

K. Pounammal Vs. State represented by Inspector of Police

Criminal Appeal No. 1716 of 2011 · Supreme Court of India · 2025-08-21 · N.V. Anjaria · Atul S. Chandurkar · F2J-C-1585

Full judgment text

K. Pounammal Vs. State represented by Inspector of Police

[Criminal Appeal No. 1716 of 2011]

N.V. Anjaria, J.

1. Heard learned counsel Mr. M. A. Chinnasamy for the appellant and learned counsel Mr. Mukesh Kumar Maroria for the respondent-State.

2. This criminal appeal by the appellant-convict is directed against judgment and order dated 4th August, 2010 of the Madras High Court, Madurai Bench, in Criminal Appeal No. 1750 of 2003, whereby the High Court confirmed judgment and order delivered by the Special Judge, Central Bureau of Investigation (for short "CBI"), Madurai in Criminal Case No. 2 of 2003 dated 5th November, 2003, convicting the appellant for the offences under Section 7, Section 13(2) read section 13(1)(d) of the Prevention of Corruption Act, 1988 and sentencing her to undergo rigorous imprisonment for 6 months and with fine of ₹1000/- with default clause in respect of the offence under Section 7, to undergo rigorous imprisonment for one year and with fine of ₹ 1000/- with default clause for the offence under Section 13(2) read with Section 13(1)(d) of the said Act.

3. The appellant had been serving as an Inspector of Central Excise. The complainant (PW-2) who was a supervisor at Parani Match Factory at Sengamalapatti of Sivakasi Taluka, made an application for grant of fresh central excise registration certificate for its factory. The application was to be dealt within the Thiruthangal - II Range which was under the jurisdiction of the appellant-accused. It was the case of the prosecution that on 16.09.2002 the appellant demanded illegal gratification of a sum of ₹300/-. The complainant did not pay the bribe amount although was pressurised and threatened. For want of payment of said amount by the complainant, delayed release of the certificate. It led to lodging of the complaint on 21.09.2002.

3.1 The Competent Authority - Commissioner of Central Excise and Customs (PW-1), Thiruthangal - II Range granted sanction to prosecute the appellant on 26.03.2003. The charge-sheet came to be filed on 07.05.2003. At the end of the trial, Special Judge, CBI convicted and sentenced the appellant as above, which was upheld by the High Court.

3.2 While recording the conviction and sentence against the appellant, the trial court as well as the High Court concurrently held that the essential elements of demand and payment were proved against the appellant to constitute and establish the offence under the Prevention of Corruption Act, 1988. From the depositions of the complainant (PW-2), accused (PW-3), and the Officer (PW-4) as well as from documentary evidence [Ex. P-2 and P-4], the offence was established. The brother of the complainant (PW-3) saw the accused accepting ₹300/- under the file. It was recorded that the information regarding the demand made by the accused was conveyed to the CBI office at Chennai.

3.3 The aspect of result of sodium carbonate phenolphthalein test was also noticed and it was a clear finding recorded that when the sodium carbonate test was conducted on the right and left hands of the appellant-accused, the result was positive. When the accused was asked to dip her hands, it turned into pink colour. The defence case of non-probability of accused having demanded the money was not accepted in light of the outweighing evidence in that regard. The High Court endorsed to the view taken by the trial court.

4. In course of hearing today, learned advocate for the appellant stated before the Court upon instructions from the appellant that he gives up the challenge to the conviction recorded against the appellant and that confines the appeal in respect of the sentence part only. He requested the court for reduction of the sentence to further submit that the period of sentence already undergone may be treated as adequate sentence while maintaining the conviction. He submitted that the complaint was

filed as back as on 23.09.2002 and 23 years have passed by since the occurrence of the incident where appellant-lady was alleged to have asked for the illegal gratification of ₹300/-.

5. In *M.W. Mohiuddin vs. State of Maharashtra*, [(1995) 3 SCC 567] this Court maintained the conviction of the appellant for the offences under Section 13(1)(d) read with Section 13(2) and Section 7 of the Prevention of Corruption Act, however in the final analysis, reduced the sentence noticing that the offence had taken place in the year 1981.

The Court observed, "All these years the appellant has undergone the agony of criminal proceedings uptil now and he has also lost his job and has a large family to support. It is also stated that he has become sick and infirm. He has been in jail for some time. For all these special reasons, while confirming the conviction of the appellant, we reduce the sentence of imprisonment to the period already undergone. However, we confirm the sentence of fine with default clause."

(Para 10)

5.1 Similarly, in *Bechaarbhai S. Prajapati v. State of Gujarat*, [(2008) 11 SCC 163] it was a Police Sub-Inspector who demanded money for allowing a luxury bus carrying marriage party to go to the destination. In that case also, both the trial court and the High Court held that the demand and acceptance of bribe money were proved and the tainted currency notes were recovered from the appellant.

However, the alternative submissions on behalf of the appellant was accepted by the court that the sentence would operate harsh as the occurrence took place nearly 7 years back. Noticing that the appellant had suffered custody for more than six months and taking into account all the other relevant aspects, the Court took the view that justice would be best served if the sentence was reduced to the period already undergone, while maintaining the conviction. The appeal was accordingly dismissed by modifying the sentence.

