2025 INSC 967

REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. OF 2025
(arising out of S.L.P. (Crl.) No. 9964 OF 2019

A. KARUNANITHI ...APPELLANT(S)

VERSUS

THE STATE REPRESENTED BY
INSPECTOR OF POLICE ...RESPONDENT(S)

WITH

CRIMINAL APPEAL NO. OF 2025
(arising out of S.L.P. (Crl.) No. 7442 OF 2019)

P. KARUNANITHI ...APPELLANT(S)

VERSUS

THE STATE REPRESENTED BY
INSPECTOR OF POLICE ...RESPONDENT(S)

J U D G M E N T

PANKAJ MITHAL, J.

1. Leave granted in both the special leave petitions.

2. Heard learned counsel for the parties.

3. The Special Court under the Prevention of Corruption Act, 1988[1] in Special Case No. 2 of 2011 vide judgment and order dated 23.11.2011 convicted accused No. 1 and accused No. 2, namely, A. Karunanithi and P. Karunanithi respectively under Section 13 and Section 7 of the Act. A-1 was awarded three years RI with fine of Rs. 10,000/- under Section 13(1)(d) read with Section 13(2) of the Act and 2 years RI with fine of Rs. 5,000/- under Section 7 of the Act and in the event of non-payment of fine with SI of 3 months each. Similarly, A-2 was awarded sentence of 1.5 years of RI with fine of Rs. 2,000/- under Section 13(1)(d) read with Section 13(2) of the Act and 1 year RI with fine of Rs. 2,000/- under Section 7 of the Act and in the event of default in payment of fine with SI of 3 months each.

4. The aforesaid judgment and order of conviction and sentence was challenged by both the accused persons independently by separate appeals before the High Court. Both the appeals were decided by the High Court by a common judgment and order dated 05.12.2018 and were

[1] Hereinafter referred to as 'the Act'

dismissed. Thus, the conviction and sentence awarded by the trial court was upheld.

5. The above common judgment and order passed by the High Court is under challenge in the present appeals.

6. A-1 was serving as Village Administrative Officer at Selvalur and A-2 was working as a Village Assistant in the same office. The complainant, V. Rengasamy (PW-2) had applied to the Tehsildar for a Community Certificate for the purposes of joining Government service. His application was returned with an endorsement to approach A-1 for a report. When the complainant approached A-1 on 09.11.2004, he allegedly demanded Rs. 500/- as a bribe for processing the papers. The complainant approached A-1 again on 27.11.2004 whereupon he reiterated his demand as aforesaid.

7. Subsequently, the complainant lodged a complaint with the Inspector of Police, Vigilance and Anti-Corruption Corruption Department with regard to demand of Rs. 500/- as a bribe by A-1. A trap was arranged on 03.12.2004 where currency notes were treated with phenolphthalein powder and given to the complainant. After the trap was laid, the complainant approached A-1

again, whereupon he reiterated his demand for Rs. 500/- as bribe and instructed A-2 to collect the money. The complainant handed the marked currency notes to A-2 who counted the same and kept it, as directed by A-1. On the signal of the complainant, Police entered, seized the currency notes and conducted the phenolphthalein test on the hands of A-2 which turned pink, confirming contact with the pre-treated currency notes. The seized currency notes were sent for chemical analysis which confirmed that they contained phenolphthalein.

8. It was in this background, the criminal machinery was set into motion and an FIR Crime No. 8 of 2004 was registered under the Act. Upon investigation, a chargesheet was submitted on 29.06.2006 under Section 7 and Section 13(1)(d) read with Section 13(2) of the Act citing 11 witnesses. Thereafter, the trial commenced and both the accused were found guilty and sentenced, which judgment and order was affirmed by the High Court.

9. Shri S. Nagamuthu, learned senior counsel for the appellants argued for the reduction of sentence to A-1 and for setting aside conviction of A-2. He submitted that the High Court failed to consider that the age of A-1 is 68 years

and that he was involved in a case pertaining to a petty amount of Rs.500/- as bribe and that too in the year 2004. Therefore, keeping in mind the time elapsed and the small amount of the bribe, the sentence imposed upon him is excessive and it could be reduced to the statutory minimum sentence of one year.

10. In context with A-2, he submitted that his conviction is illegal in the absence of evidence that there was demand of illegal gratification by him or that he was present when A-1 originally demanded the bribe. Therefore, unless there is demand and receipt of the bribe, he cannot be convicted.

11. A further argument was raised by him that A-2 cannot be convicted for merely accepting the money as there was no specific charge of abetment or allegation that A-1 was the abettor of the crime.

12. In defence, counsel for the State had submitted that the case stands duly proved against A-1 by the oral evidence of PW-1 (Revenue Divisional Officer) and PW-2 (complainant). The Courts have repeatedly emphasised that the punishment under the Act ought to be deterrent in order to maintain public trust and prevent corruption.

