

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO.199 OF 2006

**STATE OF ANDHRA PRADESH
THROUGH CBI**

...APPELLANT

VERSUS

M. DURGA PRASAD & ORS.

...RESPONDENTS

ORDER

1. Altogether eight persons were put on trial for commission of the offences punishable under Section 120B and 465 of the Indian Penal Code and Section 13(1)(d)(ii) read with Section 13(2) of the Prevention of Corruption Act. Special Judge for Central Bureau of Investigation cases by its judgment dated 19th January, 1998 passed in C.C. No.8 of 1995 acquitted accused No.5, M. Laila Kumari and accused No.7, A. Nageshwara Rao while holding other accused persons guilty of the charges levelled against them. Aggrieved by their conviction A1, G. Venkateswarlu; A2, M. Durga Prasad; A3, T. Hanumantha Rao; A4, M. Chakrapani; A6, K. Pulla Reddy and

A8 P. Siva Rama Prasad preferred separate appeals. All the appeals were heard together and by a common judgment dated 14th August, 2003 the Andhra Pradesh High Court acquitted them of all the charges.

2. Aggrieved by their acquittal the appellant has preferred this appeal with the leave of the Court.

3. According to the prosecution accused No.3, T. Hanumantha Rao- respondent No.6 herein was a contractor doing civil contracts. He entered into a conspiracy with E. Subhash and Sheik Bhasha, who later on were declared as approver and examined as PW.1 and PW.2, to cheat the Income Tax Department and in furtherance of their plan in collusion with accused No.1, G. Venkateswarlu-respondent No.5 herein who was working as Income Tax Officer, filed bogus Income Tax Returns in the names of fictitious persons and claimed Income Tax refunds. Case of the prosecution further is that accused No.6, K. Pulla Reddy and accused No.8, P. Siva Rama Prasad that is respondent No.3 and respondent No.2 herein respectively introduced accused No.3, T. Hanumantha Rao to

open Savings Bank Accounts with Syndicate Bank, Union Bank of India, State Bank of India and Vysya Bank and thus facilitated accused No.3 to impersonate these fictitious persons to encash the refund orders. Further case of the prosecution is that accused No.2, M. Durga Prasad and accused No.4, M. Chakrapani – respondent No.1 and respondent 4 herein respectively dishonestly helped accused No.3 in getting credited the amounts in the names of the different fictitious persons and thus facilitated him to withdraw the funds on various dates from the Syndicate Bank. Prosecution has further alleged that accused No.1, G. Venkateswarlu who was working as Income Tax Officer knowing fully well that the Income Tax Returns were filed in the names of the fictitious persons, dishonestly and fraudulently processed and sanctioned the refund to a tune of Rs.3,92,552/-.

4. It is relevant here to state that accused No.1, G. Venkateswarlu - respondent No.5, the Income Tax Officer who had sanctioned refund of the amount had died during the pendency of the appeal and as such this appeal so far as it

concerns him had abated. The trial court on appreciation of evidence convicted the respondents as above but on appeal the High Court had acquitted all the accused persons.

5. While acquitting accused No.2, M. Durga Prasad the High Court observed that only evidence against him is that the specimen signature card of one Grunja Venkateswarlu was filed by him and excepting that there is no other evidence to establish the complicity of this accused and only on the ground that he signed the introductory application he cannot be held guilty.

6. So far as accused No.3, T. Hanumantha Rao is concerned, the trial court had convicted him relying on the evidence of PW.1 and PW.2 who were his accomplice and later on turned approvers. On appreciation of the evidence of the aforesaid witnesses the High Court found that they are not worthy of reliance and accordingly acquitted him of the charge.

7. So far as accused No.4, M. Chakrapani is concerned the High Court observed that he being a clerk in the Syndicate

Bank the act done by him in assisting the accounts holders to fill up the forms does not lead to the conclusion that he conspired to commit the crime and accordingly he was acquitted.

8. So far as accused No.6, K. Pulla Reddy and accused No.8, P. Siva Rama Reddy are concerned, the High Court observed that according to the prosecution itself they assisted in the opening of the accounts in the year 1986 whereas the offence has been committed in the year 1989. Such a remote act in the absence of any further material brought by the prosecution it led the High Court to observe that these two accused persons cannot be held to have conspired in commission of the crime and accordingly acquitted them.

9. Mr. A. Mariarputham, learned Senior Counsel appears on behalf of the Central Bureau of Investigation, whereas respondents have been represented by Mr. A.T.M. Rangaramanujam, learned Senior Counsel, Mr. Roy Abraham, Mr. Chandan Kumar and Mr. R. Santhana Krishnan, learned Counsel.

10. It is well settled that this Court interferes with an order of acquittal only when it comes to the conclusion that the view taken by the High Court while acquitting the accused is not a possible view. The reasons for acquittal of the respondents given by the High Court have been incorporated in the preceding paragraphs of this judgment and on perusal thereof it cannot be said that the view taken by the High Court is not a possible view. Mr. Mariarputham, learned Senior Counsel for the appellant has not been able to point out any reason from which it can be inferred that the view taken by the High Court is in any way perverse. Once it is held so the order of acquittal does not need any interference at our hands.

11. In the result, we do not find any merit in the appeal and it is dismissed accordingly.

.....J.
(**HARJIT SINGH BEDI**)

.....J.
(**CHANDRAMAULI KR. PRASAD**)

**NEW DELHI,
FEBRUARY 03, 2011.**

