APHC010570172008

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI **[3368]**
(Special Original Jurisdiction)

TUESDAY, THE FIFTH DAY OF MAY
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE B V L N CHAKRAVARTHI

CRIMINAL APPEAL No: 123/2008

Between:

1. Y. RAMACHANDRAPPA, S/O Y. ANJANAPPA, SERVICE, R/O ROLLA VILLAGE & MANDAL, ANANTHAPUR DISTRICT.

...APPELLANT

AND

1. THE STATE OF AP REP BY ITS SPL PP HYD FOR ACB, REP. BY ITS SPL. PUBLIC PROSECUTOR, FOR ACB., HIGH COURT OF A.P., AT HYDERABAD.

...RESPONDENT

Counsel for the Appellant:

1. A HARIPRASAD REDDY

Counsel for the Respondent:

1. S.SYAM SUNDER RAO SC cum Spl P.P. For ACB

The Court made the following:

APHC010444912008

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI **[3368]**
(Special Original Jurisdiction)

TUESDAY, THE FIFTH DAY OF MAY
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE B V L N CHAKRAVARTHI

CRIMINAL APPEAL No: 124/2008

Between:

1. B.SRINIVASULU, S/O B.RANGAPPA, HAMALI R/O GORANTLA, ANANTHAPUR DIST.

...APPELLANT

AND

1. THE STATE OF A P THRU ACB HYDERABAD, REP. BY THE SPL. PUBLIC PROSECUTOR FOR ACB CASES, HIGH COURT OF A.P., HYDERABAD.

...RESPONDENT

Counsel for the Appellant:

1. A HARIPRASAD REDDY

Counsel for the Respondent:

1. S.SYAM SUNDER RAO SC cum Spl P.P. For ACB

The Court made the following:

HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

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CRL.A.No.123 OF 2008

Between:

Y.Ramachandrappa, S/o.Y.Anjanappa,
Aged 49 years, Occ: Service,
R/o.Rolla Village and Mandal,
Ananthapur District. .... APPELLANT/A-1.

Versus

The State of Andhra Pradesh,
Rep. by Public Prosecutor,
Hyderabad. .... RESPONDENT

DATE OF ORAL COMMON

JUDGMENT PRONOUNCED : 05.05.2026

SUBMITTED FOR APPROVAL:

HON'BLE SRI JUSTICE B.V.L.N.CHAKRAVARTHI

1. Whether Reporters of Local Newspapers may be allowed to see the Judgment? Yes/No

2. Whether the copy of Judgment may be marked to Law Reporters/Journals? Yes/No

3. Whether His Lordship wish to see the fair copy of the Judgment? Yes/No

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JUSTICE B.V.L.N.CHAKRAVARTHI

HON'BLE SRI JUSTICE B.V.L.N.CHAKRAVARTHI

+ CRL.A.No.123 OF 2008

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The State of Andhra Pradesh,
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Hyderabad. …. RESPONDENT

! Counsel for the Appellant : Sri A.Hari Prasad Reddy

^ Counsel for the Respondent : Sri S.Syam Sunder Rao, Standing Counsel-cum-Spl.Public Prosecutor for Respondent/ACB.

< Gist:

> Head Note:

? Cases referred:

1. 2001(6) SCC 181

This Court made the following:

HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

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CRL.A.No.124 OF 2008

Between:

B.Srinivasulu, S/o.B.Rangappa,
Aged 30 years, Occ: Hamali,
R/o.Goratnla Village and Mandal,
Ananthapur District. …. APPELLANT/A-2.

Versus

The State of Andhra Pradesh,
Rep. by Public Prosecutor,
Hyderabad. …. RESPONDENT

DATE OF ORAL COMMON

JUDGMENT PRONOUNCED : 05.05.2026

SUBMITTED FOR APPROVAL:

HON'BLE SRI JUSTICE B.V.L.N.CHAKRAVARTHI

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JUSTICE B.V.L.N.CHAKRAVARTHI

HON'BLE SRI JUSTICE B.V.L.N.CHAKRAVARTHI

+ CRL.A.No.124 OF 2008

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 # Between:

B.Srinivasulu, S/o.B.Rangappa,
Aged 30 years, Occ: Hamali,
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Ananthapur District. …. APPELLANT/A-2.

