

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 438 OF 2016
(Arising out of SLP (Criminal) No. 4320 of 2014)

O.N. SRIDHARAN ... Appella

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VERSUS

THE STATE REP. BY CBI, HYDERABAD ... Respond

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O R D E R

Leave granted.

The case of the prosecution, in brief, was that the appellant herein who was working as Senior Manager, Grade V, Bharat Dynamics Limited (BDL), Hyderabad, had demanded and accepted the bribe from Mr. P. Ravi, PW-1, of M/s. TETE Enterprises (Pvt.) Limited, the complainant.

It was alleged that on three occasions he had demanded this bribe. Trap was laid in which the appellant allegedly caught and thereafter tried for the offence under Sections 7 and 13(1)(d) read with Section 13(2) of Prevention of Corruption Act, 1988 (hereinafter referred to as 'Act') treating the appellant as Public Servant within the meaning of Section 2(c) of the Act. In short, the cas

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pleaded was that M/s. TETE Enterprises (hereinafter referred

Date: 2016.05.17
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to as 'contractor') was awarded some work, i.e., the work of

the contractor was to receive payments from BDL on quarterly basis. As per the prosecution, on 04.05.2001, the complainant submitted bill for the second quarter to the Assistant of the appellant herein who further gave it to senior technician in Technical Service Department to hand it over to the appellant. On 06.05.2001, the appellant contacted the complainant to come over to his residence to discuss about AMC. It was alleged that at that time, a bribe of Rs.4000/- was demanded by the appellant. Further, on 14.05.2001, the appellant again contacted the complainant to come over to his residence as he had demanded more money. However, on 15.05.2001, the complainant, who is the incharge Director of the Contractor, complained that the appellant had demanded 10 per cent of the AMC value as bribe and received Rs.3000/- as part-payment owing to the financial difficulties being faced by the contractor. On this information given to the SP (CBI), Hyderabad, a direction was given to the Inspector of CBI, Hyderabad, to lay a trap against the appellant and the trap was laid, as mentioned above.

The complainant appeared as PW-1. 11 more witnesses were examined and 26 documents were marked. The appellant herein gave his statement under Section 313 of the Code of

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Criminal Procedure denying the allegations against him. The Special Judge, CBI, vide his judgment dated 11.04.2005, acquitted the appellant of all the charges. To state in brief, he held that the demand of bribe on all the three occasions could not be proved beyond reasonable doubt. It may be stated in brief that insofar as the alleged demand of bribe on 06.05.2001 is concerned, it was disbelieved on the ground that 06.05.2001 was Sunday and holiday in BDL and, therefore, the appellant could not be expected to be in his

office. Another reason given for disbelieving this demand is that the demand was made on 06.05.2001 when even the bill had not been submitted for the second quarter, which was submitted on 07.05.2001. With regard to the second demand on 14.05.2001, the trial court disbelieved it on the ground that when PW-1 had allegedly explained of its financial constraints and his ability to secure only Rs.3000/- which was agreed by the appellant, there was no reason to reiterate this demand when the appellant met the complainant on 15.05.2001. Regarding the acceptance of the bribe on 15.05.2001, the version of the prosecution was again not accepted by pointing out inherent contradictions in the statements of witnesses which was laid. It was stated by PW-1 that after receiving the money from him, the appellant had kept the same on the air cooler in the hall but the existence of air cooler itself is not mentioned in the

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inventory list (Exhibit P6).

We find that the aforesaid position was recorded by the trial court disbelieving the prosecution version on the analysis and the appraisal of the evidence on record and thereby acquitted the appellant.

The High Court has reversed the said acquittal and perusal of the discussion in the impugned judgment shows that the High Court has merely stated that the view taken by the trial court was not correct. The High Court has again appraised the evidences and has come to its own conclusion. It is nowhere recorded that the findings arrived at by the trial court were perverse and could not have been arrived at. The entire discussion of the High Court shows that it is another view which is taken by the High Court. When two views were possible, it was not proper for the High Court to

interfere with the findings which were recorded by the trial court against the order of acquittal. It is nowhere stated that the view taken by the trial court was not a plausible view. This approach of the High Court is clearly erroneous having regard to the law laid down in 'Arulvelu & Anr. v. State represented by Public Prosecutor & Anr.' [2009 (10) SCC 206].

We, thus, allow the appeal and set aside the order of conviction passed by the High Court.

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The appellant is already on bail. The bail bonds stand discharged.

....., J.
[A.K. SIKRI]

....., J.
[R.K. AGRAWAL]

New Delhi;
May 03, 2016.

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ITEM NO.15

COURT NO.12

SECTION II

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

I N D I A

Petition(s) for Special Leave to Appeal (Crl.) No. 4320/2014

(Arising out of impugned final judgment and order dated 10/03/2014 in CRLA No. 1661/2005 passed by the High Court Of A.P. At Hyderabad)

O.N SRIDHARAN

Petitioner(s)

VERSUS

THE STATE REP. BY CBI HYDERABAD

Respondent(s)

(With office report)
(For final disposal)

Date : 03/05/2016 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.K. SIKRI
HON'BLE MR. JUSTICE R.K. AGRAWAL

For Petitioner(s)

Mr. M. A. Chinnasamy, Adv.
Ms. C. Rubavathi, Adv.
Mr. P. Rajaram, Adv.
Mr. V. Senthilkumar, Adv.

For Respondent(s)

Ms. Kiran Suri, Sr. Adv.
Mr. Kumar Parimal, Adv.
Md. Khariti, Adv.
Mr. B. V. Balram Das, Adv.

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

Leave granted.

The appeal is allowed in terms of the signed order.

(Nidhi Ahuja)
Court Master

(Tapan Kr. Chakraborty)
Court Master

[Signed order is placed on the file.]