

IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO(S). 1523/2009

SEKAR

APPELLANT (S)

VERSUS

THE STATE OF TAMIL NADU

RESPONDENT (S)

O R D E R

The appellant was a Junior Assistant in Velankanni Panchayat Union. 15 days prior to 15.06.1999, the complainant (Pakkirismay) met the appellant for getting building permission. The appellant informed the complainant that apart from the fee for permission which was to the tune of Rs.1,500/-, an amount of Rs.1,000/- has to be paid as bribe for the grant of permission. On 15.06.1999, when the complainant met the appellant, he was informed that the amount which was demanded had to be paid by 6 O'clock in the evening. The complainant was not willing to pay any amount towards illegal gratification. Therefore, he approached the Inspector Vigilance and Anti Corruption (PW-6) and complained about the demand of money by the appellant. PW-6 registered the Crime No. 6/1999 under Section 7 of the Prevention of Corruption Act, 1988. PW-3 Anandhan and Prem Anand were summoned by PW-6 for the purpose of assistance in the trial. An amount of Rs. 2,500/- which was carried by the complainant was treated with Phenolphthalein powder. The complainant was instructed to handover the currency which was

treated with Phenolphthalein powder to the appellant on demand. A Mahazar was prepared by PW-6 which was signed by the complainant and the witnesses - PW-3 (Anandhan) and Prem Anand.

The complainant and PW-3 were advised by PW-6 to go into the office of the appellant and to handover the money to the Appellant, if demanded. PW-2 and PW-3 entered the office of the Panchayat Union at about 06.00 p.m. They were informed that the appellant was attending a meeting. They went in to the meeting hall and met the appellant in the meeting hall. There was nobody else in the meeting hall. The appellant asked the complainant about the identity of PW-3 Anandhan. The appellant was informed that PW-3 Anandhan is the brother-in-law of the complainant. As the Appellant enquired about the money, the complainant handed over the tainted currency notes to the appellant. The appellant counted the money given to him and put the money in the left side pocket of his shirt. The complainant was informed to come back by Friday by the appellant. Thereafter, the complainant came out of the office and tied the handkerchief over his head as per the arrangement made earlier. That provided a signal to the Inspector to rush in to the office of the appellant.

PW-6, introduced himself to the appellant and asked him about the money that was given by the complainant. He prepared a sodium carbonate solution and directed the appellant to dip his right hand in the solution. The colour of the solution turned red after the appellant dipped his fingers into the solution that was prepared by PW-6.

Further investigation was conducted and a case was registered against the appellant under Sections 7 and 13(1)(d) read with

Section 13(2) of the Prevention of Corruption Act, 1988. The appellant was convicted by the Special Court for Anti-Corruption Cases, Nagapattinam and sentenced to imprisonment for two years which was affirmed by the High Court. Aggrieved, the Appellant approached this Court.

Mr. R. Anand Padmanabhan, learned counsel appearing on behalf of the appellant submitted that there was previous enmity between the complainant and the appellant. The reason of for enmity was that there was a demolition of a building of the complainant that was made earlier due to which the complainant had a grievance against the Executive Officer and the appellant. It is further submitted that there is no dispute regarding the receipt of Rs.2,500/- but the amount was paid towards legitimate dues towards fee to be paid for grant of permission of the building and the tax for the building. He relied on the evidence of PW-4, a Junior Assistant working in the Panchayat office who said that Rs.1250/- is the amount to be paid for the permission of the building and around Rs.1250/- being the amount payable towards building tax for a period of one year. It is further submitted that in the light of the previous enmity between the complainant and the appellant, the evidence has to be strictly scrutinized and the appellant is entitled to the benefit of doubt.

Mr. M. Yogesh Kanna, learned counsel appearing on behalf of the State referred to the evidence on record to show that the appellant himself was a tenant of the building that was demolished. The demolition related to a building which had 44 shops. There was no occasion for any animosity between the appellant and the

complainant for the demolition of a building in which the appellant himself was a tenant. He also submitted that the question of payment of building tax does not arise unless approval was granted for the building that was constructed and a demand is made for payment of the same.

The Trial Court considered the submission pertaining to the amount received by the appellant being towards legitimate dues. The Trial Court rejected the plea of the appellant that Rs.1250/- was received towards building tax. The Trial Court found that there was no house tax notice served on PW-2 and there was no other material that was placed on record to show that there was any demand made by the Panchayat. A careful scrutiny of the evidence by the Trial Court led to the conviction of the appellant which was affirmed by the High Court. After a detailed consideration of the submissions made by the learned counsel for the parties and a close scrutiny of the evidence on record, we are of the opinion that the judgment of the High Court affirming the conviction and sentence of the appellant does not warrant interference.

The appeal is dismissed.

The appellant is directed to surrender within four weeks from today.

.....J.  
[L. NAGESWARA RAO]

.....J.  
[M.R. SHAH]

NEW DELHI;  
APRIL 04, 2019

ITEM NO.105

COURT NO.11

SECTION II-C

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Criminal Appeal No(s). 1523/2009

SEKAR

Appellant(s)

VERSUS

THE STATE OF TAMIL NADU

Respondent(s)

Date : 04-04-2019 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE L. NAGESWARA RAO  
HON'BLE MR. JUSTICE M.R. SHAHFor Appellant(s) Mr. R. Anand Padmanabhan, Adv.  
Mr. Romil Pathak, Adv.  
Mr. Prawal Chaturvedi, Adv.  
Mr. Aravind C., Adv.  
Mr. Pramod Dayal, AORFor Respondent(s) Mr. M. Yogesh Kanna, AOR  
Mr. Raja Rajeshwaran. S., Adv.  
Mr. S. Parthasarathi, Adv.UPON hearing the counsel the Court made the following  
O R D E R

The appeal is dismissed in terms of the Signed Order.

Pending applications, if any, stand disposed of.

(ASHWANI KUMAR)  
COURT MASTER (SH)(KAILASH CHANDER)  
ASSISTANT REGISTRAR

(Signed Order is placed on the file)