merit in this matter.

Dismissed.

.....J.
(HARJIT SINGH BEDI)

.....J.
(CHANDRAMAULI KR. PRASAD)

New Delhi,
February 24, 2011.