

Z*

CrI.A.No. 1188 OF 1997
ITEM No.106

Court No. 5

SECTION IIA

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.1188 OF 1997

K. RAJAMANI Appellant (s)

VERSUS

STATE OF TAMILNADU Respondent (s)

(with office report)

Date : 05/02/2004 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DORAISWAMY RAJU
HON'BLE MR. JUSTICE ARIJIT PASAYAT

For Appellant (s)Mr. KBS Rajan, Adv.,

For Respondent(s)Mr. Subramonium Prasad, Adv.

UPON hearing counsel the Court made the following

O R D E R

Heard the learned counsel for the parties.

The appeal is dismissed of in terms of the signed order.

(D.L.Chugh) (Ramesh Chand)
Court Master Court Master

Signed order is placed on the file

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL No.1188 OF 1997

K. RAJAMANIAppellant(s)

versus

O R D E R

Heard the learned counsel for the parties.

The appellant calls in question legality of the judgment rendered by a learned Single Judge of the Madras High Court which confirming conviction recorded against the appellant by the Special Judge and Chief Judicial Magistrate for the offences punishable under Section 5(1)(d) read with Section 5(2) of the Prevention of Corruption Act, 1947 (hereinafter referred to as "the Act") and Section 161 of the Indian Penal Code, 1860 (for short "the IPC"). The accusations which led to the trial of the accused were that while acting as Village Administrative Officer, he demanded bribe from PW 1 for issuing a Community Certificate and Income Certificate. The complaint was lodged by PWs 1 and 2 before the Anti Corruption Cell. A sum of Rs.50/- was paid by PW 1 by six currency notes to the accused in the presence of PW 2. The trap operations were monitored by the Deputy Superintendent of Police, Anti Corruption Cell (PW 10). After the money was handed over to the accused, PW 1 came out and gave a signal whereafter the official witnesses went in and money was recovered from the accused person. Test was conducted by dipping the hands of the accused in the Sodium carbonate solution, and his hands became pink in colour. Certain documents were seized and ultimately the accused faced trial. The accused took the plea that he has been falsely implicated at the behest of PW 2 who was not in good terms with him. He further contended that PW 2 had to pay some arrears of rent as house tax which were paid by soiled currency notes. Since the accused did not want to keep the soiled currency notes, PW 2 was asked to give other currency notes which he did and the notes which were handed over by PW 2 were kept by the accused in his pocket and were seized. Ten witnesses were examined to further the prosecution version, while the accused examined one witness.

Documents were also exhibited by the prosecution and the accused. On consideration of the evidence of the witnesses, the trial court found the accused guilty. He was convicted and awarded a sentence of one year and fine of Rs.500/- with default stipulation for the offence relating under Section 5(1)(d) of the Act. No separate sentence was imposed in respect of the offence relating to Section 161 IPC. In appeal, the stand taken by the accused was reiterated but the High Court by the impugned judgment held that the accusations were brought home.

In support of the appeal Mr. KBS Rajan, learned counsel for the appellant submitted that the prosecution version has not been established, more particularly, when the complainant PW 1 did not support the prosecution version in its entirety. The courts below should not have relied upon the evidence of PW 1, 2 and PW 3. It was further contended that PW 3 did not actually witness the handing over of the money. In response, the learned counsel for the respondent-State supported the judgments of the courts below.

We find that in the case at hand, both the trial court and the High Court have analysed the evidence in great detail and have come to the findings that the accusations were established. Merely because PW 1 did not support the prosecution version in its entirety that cannot be a ground to discard the prosecution version. In fact, PW 2 is an eye witness to the demand of money and the payment thereof. PW 3 has also substantiated the prosecution version to a great extent. When the accused took the stand that the money was paid towards the arrears of house tax it was incumbent for him to adduce some material to substantiate that, in fact, there were some arrears of house tax which were to be paid. That material was obviously not produced. Keeping in view of the concurrent findings recorded by the trial court and affirmed by the High Court, there is no scope for our interference in this appeal, which is accordingly dismissed.

.....J.
(DORAISWAMY RAJU)

.....J.
(ARIJIT PASAYAT)

New Delhi,
FEBRUARY 05, 2004