IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NOS. 100101 OF 2021
[Arising out of S.L.P.(Crl.)Nos.47294730 of 2020]

N.Vijayakumar .....Appellant

Versus

State of Tamil Nadu .....Respondent

JUDGMENT

R. Subhash Reddy, J.

1. Leave granted.

2. The sole accused in Special Calendar Case No.49 of 2011 on the file of Special Court for Trial of Prevention of Corruption Act Cases, Madurai, has filed these appeals, aggrieved by the conviction recorded vide judgment dated 28.08.2020 and 22.09.2020 and sentence imposed vide order dated 15.09.2020 and 29.09.2020 by the Signature Not Verified MEENAKSHI KOHLI Date: 2021.02.03 Madurai Bench of the Madras High Court under Sections 7 and 13(2) Digitally signed by 16:28:36 IST Reason:

Crl.A.@S.L.P.(Crl.)Nos.4729-30 of 2020 read with 13(1)(d) of the Prevention of Corruption Act, 1988 (for short, 'the Act').

3. The appellant accused was working as Sanitary Inspector in 8th Ward of Madurai Municipal Corporation. He was chargesheeted for the offence under Sections 7, 13(2) read with 13(1)(d) of the Act alleging that he demanded an amount of Rs.500/ and a cell phone as illegal gratification from PW2 (Thiru. D. Gopal), who was working as Supervisor in a Voluntary Service Organisation called Neat And Clean Service Squad (NACSS), which was given sanitation work on contract basis in Ward No.8 of Madurai Corporation. It was the case of the prosecution that to send his report for extension of work beyond the period of March 2003, when PW2 has approached him on 09 th and 10th of October 2003, such a demand was made, as such appellant being a public servant demanded and accepted illegal gratification on 10th of October 2003 as a motive or reward to do an official act in exercise of his official function and thereby he has committed misconduct which is punishable under Sections 7, 13(2) and 13(1)(d) of the Act. On denial of charge, charges were framed against him for the aforesaid offences and he has pleaded not guilty. Therefore, he was tried before the Special Court for the aforesaid alleged offences. During the trial, on prosecution side, 12 witnesses were examined, i.e. Crl.A.@S.L.P.(Crl.)Nos.4729-30 of 2020 PW1 to PW12; and 17 exhibits –

Ex.P1 to P.17 and M.O.1 to M.O.4. have been marked. No defence witness was examined and Ex.D1 to D3 were marked during the cross examination of PW6.

4. By considering the oral and documentary evidence on record, trial court, by judgment dated 25.02.2014, acquitted the appellant. Aggrieved by the judgment of the Special Court, State has preferred Criminal Appeal (MD) No.6 of 2015 before the Madurai Bench of Madras High Court. The Madurai Bench of Madras High Court, by impugned judgment and orders, has reversed the acquittal, and convicted the appellant for the offences under Section 7, 13(2) and 13(1)(d) of the Act and imposed the sentence of rigorous imprisonment for one year and imposed the penalty of Rs.5000/. Aggrieved by the conviction recorded and sentence imposed by the impugned judgments and orders passed by the High Court, accused is before this Court in these appeals.

5. We have heard Sri S. Nagamuthu, learned senior counsel appearing for the appellant and learned counsel for the State of Tamil Nadu.

