[2025] 8 S.C.R. 799 : 2025 INSC 980

Mini
v.
CBI/SPE Cochin

(Criminal Appeal No. 3514 of 2025)

13 August 2025

[Manoj Misra and Ujjal Bhuyan, JJ.]

Issue for Consideration

This appeal is by widow of the deceased convict against the judgment and order of the High Court whereby conviction of her husband, u/ss.7, 13(1)(d) r/w s.13(2) of the Prevention of Corruption Act, 1988, has been upheld.

Headnotes†

Prevention of Corruption Act, 1988 – ss.7, 13(1)(d) r/w s.13(2) – Accused was functioning as a lower division clerk in the Passport Office – Allegation against the accused that he required complainant to pay Rs.200 as gratification amount over and above the lawful amount of Rs.1000 – The Trial Court convicted the accused upon finding that lodging of complaint and delivery of tainted money was duly proved by the prosecution – The conviction of the accused was upheld by the High Court – Whether a benefit of doubt can be given to the accused:

Held: 1. In the instant case, the complainant-PW-1 has not supported demand and insofar as receipt of extra Rs.200 is concerned, there was no reliable evidence – Therefore, in view of this Court, this was a fit case where benefit of doubt had to be given to the accused. [Para 12]

2. In the case on hand, in paragraph 20 of the impugned judgment, the High Court has noticed the statement of PW-1 wherein he stated that he was misled by one person, who was employed in the CBI, that the accused was a corrupt person and even though several attempts were made by the CBI to trap him, they were not successful – That person sought assistance of PW1 to trap the officer – In view of this Court, when this was the statement of PW1 courts were required to be circumspect in evaluating the evidence – In such circumstances, when the complainant had not supported the prosecution case during trial regarding demand of bribe money, the trial court and the appellate court were required

to meticulously consider, particularly in the context of defense taken by the accused in his statement u/s.313 CRPC, whether the accused at the time of accepting the money was aware that it was in excess of the lawful fee payable for the passport – No other evidence was brought by the prosecution against the accused – It is the defense of the accused that he was not aware that there were two Rs.100 notes extra than what were to be deposited for the purposes of applying for a passport – In such circumstances, it was obligatory upon the Court to consider the defense of the accused seriously. [Para 11]

List of Acts

Prevention of Corruption Act, 1988.

List of Keywords

Corruption; Gratification amount; No reliable evidence; Complainant not supporting prosecution case; Consideration of defense of accused.

Case Arising From

CRIMINAL APPELLATE JURISDICTION: Criminal Appeal No. 3514 of 2025

From the Judgment and Order dated 14.01.2020 of the High Court of Kerala at Ernakulam in CRLA No. 1164 of 2010

Appearances for Parties

Advs. for the Appellant:
Adolf Mathew, Sanjay Jain.

Advs. for the Respondent:
Mrs. Sonia Mathur, Sr. Adv., Mukesh Kumar Maroria, Mrs. Vimla Sinha, Gautam Bharadwaj, Ishaan Sharma, Nikhil Chandra Jaiswal, Manasi Sridhar, Arvind Kumar Sharma.

Judgment / Order of the Supreme Court

Order

1. Leave granted.

2. Heard learned counsel for the parties.

3. This appeal is by widow of the deceased convict (Mohanachandran N.K.) against the judgment and order of the High Court of Kerala dated 14.01.2020 in Criminal Appeal No.1164/2010 whereby conviction of her husband (hereinafter referred to as the accused), under Sections 7, 13(1)(d) read with 13(2) of the Prevention of Corruption Act, 1988, has been upheld.

4. The prosecution case in a nutshell is that the accused was functioning as a lower division clerk in the Passport Office, Thiruvananthapuram. The original complainant (PW1) required a passport urgently. In that context, he contacted the accused. The accused required him to bring Rs.1,000/- towards passport fee and other necessary documents. Over and above the lawful amount of Rs.1000, accused demanded Rs.500 for processing the application expeditiously. On PW1's expression of his inability to pay gratification amount of Rs.500, the accused told PW1 that initially he may pay Rs.200/- and the balance may be paid after getting the passport. As per instructions, the amount of Rs.1200 (i.e., Rs.1000 towards Passport fee plus Rs.200 towards gratification) along with application form and documents were to be delivered at the residence of the accused on 16.06.2003. In the meantime, the complainant made a complaint to the Central Bureau of Investigation (for short "the CBI") which, after registering the complaint, laid a trap. In furtherance thereof, on 16.06.2003, at the residence of the accused, treated currency notes amounting to Rs.1200 were handed over to the accused and soon thereafter, he was apprehended, and his hand wash was collected.

5. During trial, PW1 (the original complainant) did not support the prosecution case as regards the demand of bribe. The Trial Court, however, convicted the accused upon finding that lodging of complaint and delivery of tainted money was duly proved by the prosecution. Aggrieved by his conviction, the accused filed an appeal which was dismissed by the impugned order.