5.2 *Gulmahmad Abdulla Dall vs. State of Gujarat*, [(2015) 15 SCC 506] is yet another precedent. This Court in the facts of the case before it reduced the substantive sentence and enhanced the fine or compensation. While doing so, following pertinent observations were made, "The incident, in question, took place as back as on 29-6-1987. Almost 27 years have passed by. All these years, the appellants must have suffered tremendous mental trauma and anguish.

The appellants have lost their jobs and all retiral benefits. The appellant Jujarsinh is, as of today, about 76 years old. We are informed by the learned counsel for the appellant Gulmahmad Abdulla Dall that Gulmahmad is suffering from gangrene and has undergone surgery. Both the appellants are in jail. We are informed by the learned counsel for the appellants that the appellants have undergone about more than two months' imprisonment."

(Para 5)

5.3 This Court has been consistent in approaching and dealing with the cases where the sentence already undergone by the convict is treated to be adequate sentence for variety of mitigating factors and circumstances operating in the case.

5.4 The accused in *B.G. Goswami v. Delhi Admn.* [(1974) 3 SCC 85], was convicted for the offence under the Prevention of Corruption Act, 1988. The Court observed that the main purpose of the sentence, broadly stated, is that the accused must realise that he has committed an act which is harmful not only to the society of which he forms an integral part but is also harmful to his own future, both as an individual and as a member of the society. It is the design to protect the society by deterring potential offenders as also by preventing the guilty party from repeating the offence. It was stated that reformatory aspect is also relevant and the offender should be reclaimed as law abiding citizen.

5.5 In *Dologovinda Mohanty vs. State of Orissa* [(1979) 4 SCC 557], this Court took into account of ₹138/- alleged to have been received by accused as illegal gratification, while confirming the conviction to reduce the sentence. In the same way, in *State of Maharashtra v. Rashid B. Mulani* [(2006) 1 SCC 407] the accused had obtained illegal gratification to the tune of ₹300/- in the capacity of Talathi. The said incident had occurred before 19 years and the case was pending since long before the Special Judge. This Court reduced the sentence.

5.6 In K.P. Singh vs. State (NCT of Delhi) [(2015) 15 SCC 497] it was observed by the Court that the quantum of sentence to be awarded would depend upon a variety of factors including the mitigating circumstances in a given case. It was stated that in doing so the courts are influenced in varying degree, and adopt reformatory, deterrent and punitive approach.

5.6.1 It was observed thus, "delay in the conclusion of the trial and legal proceedings, the age of the accused, his physical/health condition, the nature of the offence, the weapon used and in the cases of illegal gratification the amount of bribe, loss of job and family obligations of the accused are also some of the considerations that weigh heavily with the courts while determining the sentence to be awarded."

(Para 10)

6. The conviction and sentence have their respective realms. While the conviction would be recorded on the basis of evidence adduced before the Court which would establish the implication of the accused in the offence, the guilty person or the convicted when to be awarded a sentence, a host of factors would operate to govern.

6.1 In determining the final sentence and the nature thereof, variety of factors that would operate would include the intervening time between the commission of offence and the actual award of the sentence, age of the accused, the stress which he or she might have suffered because of passage of time during each case has remained pending and undecided, the family circumstance and such other factors, without becoming exhaustive.

7. The process of sentencing by the courts is guided by theories such as punitive, deterrent or reformatory. Each school of thought has its own object and purpose to explain awarding of sentence and its utility. Amongst these theories, reformatory approach has become increasingly acceptable to the modern jurisprudence. Reformation is something always considered progressive. When there are mitigating circumstances, the court would lean towards reducing of the sentence. The focus would be on the crime, and not on the criminal. The society and system would nurture the guilt with positivity, while selecting the sentence.

8. In light of the above principles guiding the sentencing process, the submission of learned advocate for the appellant could be countenanced that in the case on hand the incident had taken place on 23.09.2002. Since then, more than two decades have passed by. The appellant underwent imprisonment for 31 days. The appellant is a widow lady. It was stated that she is now 75 years of age. The appellant has been staying alone, the husband having died, stated her learned counsel. She belongs to scheduled caste and has been spending her life negotiating all hardships.

9. The prolongation of a criminal case for an unreasonable period is in itself a kind of suffering. It amounts to mental incarceration for the person facing such proceedings. For a person who is convicted and who has appealed against his or her conviction and sentence and who everyday awaits the fate of litigation, spends time in distress. In the present-day system of administration of justice, in which proceedings have often go on protracted unreasonably and therefore unbearably, the passage of long time itself makes the person suffer a mental agony.

10. The aspects in the present case as highlighted above that the incident had occurred more than 22 years ago and that the age of the widow appellant is 75 years who stays alone, the Court finds it appropriate that she may not be made to undergo the imprisonment again. In the totality of the facts and circumstances, the imprisonment already undergone by her is treated to be adequate sentence.

10.1 The sentence awarded to the appellant is accordingly reduced to the actual undergone. At the same time the imposition of fine is required to be increased. The appellant shall be liable to pay fine of ₹25,000/- over and above originally imposed. The amount of fine shall be paid on or before 10th September, 2025.

11. The appeal is thus dismissed of by confirming the conviction of the appellant, however by modifying the sentence which is awarded as above. It is provided that if the appellant fails to pay the amount of fine as directed above within the stipulated time, the original order of sentence shall revive and operate rendering the appellant liable to surrender before the authorities concerned.

.....J. (N.V. Anjaria)

.....J. (Atul S. Chandurkar)

New Delhi;

August 21, 2025

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