6. Sri Nagamuthu, learned senior counsel appearing for the appellant, by taking us to the evidence and other material on record, has submitted that, the well reasoned judgment of the trial court, Crl.A.@S.L.P.(Crl.)Nos.4729-30 of 2020 which was rendered by appreciating oral and documentary evidence on record, is reversed by the High Court without recording valid and cogent reasons. By relying on a judgment of this Court in the case of Murugesan & Ors. v. State through Inspector of Police (2012) 10 SCC 383, mainly it is contended that the finding recorded by the trial court is a "possible view" having regard to evidence on record and even if other view is possible, same is no ground to reverse the acquittal and to convict the accused. By referring to findings recorded by the trial court, it is strenuously argued that the view taken by the trial court is a "possible view" and without recording any contra finding to the same, the High Court has convicted the appellant. It is submitted that there is no finding recorded by the High Court anywhere in the judgment that the view taken by the trial court is not a "possible view". It is submitted that in view of the material contradictions, the trial court has disbelieved the testimony of PW2, 3 and 5 by recording valid reasons, but the High Court, without assigning any reasons, has believed these witnesses. It is submitted that even if the High Court was of the view that PW2, 3 and 5 can be believed, unless it is held that the view taken by the trial court disbelieving these witnesses is not a "possible view", High Court ought not have interfered with the judgment of acquittal recorded by the trial Crl.A.@S.L.P.(Crl.)Nos.4729-30 of 2020 court. It is also submitted that having regard to reasons recorded, findings recorded by the trial court cannot be said to be either erroneous or unreasonable. By further referring to the oral evidence on record, it is submitted that there are material contradictions in the testimony of crucial witnesses, and without noticing the same the High Court has convicted the appellant and imposed the sentence. Further it is submitted that initially by judgment dated 28.08.2020, High Court has recorded the conviction of the appellant, only for the offence under Section 13(2) read with 13(1)(d) of the Act and imposed the sentence of one year imprisonment and to pay a fine of Rs.5000/ vide order dated 15.09.2020. However, thereafter again the appeal was listed under the caption "For being mentioned" on its own by the Court on 22.09.2020 and convicted the appellant for the offence under Section 7 of the Act also and by further

order dated 29.09.2020 imposed the sentence of one year rigorous imprisonment for the offence under Section 7 of the Act. It is submitted that the said judgment of conviction rendered on 22.09.2020 and the order of sentence dated 29.09.2020 is in violation of Section 362 of the Code of Criminal Procedure. It is submitted that once the judgment is rendered and conviction is recorded it was not open either to list the matter for being mentioned or to convict the appellant for the offence Crl.A.@S.L.P.(Crl.)Nos.4729-30 of 2020 under Section 7 of the Act also. Lastly it is submitted that the judgment in this case was reserved on 17.12.2019 and the same was pronounced after a period of more than six months, i.e., on 28.08.2020 as such same is in violation of guidelines contained in the judgment of this Court in the case of Anil Rai etc. v. State of Bihar (2001) 7 SCC 318.

7. On the other hand, Sri M. Yogesh Kanna, learned counsel appearing for the respondent State has submitted that from the evidence of PW2, 3, 5 and PW11 it is clearly proved that on 10.10.2003, the appellant accused has demanded and accepted Rs.500/ and a mobile phone as bribe to process the application of PW2 for the extension of contract. It is submitted that inspite of cogent and valid evidence on record, the trial court has acquitted the appellant, and same is rightly reversed by the High Court, as such there are no grounds to interfere with the same. It is further submitted that in terms of the amended prayer, the appellant has questioned only the judgment dated 22.09.2020 and the order imposing sentence on 29.09.2020, as such, there is no challenge to the conviction recorded and sentence imposed for the offence under Section 13(2) and 13(1)(d) of the Act. It is submitted that by noticing the minor contradictions, the trial court has acquitted the appellant, Crl.A.@S.L.P.(Crl.)Nos.4729-30 of 2020 as such, the view taken by the trial court was not a “possible view”, and the appellant is rightly convicted by the High Court and there are no grounds to interfere with the same.

8. Having heard the learned counsels on both sides, we have carefully perused the impugned judgments and the judgment of acquittal rendered by the Special Court and other oral and documentary evidence on record.

