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CrI.A.No. 674-675 OF 1997

ITEM No.112

Court No.7

SECTION II

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

Criminal Appeal Nos.674-675 of 1997

State of Karnataka Appellant(s)

VERSUS

S.P. Kulkarni & Anr. Respondent(s)

(With appln. for permission to place addl. documents on record)

Date : 13/01/2004: These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE K.G. BALAKRISHNAN

HON'BLE MR. JUSTICE B.N. SRIKRISHNA

For Appellant (s) Mr. Sanjay R. Hegde, Adv.

For Respondent (s) Mr. K. Loangaraja, Adv.

Mr. E.C. Vidya Sagar, Adv.

Mr. S. Ravindra Bhat, Adv.

UPON hearing counsel the Court made the following

O R D E R

Mr. Sanjay R. Hegde, learned counsel for the appellant started his arguments at 12.25 p.m. and concluded at 12.55 p.m. Thereafter Mr. S. Ravindra Bhat, learned counsel for the respondent started his arguments and concluded at 3.40 p.m. The appeals are dismissed.

(R.K. DHAWAN)

(VEERA VERMA)

COURT MASTER

COURT MASTER

(Signed order is placed on the file)

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NOS.674-675 OF 1997

State of Karnataka.... Appellant.

Versus

S.P. Kulkarni & Anr..... Respondents.

O R D E R

Heard learned counsel for the parties.

These appeals are filed by the State of Karnataka against the acquittal of accused persons by the High Court. The first accused was Tehsildar and the second accused was Revenue Inspector working in Bangalore. The complainant R. Gajendra Reddy was running a concern by name "Bangalore Bottle Supplies Company". The premises of the said company were attached by the revenue authorities pursuant to a recovery certificate for arrears of sales tax. As the first accused Tehsildar seized the godowns, PW-1 R. Gajendra Reddy wanted to release the attachment so he approached the first accused. According to the prosecution the first accused demanded bribe amount of Rs.15,000/-. The complainant was not willing to pay this much amount and he had negotiations with the first accused and ultimately first accused agreed to remove the attachment on receipt of Rs.8,000/-. The

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complainant approached the Lokayuktha and filed a complaint, a trap was arranged and PW-1 went to the house of first accused to pay the bribe amount. The second accused, revenue inspector, Bangalore was also present. According to the prosecution the first accused directed the payment of money to the second accused. PW-1 paid the money to the second accused and the members of raiding party who were waiting outside came to the house of A-1 and recovered Rs.8,000/- from the second accused and after completing the legal formalities regarding investigation charge sheet was filed.

On the side of the prosecution PW-1 to PW-10 were examined and the special Judge found the accused guilty of the offence punishable under Sections 7 & 13 (1)(d) read with Section 13(2) of P.C. Act, 1988. Aggrieved by the same the accused persons filed criminal appeals and the High Court was pleased to acquit them.

The learned Single Judge held that the evidence of PW-1 and PW-2 showed that the amount must have been accepted not as bribe but as a part payment of tax. PW-2 was present along with PW-1 at the time of payment and he deposed that PW-1 paid the amount to the second accused, who had a receipt book with him and when he was about to issue receipt, the panch witnesses and police officer came and

...3/-

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seized the currency notes. In the cross-examination, PW-2 was not confronted with the previous statement to dispute this statement. The learned Single Judge also noticed that the attachment was already lifted by the Deputy Commissioner but that order was not produced by the prosecution. On these premises the accused were acquitted. It is pertinent to note that from the evidence of PW-2, there is serious suspicion as to whether amount was accepted by the second accused as a bribe or a part payment of tax. It is admitted that no amount was recovered from the first accused who allegedly demanded money. In this background we do not think that the view taken by the learned Single Judge is perverse. We see no merit in the appeals. The appeals are dismissed.

.....J
(K.G. BALAKRISHNAN)

.....J
(B.N. SRIKRISHNA)

NEW DELHI;
JANUARY 13, 2004.