

REPORTABLEIN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTIONCRIMINAL APPEAL NO. 2159 OF 2009

BABJI

...APPELLANT(S)

VERSUS

STATE OF ANDHRA PRADESH

...RESPONDENT(S)

J U D G M E N TR. BANUMATHI, J.

1. Being aggrieved by the conviction under Section 8 of the Prevention of Corruption Act, the appellant has preferred this appeal.

2. The case of the prosecution is that PW-4 Sumeet Asthana gave Ex.P1-complaint to Vigilance Officer, Indian Airlines, Hyderabad, stating that he had approached the Indian Airlines Office on 20.06.1995 for reservation of a seat in Flight I.C. No. 948 for his travel to Madras on 21.06.1995 but there was a long waiting list and that an employee of the Indian Airlines, whom he does not know, had told him contact Babji (A-1) of M/s Varun Movies at Srinagar Colony, Hyderabad. PW-4 had approached A-1 on 01.06.1995 and A1 told him that there was long waiting list but he can arrange a confirmed ticket and demanded Rs.2,100/- as against the actual fair of Rs. 1646/-. On receipt of the said complaint PW-1, the Manager, Vigilance, Indian

Airlines, Hyderabad, gave report Ex.P-2 to the Superintendent of Police, CBI Hyderabad stating that A-1 and A-2 are cheating the public.

3. Based on the evidence of PW-4 and PW-2 who accompanied PW-4, the Trial Court has convicted the appellant under Section 8 of the Prevention of Corruption Act (for short the 'Act') which was confirmed by the High Court.

4. We have heard Mr. P. Venkat Reddy, learned counsel appearing for the appellant as well as Mr. P.K. Dey, learned counsel appearing for the CBI.

5. In order to establish the offence under Section 8 of the Prevention of Corruption Act it must be proved:

(i) That the accused accepted or obtained, or agreed to accept, or attempted to obtain, from someone;

(ii) For himself or for some other person;

(ii) Any gratification whatever;

(iv) As a motive or reward for inducing by corrupt or illegal means any 'public servant' to do or forbear to do any official act or to show favour or render any service to any of the persons specified in the section.

6. In order to constitute an offence under Section 8 of the Act, three things are essential. In the first place there must have been the solicitation or receipt of the gratification. Secondly, such gratification must have been

asked for or paid as a motive or reward for inducing a public servant to do an act or do a favour or render some service as stated under Section 8 of the Act. In the present case, the evidence adduced by the prosecution is vague for whom the appellant had demanded the money and whether the person for whom the appellant demanded and received the money is a public servant. Though the receiver of the money, like in the present case may not be a public servant, the prosecution has to establish by convincing evidence that the amount must have been received for inducing a public servant for doing something by that public servant in his official capacity. So far as confirmation of the seat in the Indian Airlines, there may be persons in the middle who may be a public servant or a travel agency or others. In the absence of convincing evidence to show that the appellant had received the money from PW-4, to induce a public servant to get the confirmation of the ticket, the conviction of the appellant under Section 8 of the PC Act cannot be sustained. In the result the appeal is allowed and the appellant is acquitted.

The appellant is on bail. His bail bonds shall stand discharged.

.....J.
[R. BANUMATHI]

.....J.
[VINEET SARAN]