9. In these appeals, it is to be noticed that PW2 is the key witness, and was the complainant. He was working as a Supervisor in a Voluntary Service called NACSS which was awarded sanitation work on contract basis for Ward No.8 of Madurai Municipal Corporation. The sanctioning authority, who sanctioned to prosecute the appellant was examined as PW1 and the complainant Thiru D. Gopal was examined as PW2. It is evident from the deposition of PW2, 3, 5 and 11 that they reached the office of the accused at 05:30 p.m. on 10.10.2003, and at that point of time the accused was not found in the seat and they have waited for him, and appellant has come to the office at 05:45 p.m. on his bike and took his seat. PW2, in his deposition has stated that when he met the appellant accused along with other witnesses, Sri Shanmugavel and Sri Ravi Kumaran appellant has made a demand for Rs.500/ and cell phone. He has Crl.A.@S.L.P.(Crl.)Nos.4729-30 of 2020 stated that in view of such demand he has handed over the powder coated currency notes and cell phone which were received by the accused and kept in the left side drawer of the table. The official witness Thiru Shanmugavel is examined as PW3. He also stated in his deposition, that when they reached the office of the accused, accused was not in the seat. Therefore, they have

waited and accused arrived in the office at 05:45 p.m. PW2 in his deposition has clearly stated that he met the accused earlier several times and again when he met on 09.10.2003 along with PW5, the appellant accused has demanded for Rs.500/ and a cell phone as illegal gratification. In the cross examination PW2, has admitted that he never saw the accused earlier and the appellant has made a demand when he met firstly on 09.10.2003. It is also clearly deposed by PW2 in the cross examination that he was ill treated by the accused several times earlier as he belonged to scheduled caste community. From his deposition it is clear that there were ill feelings between the appellant and the PW2. It is also clear from the evidence, after handing over currency and cell phone, he along with other witnesses who have accompanied him they came out of the office and signalled to the inspector. PW2 also admitted in the cross examination that he was not having any details regarding the purchase of M.O.2 cell phone. It Crl.A.@S.L.P.(Crl.)Nos.4729-30 of 2020 is also clear from the evidence that though the trap was at about 05:45 p.m., phenolphthalein test was conducted only at 07:00 p.m. There is absolutely no evidence to show that why such inordinate delay occurred from 05:45 p.m. to 07:00 p.m. The office of the Town Assistant Health Officer and other officials of the department is also near to the office of the appellant. PW3 in clear terms, has deposed that only on demand of anti-corruption officials, the accused had taken and produced the money and cell phone, which was in the drawer of the table. The Circle Health Inspector of Madurai Corporation, who was examined as PW4 has deposed in the cross examination that he had no idea what was going on before he reached the office and he has also deposed that he was not aware about Rs.500/ and cell phone, by whom and when it was kept. He, too has deposed in the cross examination that only on the direction of the inspector the appellant accused has taken out the money and the cell phone. The deposition of Mr. Ravikumaran who was examined as PW 5 is also in similar lines. Another key witness on behalf of the prosecution is PW11, i.e., the Deputy Superintendent of Police, Bodinayakkanur Sub-Division, who was working as the Deputy Superintendent of Police, Vigilance and Anti-corruption Wing, Madurai during the relevant time. He also in his deposition has Crl.A.@S.L.P.(Crl.)Nos.4729-30 of 2020 clearly stated that the appellant accused was tested with the prepared Sodium Carbonate Solution at 19:00 hrs. It is clear from the deposition of all the witnesses, i.e., PW2, 3, 5 and 11 that trap was at about 05:45 p.m. and the hands of the appellant were tested only at 07:00 p.m. Further in the cross-examination, PW11 has clearly stated that when they were monitoring the place of occurrence for about one hour and during that period many persons came in and out of the office of the appellant. Added to the same, admittedly, after completion of the phenolphthalein test, statement of the appellant was not recorded as required under Rule 47 Clause 1 of the Vigilance Manual. Further PW11 also clearly deposed in the cross-examination that he did not test the hands of the appellant accused immediately after payment and handing over of the money and cell phone. Further PW4 and PW11 both have stated in their evidence that, only when TLO has asked the bribe amount and cell phone, the accused produced the same by taking out from the left side drawer of his table. It is fairly well settled that mere recovery of tainted money, divorced from the circumstances under which such money and article is found is not sufficient to convict the accused when the substantive evidence in the case is not reliable. In view of the material contradictions as Crl.A.@S.L.P.(Crl.)Nos.4729-30 of 2020 noticed above in the deposition of key witnesses, the benefit of doubt has to go to the accused appellant.

