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Cr1.A.No. 1133 OF 1997

ITEM No.103

Court No. 5

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 No.1133 OF 1997

K.V. SUSEELA Appellant (s)

VERSUS

STATE OF A.P. Respondent (s)

Date : 12/02/2004 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. Radha Krishnan, Sr. Adv.
Mr. R Santhanakrishnan, Adv.
Mr. V Sridhar Reddy, Adv. for
Mr. D Mahesh Babu, Adv.

For Respondent(s)Mr. Sanjay Karol, Sr. Adv.
Mr. Rajeev Kumar, Adv. for
Mr. P Parmeswaran, 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 in terms of the signed order.

(D.L.Chugh) (Vijay Aggarwal)

AR-cum-PS Court Master

Signed order is placed on the file

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL No.1133 OF 1997

K.V. SUSEELAAppeellant(s)

versus

O R D E R

The appellant faced trial for the alleged commission of offences punishable under Section 7 and Section 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act, 1988 (for short "the Act"). The trial court found the accused guilty on both counts. She was convicted and sentenced to undergo one year imprisonment on each count. The conclusions of the trial court were affirmed by the High Court of Andhra Pradesh by the impugned judgment.

The accusations which led to the trial of the accused are that for helping PW 1 in processing the claim for decategorisation, bribe was demanded which was paid partially. Subsequently, PW 1 informed the C.B.I. Authorities about the demand of bribe. A trap was laid and the accused was found in possession of the marked notes. The amount was paid by PW 1 with the marked currency notes in the presence of PW 2. As the money was received by the appellant by covering it with a handkerchief, when her hands were dipped in the solution of Sodium Carbonate for test, the hands did not turn pink, but when the handkerchief was tested, it showed positive result as the tainted money was wrapped by it. Several circumstances were pressed into service by the prosecution to bring home the accusations. It was pointed out that for paying the first installment, a golden ring was placed by PW 1 with PW 9. A letter was written by the accused appellant to PW 1 in the matter of application for decategorisation and, in fact, a draft application was also prepared by her. The trial court found the evidence to be sufficient to fasten the guilt on the accused. The High Court also analysed the evidence and concurred with the conclusions of the learned trial court.

In support of the appeal, learned senior counsel for the appellant submitted that the evidence of PW 1 and PW 2 vary in some material regards and since the hands of the appellant did not test positive in the solution of Sodium Carbonate no adverse inference should have been drawn. Learned counsel appearing for the respondent-State supported the judgments of the trial court and the High Court.

We find that in the instant case, the evidence of the witnesses has been properly analysed by the trial court and the High Court and in view of the cogent evidence of PWs 1 & 2 coupled with other circumstances noticed by the trial court and the High Court, there is no scope for any interference with the factual findings as recorded by the trial court and affirmed by the High Court.

It was also urged by learned senior counsel for the appellant that considering the age of the appellant and the long passage of time it would be proper to extend the benefits of The Probation of Offenders Act, 1958 and Section 360 of the Code of Criminal Procedure, 1973 to her. This plea is not acceptable and the same is rejected. In cases involving corruption in the public office there is no scope for any leniency to be shown and the benefits of The Probation of Offenders Act as well as Section 360 of the Cr.P.C. cannot be extended. Looked at from any angle, the appeal is sans merit and the same is dismissed.

.....J.
(DORAISWAMY RAJU)

.....J.
(ARIJIT PASAYAT)

New Delhi,
FEBRUARY 12, 2004