Versus

The State of Andhra Pradesh,
Rep. by Public Prosecutor,
Hyderabad. …. RESPONDENT

! Counsel for the Appellant **:** Sri A.Hari Prasad Reddy

^ Counsel for the Respondent **:** Sri S.Syam Sunder Rao, Standing Counsel-cum-Spl.Public Prosecutor for Respondent/ACB.

< Gist:

> Head Note:

? Cases referred:

1. 2001(6) SCC 181

This Court made the following:

THE HONOURABLE SRI JUSTICE B.V.L.N. CHAKRAVARTHI

CRIMINAL APPEAL Nos.123 & 124 OF 2008

O R A L C O M M O N J U D G M E N T:

Criminal Appeal No.123 of 2008 is preferred by the appellant/Accused No.1, challenging the judgment dated **18.01.2008** in **C.C. No.4 of 2004** on the file of the learned Special Judge for SPE and ACB Cases, City Civil Courts at Hyderabad. The appellant was convicted for the offence under **Sections 7 and 13(1)(d) read with Section 13(2) of the Act, of the Prevention of Corruption Act, 1988** (for short, "the P.C.Act") and sentenced to undergo rigorous imprisonment for a period of one (1) year each and to pay a fine of Rs.2,000/- (Rupees Two Thousand only) each, in default of payment of fine, to undergo simple imprisonment for a period of six (6) months each, for the offence U/secs.7 and 13 (1)(d) r/w.13(2) of the P.C. Act, 1988.

2. **Criminal Appeal No.124 of 2008** is preferred by the appellant/Accused No.2, challenging the judgment dated **18.01.2008** in **C.C. No.4 of 2004** on the file of the learned Special Judge for SPE and ACB Cases, City Civil Courts at Hyderabad. The appellant was convicted for the offence U/s.**12 of the Prevention of Corruption Act, 1988** (for short, "the P.C.Act") and sentenced to undergo rigorous imprisonment for a period of six (6) months and to pay a fine of Rs.500/- (Rupees Five Hundred only), in default of payment of fine, to undergo simple imprisonment for a period of three (3) months.

CASE OF THE PROSECUTION:

3. The case of the prosecution is that A-1 worked as Government servant at relevant point in time. He worked as Stockiest at Mandal Level Stock Point, Gorantla, Ananthapur District, for supply of essential commodities to various fair price shops located in Gorantla and Chilamathur Mandals of Ananthapur District. A-2 is a private person.

4. P.W-1 is a contractor for transport of the essential commodities from Mandal Level Stock Point to fair price shops located in Gorantla and Chilamathur Mandals. P.W-1 transporting essential commodities from Mandal Level Stock Point to various fair price shops in Gorantla and Chilamathur Mandals for the month of October, 2002. He submitted bills claiming a sum of Rs.63,000/- towards transport charges for the month of October, 2002. A-1 being the Stockiest, shall process the bill and submit the same to Mandal Revenue Officer for further action. A-1 did not process the bill for 15 days.

5. On 26.11.2002 at 11.00 a.m. P.W-1 came to A-1 at his house in Gorantla village. P.W-1 requested A-1 to process the bills vide Exs.P-1 to P-6. A-1 made demand for a sum of Rs.6,000/- towards gratification, other than legal remuneration to process the bills. On the request of P.W-1, he reduced it to Rs.5,000/-. He asked P.W-1 to pay the amount on 27.11.2002. P.W-1 was not willing to pay the amount. He presented a report (Ex.P-7) to the Deputy

Superintendent of Police, ACB (P.W-5) at Ananthapur, on 26.11.2002 at 10-00 a.m. Inspector of Police, ACB, Ananthapur(P.W-6) recorded Ex.P-7 statement of P.W-1. Later, P.W-5 after making preliminary enquiries, registered Ex.P-7 as a case in Cr.No.15/RCT-ATP/2002 vide Ex.P-15 FIR at 06-00 p.m. on 26.11.2002 and submitted FIR to the Special Court at Hyderabad through a Special Messenger immediately.

6. P.W-5 took up investigation, he asked P.W-1 and mediators i.e., P.W-2 and another to attend ACB Office at 04-00 a.m. on 27.11.2002. Accordingly, they attended ACB Office at Ananthapur. P.W-5 conducted pre-trap proceedings at ACB Office vide Ex.P-8. Thereafter, P.W-1, P.W-5 and mediators' proceedings to Gorantla village. As instructed, P.W-1 visited the house of A-1 at about 07-30 a.m. A-1 asked P.W-1 about the money. Therefore, P.W-1 paid the money to A-2, who is present by the side of A-1 in the house, as per the instructions of A-1. P.W-1 informed ACB Officials waiting outside the house. P.W-5, mediators and ACB staff entered into the house of A-1. They noticed A-1 and A-2 in the house.