10. Mainly it is contended by Sri Nagamuthu, learned senior counsel appearing for the appellant that the view taken by the trial court is a "possible view", having regard to evidence on record. It is submitted that the trial court has recorded cogent and valid reasons in support of its findings for acquittal. Under Section 378, Cr.PC, no differentiation is made between an appeal against acquittal and the appeal against conviction. By considering the long line of earlier cases this Court in the judgment in the case of Chandrappa & Ors. v. State of Karnataka (2007) 4 SCC 415 has laid down the general principles regarding the powers of the appellate court while dealing with an appeal against an order of acquittal. Para 42 of the judgment which is relevant reads as under :

"42. From the above decisions, in our considered view, the following general principles regarding powers of the appellate court while dealing with an appeal against an order of acquittal emerge :
(1) An appellate court has full power to review, reappreciate and reconsider the evidence upon which the order of acquittal is founded.
(2) The Code of Criminal Procedure, 1973 puts no limitation, restriction or condition on exercise Crl.A.@S.L.P.(Crl.)Nos.4729-30 of 2020 of such power and an appellate court on the evidence before it may reach its own conclusion, both on questions of fact and of law.
(3) Various expressions, such as, "substantial and compelling reasons", "good and sufficient grounds", "very strong circumstances", "distorted conclusions", "glaring mistakes", etc. are not intended to curtail extensive powers of an appellate court in an appeal against acquittal. Such phraseologies are more in the nature of "flourishes of language" to emphasise the reluctance of an appellate court to interfere with acquittal than to curtail the power of the court to review the evidence and to come to its own conclusion.
(4) An appellate court, however, must bear in mind that in case of acquittal, there is double presumption in favour of the accused. Firstly, the presumption of innocence is available to him under the fundamental principle of criminal jurisprudence that every person shall be presumed to be innocent unless he is proved guilty by a competent court of law. Secondly, the accused having secured his acquittal, the presumption of his innocence is further reinforced, reaffirmed and strengthened by the trial court.

(5) If two reasonable conclusions are possible on the basis of the evidence on record, the appellate court should not disturb the finding of acquittal recorded by the trial court." Further in the judgment in the case of Murugesan (supra) relied on by the learned senior counsel for the appellant, this Court has Crl.A.@S.L.P.(Crl.)Nos.4729-30 of 2020 considered the powers of the High Court in an appeal against acquittal recorded by the trial court. In the said judgment, it is categorically held by this Court that only in cases where conclusion recorded by the trial court is not a possible view, then only High Court can interfere and reverse the acquittal to that of conviction. In the said judgment, distinction from that of "possible view" to "erroneous view" or "wrong view" is explained. In clear terms, this Court has held that if the view taken by the trial court is a "possible view", High Court not to reverse the acquittal to that of the conviction. The relevant paragraphs in this regard where meaning and implication of "possible view"

distinguishing from “erroneous view” and “wrong view” is discussed are paragraphs 32 to 35 of the judgment, which read as under :

