

IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION  
CRIMINAL APPEAL NO.1762 OF 2012

State of A.P.

Appellant

VERSUS

Kola Narsimhamurty

Respondent

O R D E R

1. The present appeal is directed against the judgment of acquittal dated 23.07.2014 passed by the High Court of Andhra Pradesh in Criminal Appeal No.1146 of 2003 unsettling the judgment of conviction passed by the learned Special Judge for ACB Cases, Visakhapatnam dated 20.10.2003 in CC No.45 of 2000 whereby the learned Trial Judge has found the accused guilty of the offences punishable under Sections 7 and 13(2) read with 13(1) of the Prevention of Corruption Act, 1988 (for brevity, 'the Act') and sentenced him to undergo simple imprisonment for six months and to pay a fine of Rs.1,000/- with a default clause and also sentenced him to suffer one year simple imprisonment and to pay a fine of Rs.1,000/- under Section 7 of the Act with a default clause with the stipulation that both the sentences shall be concurrent.

2. Being dissatisfied with the aforesaid judgment of conviction, the accused-respondent, a Sub-Inspector in Police, preferred the appeal in the High Court. It was contended before the learned

Single Judge that the prosecution had not been able to prove the demand and acceptance by the accused and, therefore, the conviction recorded by the learned trial Judge was wholly unsustainable. For the aforesaid purpose, reliance was placed on the testimony of prosecution witness, PW1, who is the master of PW2. It was also pressed into service that the trap witnesses were not present at the scene and, therefore, on the basis of recovery alone, the conviction could not have been recorded.

3. The High Court analysed the evidence of PW2 and came to a definite conclusion that neither the demand nor acceptance had been proved. Be it stated, it was alleged by the informant that the accused-respondent, had demanded money from PW1 to release PW2 who was detained at the Police Station.

4. We have heard Ms. Prerna Singh, learned counsel for the State and Mr. Shishir Pinaki, learned counsel for the respondent. The singular question that emerges for consideration is whether the demand and acceptance have been proved by the prosecution. There can be no quarrel over the fact that the factum of recovery had been proved. It is settled in law that proof of recovery alone would not entail conviction. PW1 who was the star witness has unequivocally stated that there was no demand. There is no other witness from whose testimony, inference shall be deduced that there was demand. As far as the acceptance is concerned, no evidence has been adduced. Learned counsel for the State impressed upon us that when there is recovery, the demand and

acceptance should be presumed. We are unable to accept the said submission. In our considered opinion, the view expressed by the High Court is a plausible one and, therefore, there is no warrant to dislodge the judgment of acquittal recorded by the High Court.

5. Resultantly, the appeal, being devoid of merit, stands dismissed.

.....,J.  
(Dipak Misra)

.....,J.  
(Uday Umesh Lalit)

New Delhi;  
October 29, 2014.

ITEM NO.105

COURT NO.6

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(s). 1762/2012

STATE OF A.P.

Appellant(s)

VERSUS

KOLA NARASIMHAMURTY

Respondent(s)

(with appln. (s) for stay and office report)

Date : 29/10/2014 This appeal was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE DIPAK MISRA  
HON'BLE MR. JUSTICE UDAY UMESH LALIT

For Appellant(s) Ms. Prerna Singh, Adv.  
Mr. Guntur Prabhakar, Adv.  
Mr. D. Mahesh Babu, Adv. (NP)

For Respondent(s) Mr. Shishir Pinaki, Adv.  
Mr. Rakesh Dahiya, Adv.  
Mr. T.V. Bhaskar Reddy, Adv.

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

The criminal appeal stands dismissed in terms of the signed order.

(Gulshan Kumar Arora)  
Court Master

(Renuka Sadana)  
Court Master

(Signed order is placed on the file)