7. P.W-5 disclosed his identity and verified the details of A-1 and A-2, conducted Sodium Carbonate Test on A-1 and A-2. The right-hand fingers of A-2 yielded positive result. P.W-5 questioned A-2 about receipt of money. He confessed that as per instructions of A-1, he received amount from P.W-1. P.W-5 questioned the accused (A-1) also and recorded statement of A-1 and A-2 in the

post trap proceedings, seized M.O-7 cash from the possession of A-2. A-1 furnished Ex.P-12 records relating to work order and Hamali register. P.W-5 conducted search at the house and office of A-1 vide Ex.P-13 and Ex.P-17 search list. On the same day, he recorded statement of P.W-1. The post trap proceedings were recorded vide Ex.P-12. Subsequently, investigation was handed over to P.W-6.

8. P.W-6 conducted further investigation, submitted representation for sanction order to prosecute A-1 and received Ex.P-14 G.O.Ms.No.1214 dated 09.11.2006 according sanction for prosecution A-1. Therefore, laid charge sheet against A-1 and A-2 before the Special Court at Hyderabad.

9. The learned Special Court charged Accused No.1 for the offence under Sections 7 and 13(1)(d) read with Section 13(2) of the P.C.Act, 1988. A-2 was charged for the offence U/s.12 of the P.C.Act, 1988. A-1 and A-2 denied the charges and claimed to be tried.

EVIDENCE FOR THE PROSECUTION:

10. The prosecution to substantiate the charge, examined P.Ws-1 to 6 and got marked Exs.P-1 to P-17, apart from M.Os-1 to 10 during their evidence.

11. The accused were examined U/s.313 Cr.P.C. regarding the incriminating circumstances appearing against them from the evidence for the prosecution. They denied the same as not true and correct.

12. D.Ws-1 to 3 were examined for the defence. Exs.D-1 and D-2 and Exs.X-1 to X-5 were marked during their evidence.

FINDING OF THE SPECIAL COURT:

13. The Special Court on consideration of the above evidence, convicted,A-1 for the offence U/secs.7 and 13(1)(d) read with Section 13(2) of the P.C.Act, 1988, and A-2 for the offence U/s.12 of the P.C.Act, 1988, as stated above.

14. Therefore, Criminal Appeal No.123 of 2008 preferred by A-1, and Criminal Appeal No.124 of 2008 preferred by A-2, challenging the judgment of the trial Court. Both the appeals are disposed of by the common judgment.

15. Heard Sri A.Hariprasad Reddy, learned counsel for the appellants in both appeals and Sri S.Syam Sunder Rao, learned Special Public Prosecutor-cum-Standing Counsel for respondent/ACB.

16. The point that arises for consideration in these Criminal Appeals is as under:

"Whether the judgment of the Special Court is not sustainable in law"?

ANALYSIS:

17. The learned counsel for the appellants raised two main aspects during arguments, apart from other contentions. One is regarding registration of FIR i.e., facts on record would disclose that FIR was registered on 27.11.2002 i.e.,

subsequent to alleged trap proceedings in the case. Therefore, Ex.P-15 FIR is not valid, steps taken in the investigation are illegal. Hence, any conviction basing on such illegal proceedings are not sustainable in law.

18. The second contention is that the evidence on record would probable the plea of the defense that the amount was paid towards hire charges of the lorries negotiated to transport the essential commodities. Therefore, no amount was recovered from the possession of A-1, even as per the case of the prosecution. Hence, conviction of the appellants for the offence U/secs.13 (1)(d) r/w 13(2) of P.C.Act and Section 12 of the P.C.Act, 1988, not sustainable in law.

19. The specific case of the prosecution is that P.W-1 came to office of P.W-5 at about 10-00 a.m. on 26.11.2002 and made oral complaint to P.W-5 that A-1 made demand for bribe to do official favor made that on 26.11.2002 at 08-00 a.m. A-1 made demand for bribe to pass Exs.P-1 to P-6 bills. Thereafter, P.W-6 recorded the oral statement of P.W-1 into writing vide Ex.P-7 at 10-00 a.m. Thereafter, P.W-5 conducted preliminary enquiry about the report of P.W-1, satisfied about its truth, obtained permission of higher authorities as per the procedure. Then, registered Ex.P-7 report as a case vide Ex.P-15 FIR at 06-00 p.m. on 26.11.2002. Immediately, forwarded Ex.P-15 to the Special Court at Hyderabad through a Special Messenger.