“32. In the above facts can it be said that the view taken by the trial court is not a possible view? If the answer is in the affirmative, the jurisdiction of the High Court to interfere with the acquittal of the appellantaccused, on the principles of law referred to earlier, ought not to have been exercised. In other words, the reversal of the acquittal could have been made by the High Court only if the conclusions recorded by the learned trial court did not reflect a possible view. It must be emphasised that the inhibition to interfere must be perceived only in a situation where the view taken by the trial court is not a possible view. The use of the expression “possible view” Crl.A.@S.L.P.(Crl.)Nos.4729-30 of 2020 is conscious and not without good reasons. The said expression is in contradistinction to expressions such as “erroneous view” or “wrong view” which, at first blush, may seem to convey a similar meaning though a fine and subtle difference would be clearly discernible.
33. The expressions “erroneous”, “wrong” and “possible” are defined in Oxford English Dictionary in the following terms:
“erroneous.— wrong; incorrect.
wrong.—(1) not correct or true, mistaken.
(2) unjust, dishonest, or immoral.
possible.—(1) capable of existing, happening, or being achieved.
(2) that may exist or happen, but that is not certain or probable.”
34. It will be necessary for us to emphasise that a possible view denotes an opinion which can exist or be formed irrespective of the correctness or otherwise of such an opinion. A view taken by a court lower in the hierarchical structure may be termed as erroneous or wrong by a superior court upon a mere disagreement.

But such a conclusion of the higher court would not take the view rendered by the subordinate court outside the arena of a possible view. The correctness or otherwise of any conclusion reached by a court has to be tested on the basis of what the superior judicial authority perceives to be the correct conclusion. A possible view, on the other hand, denotes a conclusion which can reasonably be arrived at regardless of the fact where it is agreed upon or not by the higher court. The fundamental distinction between the two situations have to be kept in mind. So long as the view taken by the trial court can be reasonably formed, regardless of whether the High Court agrees with the same or not, the Crl.A.@S.L.P.(Crl.)Nos.4729-30 of 2020 view taken by the trial court cannot be interdicted and that of the High Court supplanted over and above the view of the trial court.

35. A consideration on the basis on which the learned trial court had founded its order of acquittal in the present case clearly reflects a possible view. There may, however, be disagreement on the correctness of the same. But that is not the test. So long as the view taken is not impossible to be arrived at and reasons therefor, relatable to the evidence and materials on record, are disclosed any further scrutiny in exercise of the power under Section 378 CrPC was not called for.” Further, in the case of Hakeem Khan & Ors. v. State of Madhya Pradesh (2017) 5 SCC 719 this Court has considered powers of

appellate court for interference in cases where acquittal is recorded by trial court. In the said judgment it is held that if the "possible view" of the trial court is not agreeable for the High Court, even then such "possible view" recorded by the trial court cannot be interdicted. It is further held that so long as the view of trial court can be reasonably formed, regardless of whether the High Court agrees with the same or not, verdict of trial court cannot be interdicted and the High court cannot supplant over the view of the trial court. Paragraph 9 of the judgment reads as under :

Crl.A.@S.L.P.(Crl.)Nos.4729-30 of 2020 "9. Having heard the learned counsel for the parties, we are of the view that the trial court's judgment is more than just a possible view for arriving at the conclusion of acquittal, and that it would not be safe to convict seventeen persons accused of the crime of murder i.e. under Section 302 read with Section 149 of the Penal Code. The most important reason of the trial court, as has been stated above, was that, given the time of 6.30 p.m. to 7.00 p.m. of a winter evening, it would be dark, and, therefore, identification of seventeen persons would be extremely difficult. This reason, coupled with the fact that the only independent witness turned hostile, and two other eyewitnesses who were independent were not examined, would certainly create a large hole in the prosecution story. Apart from this, the very fact that there were injuries on three of the accused party, two of them being deep injuries in the skull, would lead to the conclusion that nothing was premeditated and there was, in all probability, a scuffle that led to injuries on both sides. While the learned counsel for the respondent may be right in stating that the trial court went overboard in stating that the complainant party was the aggressor, but the trial court's ultimate conclusion leading to an acquittal is certainly a possible view on the facts of this case. This is coupled with the fact that the presence of the kingpin Sarpanch is itself doubtful in view of the fact that he attended the Court at some distance and arrived by bus after the incident took place."