Therefore, no leniency should be shown to A-1 by reducing the punishment.

13. It has also been submitted that offence has also been proved against A-2 as he had accepted the illegal gratification on behalf of the A-1. He had knowingly accepted the money on behalf of A-1. He was aware that it was a bribe money. He had a fair trial, therefore, the absence of a formal charge of abetment would not vitiate his conviction.

14. A Constitution Bench of this Court in ***Neeraj Datta vs State (NCT of Delhi)***[2] has held that for recording a conviction under Section 7 and Sections 13(1)(d)(i) and (ii) of the Act, the prosecution has to prove the demand and acceptance of illegal gratification either by direct evidence which can be in the nature of oral evidence or documentary evidence or circumstantial evidence. In other words, to convict a person under the aforesaid provision demand and acceptance of illegal gratification is a *sine qua non*.

[2] (2023) 4 SCC 731

15. We first take up the case of A-2. It is no one's case that A-2 ever demanded any illegal gratification. He undoubtedly accepted the money on the directions of A-1 and kept the same with him. So, there was no demand of illegal gratification on his part. The demand made by A-1 cannot be attributed to A-2 as no evidence was adduced which could establish that A-2 was a habitual offender working in aid with A-1 or was facilitating A-1 in demanding and receiving illegal gratification. Accordingly, in the absence of any allegation or evidence that A-2 demanded bribe from the complainant or he was acting in connivence with A-1, he cannot be prosecuted for the commission of the crime of demanding and receiving illegal gratification.

16. Admittedly, A-2 was not charged with the abetment of the aforesaid crime. He had accepted the money on the direction of A-1 only. He could have received the money innocently on the direction of A-1 or he may have received it knowingly. Both the views are possible. However, as no evidence was adduced to prove that both of them have connived to demand and accept the bribe, even if a fair trial may have been given to the A-2, it cannot be said with any certainty that he was an accomplice to the crime.

Accordingly, in the absence of charge of abetment and the proof of connivance between A-1 and A-2, we are of the opinion that A-2 could not have been convicted.

17. In ***Mahendra Singh Chotelal Bhargad vs. State of Maharashtra & ors.***[3]**,** this Court had an occasion to deal with the case where the bribe was demanded by one person and was accepted and recovered from a third person. The conviction of the said third person was set aside, holding that accepting money on behalf of another person may certainly constitute an abetment of an offence, but in the absence of a charge of abetment, the person accepting the bribe is not liable to be convicted. Accordingly, the Trial Court as well as High Court manifestly erred in convicting him for an offence under Section 7 and 13 of the Act.

18. Now, coming to the conviction of A-1. The evidence on record amply proves that he demanded bribe from the complainant not only once but twice, and thereafter when the trap was laid. The bribe on his behalf was accepted by A-2. The evidence proves that A-2 accepted the money on

[3] (1998) 2 SCC 357

the dictates of A-1. Therefore, both the ingredients of demand and receipt stand duly proved against A-1. The evidence in this regard of PW-1 and PW-2, despite some minor contradictions stand unshaken. Therefore, in our opinion, his conviction as held by the Trial Court and affirmed by the High Court is not liable to be interfered with.

19. The submission that the imposition of the punishment of three years RI and two years RI respectively for the offences under Section 13(1) read with Section 13(2) and under Section 7 of the Act upon A-1 is harsh and ought to be reduced to the minimum of one year on the basis of the age of the A-1 and on account of the petty amount of Rs. 500/- involved in the bribe.

20. There is no dispute to the fact that the offence was allegedly committed in the year 2004 and it involved a small amount of Rs. 500/-. A-1 had suffered on account of the pendency of the trial and appeal for all these years. The long time that has elapsed during the trial and the appeals coupled with the fact that the amount involved is small, it appears just and proper to award the minimum sentence prescribed under the Act.

21. The argument that the Court cannot show compassion to reduce the sentence by exercising powers under Article 142 of the Constitution is misconceived as the Court is not showing leniency by overriding or going beyond the statutory provisions. The reduction of sentence is within the scope of the statute which provides for a minimum sentence of one year.

22. In view of the aforesaid facts and circumstances, we confirm the conviction of A-1 but reduce his sentence from three and two years respectively to the minimum of one year for both the offences as prescribed under the Act. The judgment and order of the High Court as regards A-1 stands modified accordingly and his appeal is allowed in part.

23. The judgment and order of the Trial Court and the High Court insofar they convict A-2 are set aside. His appeal stands allowed.

..... J.
(PANKAJ MITHAL)

..... J.
(PRASANNA B. VARALE)

NEW DELHI;
AUGUST 12, 2025