20. The evidence of P.W-1 would disclose that he went to office of P.W-5 located at Ananthapur at 04-00 p.m. on 26.11.2002, whereas, P.W-5 and P.W-6 would say that P.W-1 came to their office at 10.00 a.m. and reported against A-1. Then, it was reduced into writing under Ex.P-7 by P.W-6.

21. The evidence of P.W-1 would show that the house of A-1 was located at Gorantla Village. ACB Office is located at Ananthapur Town. The distance between Gorantla Village and Ananthapur is about 110 KMs. P.W-1 deposed that he went to the house of A-1 at about 08-00 a.m. on 26.11.2002 at Gorantla Village. Then, A-1 made demand for bribe. P.W-1 is not willing to pay the bribe amount. Therefore, he went to ACB Office at 04-00 p.m. Hence, at any rate, it is very difficult for P.W-1 to reach the office of P.W-5 by 10-00 a.m. on 26.11.2002, he has to travel about 110 KMs of way from Gorantla Village to Ananthapur Town. Surprisingly, P.Ws-5 and 6 would say that P.W-1 came to their office at 10-00 a.m. and Ex.P-7, recorded basing on the oral report of P.W-1.

22. P.W-5 further deposed that he asked P.W-1 to come at 04-00 a.m. on the next day. Therefore, according to P.W-5, P.W-1 did not come to their office in the evening of 26.11.2002. He came to the office at 04-00 p.m. on 27.11.2002. Therefore, the evidence of P.W-1 and P.W-5 are inconsistent, diagonally opposite about the time when P.W-1 visited the office of P.W-5 and Ex.P-7 was recorded by P.W-6. The contention of the defense is that, Ex.P-7 and other

records were prepared on the evening of 27.11.2002 in the office of P.W-5 according to their convenience.

23. P.W-1 in the cross-examination, deposed that on 26.11.2002 he was there in the office of Deputy Superintendent of Police till 05-00 p.m. and he stayed at Ananthapur on the night of 26.11.2002 in a lodge. Here, it is pertinent to note down that no document is placed on record to corroborate the statement of P.W-1 that he stayed at Ananthapur on the night of 26.11.2002 in the lodge. P.W-1 categorically admitted that on 27.11.2002 he signed on his statement. This admission points towards Ex.P-7. Further, he also admitted that the Deputy Superintendent of Police, mediators signed on the documents, which are prepared on 27.11.2002 at 04-30 p.m. in the office of DSP, ACB. This categorical admission of P.W-1 would establish that, Ex.P-7 and other documents i.e., pre and post trap proceedings etc., prepared at 04-30 p.m. on 27.11.2002 in the office of DSP, ACB at Ananthapur.

24. The above conclusion is fortified by two other aspects. Ex.P-15 contains signature of P.W-5, as the officer who registered the FIR. It contains a date below signature of P.W-5 as on 27.11.2002. It shows that Ex.P-15 was prepared on 27.11.2002 only, not at 06-00 p.m. on 26.11.2002.

25. P.W-5 in the cross-examination admitted that nothing is mentioned on Exs.P-7 and P-8 pre trap proceedings, Ex.P-12 post trap proceedings or in the

case diary that, preliminary enquiry has been made after 10-00 a.m. on 26.11.2002. Further, Ex.P-15 and mediator reports mentioned above would show that they were received by the Special Court on 28.11.2002 at 10-20 a.m. So, they would show that they were received by the Special Court on same time. P.W-5 deposed that he registered Ex.P-15 FIR at 06.00 p.m. on 26.11.2002 and immediately forwarded the same to the Special Court through a Special Messenger. If it is true, it would reach the Special Court on 27.11.2002. It will not reach on 28.11.2002 along with Ex.P-8 and Ex.P-12 proceedings conducted on 27.11.2002. Therefore, all the circumstances would lead the Court to conclude that, Ex.P-7, Ex.P-15, Ex.P-8 and Ex.P-12 proceedings were prepared at 04-30 p.m. in the office of P.W-5 at Ananthapur. Therefore, P.W-1 deposed accordingly as to how he signed on all the documents at 04-30 p.m. in the office of P.W-5 on 27.11.2002. In those circumstances only, P.W-5 put the date on Ex.P-15 as 27.11.2002, unknowingly, as he put the date on the other documents also as 27.11.2002. But the truth came into light during trial of the case showing that Ex.P-7 and Ex.P-15 came into existence after conclusion of investigation i.e., trap proceedings.