11. By applying the above said principles and the evidence on record in the case on hand, we are of the considered view that having regard to material contradictions which we have already noticed above and also as referred to in the trial court judgment, it can be said that acquittal is a "possible view". By applying the ratio as laid down by Crl.A.@S.L.P.(Crl.)Nos.4729-30 of 2020 this Court in the judgments which are stated supra, even assuming another view is possible, same is no ground to interfere with the judgment of acquittal and to convict the appellant for the offence alleged. From the evidence, it is clear that when the Inspecting Officer and other witnesses who are examined on behalf of the prosecution, went to the office of the appellantaccused, appellant was not there in the office and office was open and people were moving out and in from the office of the appellant. It is also clear from the evidence of PW3, 5 and 11 that the currency and cell phone were taken out from the drawer of the table by the appellant at their instance. There is also no reason, when the tainted notes and the cell phone were given to the appellant at 05:45 p.m. no recordings were made and the appellant was not tested by PW11 till 07:00 p.m. There are material contradictions in the deposition of PW2 and it is clear from his deposition that he has developed animosity against the appellant and he himself has stated in the crossexamination that he was insulted earlier as he belonged to scheduled caste. Further there is no answer from PW11 to conduct the phenolphthalein test after about an hour from handing over tainted notes and cell phone.

The trial court has disbelieved PW2, 3 and 5 by recording several valid and cogent reasons, but the High Court, without appreciating evidence in proper Crl.A.@S.L.P.(Crl.)Nos.4729-30 of 2020 perspective, has reversed the view taken by the trial court. Further, the High Court also has not recorded any finding whether the view taken by the trial court is a "possible view" or not, having regard to the evidence on record. Though the High Court was of the view that PW2, 3 and 5 can be believed, unless it is held that the view taken by the trial court disbelieving the witnesses is not a possible view, the High Court ought not have interfered with the acquittal recorded by the trial court. In view of the material contradictions, the prosecution has not proved the case beyond reasonable doubt to convict the appellant.

12. It is equally well settled that mere recovery by itself cannot prove the charge of the prosecution against the accused. Reference can be made to the judgments of this Court in the case of C.M. Girish Babu v. CBI, Cochin, High Court of Kerala (2009) 3 SCC 779 and in the case of B. Jayaraj v. State of Andhra Pradesh (2014) 13 SCC 55. In the aforesaid judgments of this Court while considering the case under Sections 7, 13(1)(d)(i) and (ii) of the Prevention of Corruption Act, 1988 it is reiterated that to prove the charge, it has to be proved beyond reasonable doubt that accused voluntarily accepted money knowing it to be bribe. Absence of proof of demand for illegal Crl.A.@S.L.P.(Crl.)Nos.4729-30 of 2020 gratification and mere possession or recovery of currency notes is not sufficient to constitute such offence. In the said judgments it is also held that even the presumption under Section 20 of the Act can be drawn only after demand for and acceptance of illegal gratification is proved. It is also fairly well settled that initial presumption of innocence in the criminal jurisprudence gets doubled by acquittal recorded by the trial court. The relevant paragraphs 7, 8 and 9 of the judgment in the case of B. Jayaraj (supra) read as under :

"7. Insofar as the offence under Section 7 is concerned, it is a settled position in law that demand of illegal gratification is sine qua non to constitute the said offence and mere recovery of currency notes cannot constitute the offence under Section 7 unless it is proved beyond all reasonable doubt that the accused voluntarily accepted the money knowing it to be a bribe. The above position has been succinctly laid down in several judgments of this Court. By way of illustration reference may be made to the decision in C.M. Sharma v. State of A.P. [(2010) 15 SCC 1 : (2013) 2 SCC (Cri) 89] and C.M. Girish Babu v. CBI [(2009) 3 SCC 779 : (2009) 2 SCC (Cri) 1] .