6. The submission on behalf of the appellant is that the Courts below have not properly appreciated the evidence as well as the defense of the accused set up in his statement made under Section 313 of the Code of Criminal Procedure, 1973 (for short 'the CRPC'). It is submitted that under Section 313 the accused had explained the incriminating circumstances by stating that PW1 had approached him through an advocate for help in obtaining the passport. In that

context, the accused had decided to help him and on 16.06.2003 the complainant came to the house of the accused along with the prescribed fee of Rs.1000 and documents necessary for issuance of a passport. This was received and kept by the accused under the belief that it was prescribed fee amount only. At that time, accused was not aware that between two Rs.500 denomination currency notes there were two Rs.100 denomination currency notes. Thus, the defense taken by the accused was that the accused was unaware that the amount being given to him was more than the amount required to be deposited towards passport fee.

7. Additionally, it has been argued that once the demand is not proved, and Rs.1000 were in any case to be paid towards passport fee, the recovery of that amount by itself would not be incriminatory. In such circumstances, it was a fit case where the accused ought to have been acquitted and, in any event, given the benefit of doubt.

8. Per contra, on behalf of the CBI it has been argued that even if the complainant does not support the prosecution case, or turn hostile, during trial, if it is proved that the complainant had lodged a complaint complaining demand of bribe from him by the accused and, thereafter, money is received by the accused, conviction can be sustained by relying on circumstances that establish demand. It has been argued on behalf of the CBI that PW2, who is an independent witness, has proved that there was recovery of the tainted money from the accused. PW3 also corroborates the aforesaid fact, and both PW2 & PW3 have proved that the complaint was lodged by PW1. Therefore, even if PW1 turned hostile, insofar as demand is concerned, the demand stood proved. It is, therefore, submitted on behalf of the respondent(s) that as there are concurrent findings holding the accused guilty, the appeal of the appellant ought to be dismissed.

9. We have considered the submissions of the learned counsel for the parties and have perused the record carefully.

10. At the outset, we may observe that there can be no quarrel with the proposition that demand can be proved by circumstances even if the original complainant does not in so many words supports the prosecution case during trial.

11. However, in the case on hand, in paragraph 20 of the impugned judgment, the High Court has noticed the statement of PW-1 wherein

he stated that he was misled by one person, who was employed in the CBI, that the accused was a corrupt person and even though several attempts were made by the CBI to trap him, they were not successful. That person sought assistance of PW1 to trap the officer. In our view, when this was the statement of PW1 courts were required to be circumspect in evaluating the evidence. In that context, when we meticulously look at the evidence, we find that it is not in dispute that the prosecution case itself was that the amount provided to the accused included lawful charges payable towards passport fee. The lawful charges were Rs.1000 and the bribe money Rs.200. In such circumstances, when the complainant had not supported the prosecution case during trial regarding demand of bribe money, the trial court and the appellate court were required to meticulously consider, particularly in the context of defense taken by the accused in his statement under Section 313 CRPC, whether the accused at the time of accepting the money was aware that it was in excess of the lawful fee payable for the passport. Importantly, other than PW1, who was not wholly reliable, prosecution brought no evidence that when the money was accepted by the accused, he had counted the money or that the money was counted in front of the accused before handing it over to him. Notably, the defense of the accused is that there were two Rs.500 denomination currency notes and in between those two notes, two Rs.100 denomination currency notes were placed. It is his case that he was not aware that there were two Rs.100 notes extra than what were to be deposited for the purposes of applying for a passport. In such circumstances, in our view, it was obligatory upon the Court to consider the defense of the accused seriously.

12. It is well settled that statement of the accused explaining the incriminating circumstances is to be considered before recording conviction and where the explanation is plausible and appropriately explains the incriminating circumstances, it may be accepted. In the present case, we find that the complainant himself had approached the accused for seeking his help for a passport. Admittedly, out of Rs.1200 paid, Rs.1000 were towards passport fee and, therefore, was not bribe money. Demand for the bribe is not supported during trial. In such circumstances, the defense of the accused that he agreed to help the complainant because he was introduced by an advocate, and that he was not aware that Rs.200 has been added to Rs.1000, which was the lawful amount payable towards passport

fee, ought not to have been brushed aside. More so, because if the complainant had offered to the accused only the lawful fee payable for processing the passport, no offence was committed. To make out an offence there had to be cogent proof of demand. In the instant case, the complainant has not supported demand and insofar as receipt of extra Rs.200 is concerned, there was no reliable evidence. Further, there was defense of the accused that he was not aware about those extra Rs.200. Therefore, in our view, this was a fit case where benefit of doubt had to be given to the accused.

13. For the foregoing reasons, the appeal is allowed. The judgment and order(s) of the High Court and the trial court are set aside. The accused who is no more alive, shall be treated as acquitted of all the charges for which he has been tried.

14. Pending application(s), if any shall stand disposed of.

Result of the case: Appeal allowed.

†*Headnotes prepared by:* Ankit Gyan