26. The facts and circumstances of the case justified the contention of the defense i.e., appellants that Ex.P-7 and Ex.P-15 FIR came into existence subsequent to alleged trap proceedings. Therefore, Ex.P-15 was not registered in accordance with section 154 Cr.P.C. Hence, Ex.P-7 statement of P.W-1

recorded after commencement of investigation is hit by section 162 Cr.P.C. Hence, the proceedings based on said documents would become illegal. Any conviction based on illegal proceedings is not sustainable in law. In that view of the matter, conviction recorded by the trial Court is not sustainable in law, as the same is based on illegal proceedings mentioned above.

27. The second contention is regarding nature of amount received by A-2 on the instructions of A-1.

28. The case of the prosecution is that the trap proceedings under Ex.P-12 were conducted at 08-00 p.m. on 27.11.2002. P.W-1 acted as decoy witness for the trap proceedings. He visited the house of A-1. At that time, A-1 demanded him to pay the bribe. Then, on the instructions of A-1, the amount was received by A-2. Later, trap team led by P.W-5, mediator/P.W-2 and others came, seized M.O-7 cash from the possession of A-2 under the cover of Ex.P-12 proceedings prepared there. During the proceedings, A-1 and A-2 confessed about the demand of bribe and payment of amount by P.W-1 and receipt of amount by A-2. As already mentioned above, the evidence of P.W-1 established that all the proceedings including Ex.P-12 proceedings were prepared at the office of P.W-5 at 04-30 p.m. on 27.11.2002. Thereafter, P.W-1 signed on the documents, as requested by P.W-5. The evidence of P.W-1 would caste a serious doubt about the truth of happenings occurred at the house of A-1 on 27.11.2002. P.W-5 tried to project as if Ex.P-12 proceedings recorded contemporaneously at the time of

happenings. Whereas the evidence of P.W-1 would establish that they are not contemporaneous proceedings. They were prepared at a later time in the office of ACB at Ananthapur.

29. The defense plea is that P.W-1 is a transport contractor having agreement with the Civil Supplies Department to supply essential commodities to various fair price shops located in Gorantla and Chilamathur Mandals in Ananthapur District, collecting essential commodities from the godown located at Gorantla Village. The evidence of P.W-1 would show that he is having only one lorry, but he has to undertake 120 trips in a month, covering about 120 KMs around to transport the essential commodities. Therefore, A-1 used to hire some more vehicles on behalf of P.W-1 to reach the target and collecting the hire amount from P.W-1 to pay the same to the owners of the hired vehicles. P.W-1 admitted in the evidence that A-1 hired some vehicles to transport the commodities to Gorantla and Chilamathur Mandals, as he could not transport the commodities. He also admitted that lorries have to make 120 trips in one month and he hired some vehicles to transport the commodities to various places in the above two mandals. He also admitted that one vehicle is not sufficient to transport all the material under various schemes. He made a categorical admission that in the Stock Review Register the number of vehicles hired for transporting the food grains will be noted. They hired 4 or 5 vehicles per day in the month of October, 2002 for transporting food grains. Exs.P-1 to P-6 bills covered 98% of the trips

transport in the month of October, 2002. He also deposed that Exs.P-1 to P-6 do not show that he hired some vehicles. He submitted the bills, as if he transported the food grains through his lorry only, even though, he hired some lorries for transporting the food grains. Therefore, the evidence of P.W-1 would show that 4 or 5 lorries were engaged in October, 2002 apart from the lorry of P.W-1 to transport the essential commodities to reach the target. It also established that Exs.P-1 to P-6 are prepared by P.W-1 as if he alone transported the goods, though he engaged some other lorries.

30. The trial Court rejected the contention of the defense solely on the ground that Exs.P-1 to P-6 does not disclose the numbers of the other lorries, in-spite of P.W-1's admission mentioned above.

