

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

Criminal Appeal No(s). 1580 OF 2011

KANNAN

Appellant(s)

VERSUS

STATE REP. BY INSPECTOR OF POLICE

Respondent(s)

WITH

Criminal Appeal No(s). 1581 OF 2011

M. NADIMUTHU

Appellant(s)

VERSUS

STATE OF TAMIL NADU

Respondent(s)

J U D G M E N T

BANUMATHI, J.:

(1) These appeals arise out of the conviction of the appellants under Sections 7 and 13(2) read with Section 13(1) (d) of the Prevention of Corruption Act, 1988 and the appellants were sentenced to undergo rigorous imprisonment for one year.

(2) A grocery shop under the name and style "Ambika Stores" was run by father of Sabapathy-(PW-2). On 19<sup>th</sup> October, 1994

Deputy Commercial Tax Officer (PW-4) along with accused no.1, M. Nadimuthu, who was then working as Assistant Commercial Tax Officer, inspected the grocery shop and seized the accounts book. Case of the prosecution is that PW-2 approached A-1 and asked for return of accounts book for which A-1 demanded bribe amount of Rs.2000/-. On 22<sup>nd</sup> October, 1994, PW-2 gave an application for registration and produced a challan for Rs.100/-. On 22<sup>nd</sup> November, 1994 PW-2 again went to the Office of the Deputy Commercial Tax Officers and asked A-1 to return of accounts book on which A-1 is said to have reiterated the demand for Rs.2000/-. On 30<sup>th</sup> November, 1994, PW-2 again approached A-1 who stated that the bribe amount of Rs.2000/- which was subsequently reduced to Rs.800/-, to be paid on 1<sup>st</sup> November, 1994 failing which the application for registration certificate would be rejected. On 1<sup>st</sup> November, 1994, PW-2 lodged a complaint before the Vigilance and Anti-Corruption Wing, based on which an F.I.R. was registered and trap was arranged. On the same day i.e. 1<sup>st</sup> November, 1994 PW-2 accompanied by PW-3 went to the office of A-1 where A-1 asked him whether he brought the money and when PW-2 stated that he brought the money, A-1 asked PW-2 to pay the money to A-2, Kannan, and directed A-2 to receive the money. Accordingly, PW-2 paid the bribe amount of Rs.800/- to A-2. PW-5 and the trap team went inside and after completion of the test with sodium carbonate solution turning red and other formalities arrested A-1 and A-2.

(3) The Trial Court convicted both accused under Section 7 and Section 13(2) and Section 13(1)(d) of the Prevention of Corruption Act and sentenced them to undergo rigorous imprisonment for two years. In appeal, the High Court maintained the conviction but reduced the sentence of imprisonment to one year.

(4) We have heard Ms. Malini Poduval and Mr. P.B. Suresh, learned counsel appearing for the appellants. Both learned counsel submitted that the evidence of PW-2 remains uncorroborated and that A-1 was not in receipt of money. So far as A-2 is concerned, it was submitted that there was no evidence to show that there was any demand by A-2 and therefore conviction of A-2 is not sustainable. Learned counsel have taken us through the depositions of the witnesses and the relevant portion of the judgment. We have considered the submissions and also perused the impugned judgment and the materials on record.

(5) So far as the demand and acceptance of the bribe amount by A-1 and A-2 are concerned, PW-2 has clearly stated about the demand and acceptance. PW-3, accompanying witness, though turned hostile, in his Chief-Examination clearly stated that he accompanied PW-2 who went and met A-1 and on the direction of A-1, PW-2 paid the money to A-2. To that extent, the evidence of PW-2 is corroborated by the evidence of PW-3. That apart, as submitted by Mr. M. Yogesh Kanna, learned counsel for the

respondent-State, the evidence of PW-6, the office assistant, also corroborates the version of PW-2. In his evidence PW-6 has stated that PW-2 went inside the room of A-1 and that A-1 told A-2 that PW-2 would give money and that A-2 must take and keep it with him. Accordingly, PW-2 gave money to A-2 who received the same. Thus the evidence of PW-2 is corroborated by the evidence of PW-6, the Office Assistant. Based on the evidence of PW-2 and test conducted in the sodium carbonate solution the Trial Court and the High Court had found the appellants-accused guilty of the offences. Having regard to the concurrent findings of the courts below, we do not find any good ground to take a different view.

(6) The appeals are accordingly dismissed.

(7) The appellants are to surrender to custody within a period of eight weeks to serve the remaining sentence failing which they shall be taken to custody.

(8) A copy of this order be sent to the concerned trial court for necessary action.

.....J.  
(R. BANUMATHI)

.....J.  
(INDIRA BANERJEE)

NEW DELHI,  
SEPTEMBER 12, 2018.