

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

Criminal Appeal No.1864/2013

P.I. BABU

...Appellant(s)

VERSUS

C.B.I.

...Respondent(s)

O R D E R

1. The instant appeal is directed against the impugned Judgment passed by the High Court of Kerala at Ernakulam on 25-5-2011 in Criminal Appeal No.1900/2004, whereby the said Court has allowed the said appeal filed by the Central Bureau of Investigation and convicted the appellant - original accused for the offence punishable under Section 13(2) of the Prevention of Corruption Act, 1988 (hereinafter, referred to as "PC, Act") as also for the offences punishable under Sections 409, 465, 467 and 471 of the Indian Penal Code (hereafter referred to as "IPC"). The appellant has been sentenced to undergo rigorous imprisonment for a period of one year for each of the said offences and directed to pay a fine of Rs.50,000/- for the offences under Section 13 (2) read with Section 13(1)(c) and Section 13(1)(d) of the PC, Act.
2. Heard learned Senior counsel, Mr. R. Basant, for the

appellant and Mr. Vikaramjit Banerjee, learned Additional Solicitor General for the CBI at length.

3. Having considered the submissions made by learned Senior counsel for the appellant and learned Additional Solicitor General for the CBI, more particularly the impugned Judgment passed by the Special Judge, (SPE-CBI) II, Ernakalam in C.C.No.27 of 1998 dated 27-11-1999, it appears that the Special Court had raised the following 4 points for consideration in the said Judgment: -

1. Whether there is proper and valid sanction to initiate prosecution as against accused, as enjoined in Section 19 of Prevention of Corruption Act, 1988?

2. Whether the accused is guilty of the offences punishable under Sections 409, 465, 467, 47 IPC or Section 13 (1) (c) or Section 13 (1) (d) of Prevention of Corruption Act, 1988?

3. Whether the accused is liable to be convicted for the above offence or any of them?

4. Regarding sentence?

4. The Special Court thereafter answered Point No.1 in favour of the appellant - accused by holding that there was no reliable evidence from the prosecution side to show that there was a valid sanction under Section 19 of the PC, Act. Thereafter, the Sessions Judge who though discussed Point Nos. 2 to 4, did not record specific findings on the said points, and held as under: -

"The testimony of PW 11 GEQD coupled with that of PW

14 and PW 15 would go to show that the purported signatures of loanee in the concerned documents are forged by him. So, the materials on record gives the impression that loanee Mathew is a fictitious person, that in arranging a loan in such name accused committed forgery, used forged documents as genuine, committed criminal breach of trust and criminal misconduct as provided in Section 13 (1) of the Prevention of Corruption Act. Though such inferences can be drawn on the materials on record, the accused cannot be formally found guilty and he cannot be convicted in the absence of proper sanction under Section 19 of the Prevention of Corruption Act. Hence, on this technical ground, prosecution has to fail and the accused is to be acquitted. Points found accordingly."

5. The Special Court acquitted the appellant - accused accordingly from the charges levelled against him.
6. Being aggrieved by the said Judgment and Order passed by the Special Court, the respondent - Central Bureau of Investigation preferred an appeal being CRLA No.1900/2004 before the High Court.
7. The High Court vide the impugned Judgment and Order held the appellant - accused guilty for the offences charged against him and convicted and sentenced as stated hereinabove.
8. After having considered the submissions made by learned Senior counsel for the appellant and learned Additional Solicitor General for the CBI, we are of the considered

opinion that since the Special Court has failed to record any specific findings on the Point Nos.2 to 4 on merits and acquitted the appellant only on the ground that the sanction obtained by the prosecution was not valid, the Special Court has committed an error. The Sessions Court could not have acquitted the accused only on the ground of alleged invalid sanction, without recording its findings on all the issues involved.

9. The High Court convicted the appellant - accused on merits without having the findings of the Sessions Court on record on the point nos. 2 to 4.
10. Under the circumstances, without expressing any opinion on the merits of the case, we set aside the impugned Judgments and Orders passed by the High Court as well as the Special Court, and remand the matter to the Special Court with a direction to decide the case afresh and on merits, and record its findings on each of the issues involved. It is clarified that no further evidence shall be permitted to be laid before the Special Court, and the case shall be decided by the Special Court as expeditiously as possible and preferably within a period of two months from the date of receipt of a copy of this Order. It is further directed that neither parties shall ask for any adjournment on the date fixed by the Special Court, except under exceptional circumstances.
11. The appeal stands disposed of accordingly.

12. It is needless to say that both the parties shall be at liberty to raise all the contentions as may be permitted under the law, on the evidence and material already on record before the Special Court.

13. The Registry is directed to send back the records to the Special Court forthwith.

.....J
(BELA M. TRIVEDI)

.....J
(K.V. VISWANATHAN)

NEW DELHI;
18TH JANUARY, 2024.

ITEM NO.101

COURT NO.14

SECTION II-B

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G SCriminal Appeal No.1864/2013

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VERSUS

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Date : 18-01-2024 This appeal was called on for hearing today.

CORAM :

HON'BLE MS. JUSTICE BELA M. TRIVEDI
HON'BLE MR. JUSTICE K.V. VISWANATHAN

For Appellant(s)

Mr. R. Basant, Sr. Adv.
Mr. Roy Abraham, Adv.
Ms. Reena Roy, Adv.
Mr. Aditya Roy, Adv.
Ms. Anju Kanodiya, Adv.
Mr. Himinder Lal, AOR

For Respondent(s)

Mr. Vikramjit Banerjee, A.S.G.
Mr. Siddharth Sinha, Adv.
Mr. Praneet Pranav, Adv.
Mr. Santosh Kumar, Adv.
Mr. T A Khan, Adv.
Mr. Sridhar Potaraju, Adv.
Mr. Arvind Kumar Sharma, Adv.
Mr. Mukesh Kumar Maroria, AORUPON hearing the counsel the Court made the following
O R D E R

The appeal stands disposed of, in terms of the signed order.

(VISHAL ANAND)
ASTT. REGISTRAR-cum-PS(MAMTA RAWAT)
COURT MASTER (NSH)**(Signed Order is placed on the file)**