8. In the present case, the complainant did not support the prosecution case insofar as demand by the accused is concerned. The prosecution has not examined any other witness, present at the time when the money was allegedly handed over to the accused by the complainant, to prove that the same was pursuant Crl.A.@S.L.P.(Crl.)Nos.4729-30 of 2020 to any demand made by the accused. When the complainant himself had disowned what he had stated in the initial complaint (Ext. P11) before LW 9, and there is no other evidence to prove that the accused had made any demand, the evidence of PW 1 and the contents of Ext. P11 cannot be relied upon to come to the conclusion that the above material furnishes proof of the demand allegedly made by the accused. We are, therefore, inclined to hold that the learned trial court as well as the High Court was not correct in

holding the demand alleged to be made by the accused as proved. The only other material available is the recovery of the tainted currency notes from the possession of the accused. In fact such possession is admitted by the accused himself. Mere possession and recovery of the currency notes from the accused without proof of demand will not bring home the offence under Section

7. The above also will be conclusive insofar as the offence under Sections 13(1)(d)(i) and (ii) is concerned as in the absence of any proof of demand for illegal gratification, the use of corrupt or illegal means or abuse of position as a public servant to obtain any valuable thing or pecuniary advantage cannot be held to be established.

9. Insofar as the presumption permissible to be drawn under Section 20 of the Act is concerned, such presumption can only be in respect of the offence under Section 7 and not the offences under Sections 13(1)(d)(i) and (ii) of the Act. In any event, it is only on proof of acceptance of illegal gratification that presumption can be drawn under Section 20 of the Act that such gratification was received for doing or forbearing to do any official act. Proof of acceptance of illegal gratification can follow only if there is proof of demand. Crl.A.@S.L.P.(Crl.)Nos.4729-30 of 2020 As the same is lacking in the present case the primary facts on the basis of which the legal presumption under Section 20 can be drawn are wholly absent." The above said view taken by this Court, fully supports the case of the appellant. In view of the contradictions noticed by us above in the depositions of key witnesses examined on behalf of the prosecution, we are of the view that the demand for and acceptance of bribe amount and cell phone by the appellant, is not proved beyond reasonable doubt. Having regard to such evidence on record the acquittal recorded by the trial court is a "possible view" as such the judgment of the High Court is fit to be set aside. Before recording conviction under the provisions of Prevention of Corruption Act, courts have to take utmost care in scanning the evidence. Once conviction is recorded under provisions of Prevention of Corruption Act, it casts a social stigma on the person in the society apart from serious consequences on the service rendered. At the same time it is also to be noted that whether the view taken by the trial court is a possible view or not, there cannot be any definite proposition and each case has to be judged on its own merits, having regard to evidence on record.

13. Learned counsel for the appellant has also submitted that the judgment and conviction for the offence under Section 7 of the Act dated 22.09.2020 and 29.09.2020 is contrary to Section 362 of Cr.PC. As we are in agreement with the case of the appellant on merits it is not necessary to decide such issue. The learned counsel for the State has submitted that as per the amended copy of the memo, the appellant has challenged only judgment/order dated 22.09.2020 and 29.09.2020 and there is no challenge to the earlier judgment of conviction dated 28.08.2020 and the order of sentence dated 15.09.2020, but at the same time it is to be noticed when the judgment is subsequently rendered on 22.09.2020 for the offence under Section 7 of the Act and further sentence is also imposed vide order dated 29.09.2020, the appellant had filed interlocutory application seeking amendment and the same was allowed by this Court. In that view of the matter, merely because in the amended memo the appellant has not mentioned about the judgment dated 28.08.2020 and the order dated 15.09.2020, same is no ground to reject

the appeals on such technicality. Further the judgments relied by the learned counsel for the State also are of no assistance in support of his case to sustain the conviction recorded by the High Court.

14. For the reasons stated supra, these appeals are allowed and the impugned judgments of conviction dated 28.08.2020 and 22.09.2020 and orders imposing sentence dated 15.09.2020 and 29.09.2020 are hereby set aside. The appellant be released forthwith from the custody, unless otherwise his custody is required in connection with any other case.

[Ashok Bhushan] ……J.

[R. Subhash Reddy] ……J.

[M.R. Shah] ……J.

New Delhi, February 03, 2021