31. It is pertinent to note down that the evidence of D.Ws-1 and 2 i.e., owners of other lorries bearing Nos.ATA 2466 and ADD 1795 respectively, show that they transported food grains on behalf of P.W-1. P.W-1 in the cross-examination categorically admitted that the above said two lorries transported the food grains on his behalf and D.Ws-1 and 2 are the owners of the said lorries. In-spite of the same, the trial Court rejected the plea of the defense on the ground that D.Ws-1 and 2 are the setup witnesses by the accused. The said finding is not based on facts. It is a perverse finding.

32. The evidence of D.Ws-1 and 2 would probable that they transported food grains in the month of October, 2002, on behalf of P.W-1. But transport charges were not paid by P.W-1. Then, they asked they approached accused for payment. They promised to arrange payment from P.W-1.

33. D.W-3 is an employee of Civil Supplies Department. Exs.X-1 to X-5 were produced by him. Ex.X-1 is movement register for movement of the commodities. Ex.X-2 is also a movement register for supply of sugar and rice. Ex.X-3 is issue register of stock to the point at Gorantla village. He deposed that as per entries of the said registers, there is a movement of the commodities on 26.11.2002 and the stock in the lorries will be unloaded on the next day at about 06-00 or 07-00 a.m. in the morning.

34. It is the specific case of A-1 that he was at stock godown on 27.11.2002 during morning hours to supervise the unloading of the commodities. Therefore, there was no occasion for P.W-1 to come to the house of A-1 on 27.11.2002 during morning hours and to pay the amount to A-2 in his presence. But, the Investigation Officer and P.W-1 changed the version to suite the case of the prosecution, as if the amount was paid to A-2 on the instructions of A-1, though it relates to hire charges. Accordingly, the entire proceedings in Ex.P-12 and FIR were conveniently prepared on the evening of 27.11.2002 at ACB office at Ananthapur.

35. The above evidence would probable that P.W-1 own only one vehicle. He could not deliver goods as per the target fixed by the Department. Therefore, for the reasons best known to P.W-1, vehicles of others i.e., D.W-1, D.W-2 and others were engaged to complete the target. P.W-1 shall pay amount to the owners of the hired vehicles. In October, 2002 also vehicles of D.Ws-1 and 2 and others were engaged as established from the evidence of P.W-1, D.W-1, D.W-2 and D.W-3 and Exs.X-1 to X-5. All these circumstances would probable, the defense plea that amount paid to A-2, was hire payable to the vehicles engaged to transport the essential commodities in that month.

36. The trial Court made an attempt to say that A-1 might have arranged A-2 to receive amount suspecting some trap. The opinion of the trial Court is contrary to the facts mentioned above. If really, A-1 suspects P.W-1 may approach ACB, he will never ask A-2 to receive the amount, at his house. The facts and circumstances would probable the plea of defense that amount relates to hire. In those circumstances, the finding of the trial Court that A-2 received the amount towards bribe amount is not sustainable on facts. Hence, the conviction of A-1 and A-2 is not sustainable.

37. The Hon'ble Apex Court in the case of **T.T.Antony Vs. State of Kerala and Others**[1], observed that "*an information given under Sub-section(1) of Section 154 Cr.P.C. is commonly known as the first information report (FIR)*

[1]**2001(6) SCC 181**

though this term is not used in the Code. It is a very important document. And as its nickname suggests it is the earliest and the first information of a cognizable offence recorded by an officer in charge of a police station. It sets the criminal law in motion and marks the commencement of the investigation which ends up with the formation of opinion under Section 169 or 170 Cr.P.C., as the case may be, and forwarding of a police report under Section 173 Cr.P.C. It is quite possible and it happens not infrequently that more than one piece of information is given to a police officer in charge of a police station in respect of the same incident involving one or more than one cognizable offences. In such a case he need not enter every one of them in the station house diary and this is implied in section 154 Cr.P.C. Apart from a vague information by a phone call or a cryptic telegram, the information first entered in the station house diary, kept for this purpose, by a police officer in charge of a police station is the first information report. FIR postulated by section 154 Cr.P.C."

38. The Hon'ble Apex Court in the above judgment further observed that "*All other information's made orally or in writing after the commencement of the investigation into the cognizable offence disclosed from the facts mentioned in the first information report and entered in the station house diary by the police officer or such other cognizable offences as may come to his notice during the investigation, will be statements falling under Section 162 Cr.P.C. No such information/statement can properly be treated as an FIR and entered in the*

station house diary again, as it would in effect be a second FIR and the same cannot be in conformity with the scheme of Cr.P.C."

39. The Hon'ble Apex Court also observed that "*A just balance between the fundamental rights of the citizens under Articles 19 and 21 of the Constitution and the expansive power of the police to investigate a cognizable offence has to be struck by the Court. The sweeping power of investigation does not warrant subjecting a citizen each time to fresh investigation by the police in respect of the same incident, giving rise to one or more cognizable offences, consequent upon filing of successive FIRs whether before or after filing the final report under Section 173(2) Cr.P.C. It would clearly be beyond the purview of section 154 and 156 Cr.P.C., nay, a case of abuse of the statutory power of investigation in a given case. A case of fresh investigation based on the second or successive FIRs, not being a counter-case, filed in connection with the same or connected cognizable offence alleged to have been committed in the course of the same transaction and in respect of which pursuant to the first FIR either investigation is under way or final report under Section 173(2) has been forwarded to the Magistrate, may be a fit case for exercise of power under Section 482 Cr.P.C. or under Articles 226/227 of the Constitution. Where the police transgresses its statutory power of investigation, the High Court under Section 482 Cr.P.C. or Articles 226/227 of the Constitution and the Supreme Court in an appropriate*

case can interdict the investigation to prevent abuse of the process of the Court or otherwise to secure the ends of justice."

40. In the case on hand, as discussed above, the facts would establish that P.W-1 did not visit P.W-5 at 10-00 a.m. on 26.11.2002. P.W-1 visited P.W-5 in the evening of 26.11.2002. The evidence would also show that Ex.P-7 and EX.P-15 were signed by P.W-1 on 27.11.2002 at 04-30 p.m. after trap proceedings. Therefore, Ex.P-15 along with Ex.P-7 was received by the Special Court on 28.11.2002 at about 10.20 a.m. along with Ex.P-8 and Ex.P-12 proceedings. Therefore, Ex.P-15 was not in accordance with section 154 Cr.P.C. Ex.P-7 was recorded subsequent to commencement of investigation. It will fall U/s.162 Cr.P.C. It cannot be treated as an FIR, though, P.W-5 tried to project it as an FIR registered at 10-00 a.m. on 26.11.2002. He transgressed and abused power of investigation, preparing proceedings at his office. What is generally known as table investigation. Therefore, undoubtedly FIR in the case is hit by section 162 Cr.P.C. Investigation based on it, abridge the rights of the accused under Articles 19 and 21 of the Constitution. Hence, any conviction based on such proceedings is not sustainable in law. The trail Court lost sight of these aspects. It's finding was based on surmises which are not based on evidence. It ignored material evidence. Hence, it led to travesty of the justice.

CONCLUSION:

41. In the light of the foregoing discussion, Criminal Appeal Nos.123 of 2008 and 124 of 2008 be allowed, setting aside the judgment dated 18.01.2008 in C.C.No.4 of 2004 on the file of the Special Judge for SPE and ACB Cases, City Civil Courts at Hyderabad.

RESULT:

42. In the result, Criminal Appeal No.123 of 2008 filed by the appellant/A-1 is allowed. The order of conviction under Sections 7 and 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988, recorded by the learned Special Court, is set aside. The appellant/A-1 is acquitted for the offence under Sections 7 and 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988. The fine amount, if any, paid by the appellant/A-1 shall be refunded to him in accordance with law.

43. Criminal Appeal No.124 of 2008 filed by the appellant/A-2 is also allowed. The order of conviction under Section 12 of the Prevention of Corruption Act, 1988, recorded by the learned Special Court, is set aside. The appellant/A-2 is acquitted for the offence under Section 12 of the Prevention of Corruption Act, 1988. The fine amount, if any, paid by the appellant/A-2 shall be refunded to him in accordance with law. The bail bonds of the appellants/A-1 and A-2 shall stand cancelled.

44. This common judgment shall be certified to the learned Special Court, as per Section 405 Cr.P.C.

As a sequel thereto, interlocutory applications, if any, pending in these Criminal Appeals shall stand closed.

JUSTICE B.V.L.N. CHAKRAVARTHI.

05.05.2026

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THE HONOURABLE SRI JUSTICE B.V.L.N. CHAKRAVARTHI

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CRIMINAL APPEAL Nos:123 & 124 OF 2008

Date: 05.05.2026

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