

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL No.1669 OF 2009

NEERAJ DUTTA

... APPELLANT

Versus

STATE (GOVT.OF N.C.T.OF DELHI)

... RESPONDENT

O R D E R

1. The present reference, concerning the Prevention of Corruption Act, 1988, arises out of the order dated 28.02.2019, passed by a two-judge bench of this Court, wherein they expressed certain doubts as to the validity of the position of law as expounded by this Court in the case of *P.Satyanarayana Murthy v. District Inspector of Police, State of Andhra Pradesh and another*, (2015) 10 SCC 152. In that case, the Court held that, in the absence of primary evidence of the complainant due to his death, inferential deductions in order to sustain a conviction under Sections 7 and 13(1)(d)(i) and (ii) of the Prevention of Corruption Act, 1988 was impermissible in law.
2. However, the Court, *vide* order dated 28.02.2019, highlighted a number of judgments, such as *Kishan Chand Mangal v. State of Rajasthan*, (1982) 3 SCC 466; *Hazari Lal v. State (Delhi Administration)*, (1980) 2 SCC 390; and *M. Narsinga Rao v. State of A.P.*, (2001) 1 SCC 691, wherein this Court, despite

the absence of primary evidence of the complainant, sustained the conviction of the accused by relying on other evidence, and raising a presumption under the statute.

3. Noting the divergence in the treatment of the evidentiary requirement for proving the offence under Sections 7 and 13(1)(d) read with Section 13(2), Prevention of Corruption Act, 1988, the Court referred the following question of a law for determination by a larger bench:

"The question whether in the absence of evidence of complainant/direct or primary evidence of demand of illegal gratification, is it not permissible to draw inferential deduction of culpability/guilt of a public servant under Section 7 and Section 13(1)(d) read with Section 13(2) of Prevention of Corruption Act, 1988 based on other evidence adduced by the prosecution."

4. Heard learned senior counsels for the parties at length.
5. We note that two three-judge benches of this Court, in the cases of *B. Jayaraj v. State of Andhra Pradesh*, (2014) 13 SCC 55; and *P. Satyanarayana Murthy v. District Inspector of Police, State of Andhra Pradesh and Another*, (2015) 10 SCC 152, are in conflict with an earlier three-judge bench decision of this Court in *M. Narsinga Rao v. State of A.P.*, (2001) 1 SCC 691, regarding the nature and quality of proof necessary to sustain a conviction for the offences under Section 7 and 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988 when the primary evidence of the complainant is unavailable.
6. We therefore consider it appropriate to refer the question of

law framed to be decided by a bench of appropriate strength.
The Registry is directed to place the papers before the Chief
Justice of India for appropriate orders.

.....J.
(N.V.RAMANA)

.....J.
(MOHAN M.SHANTANAGODAR)

.....J.
(AJAY RASTOGI)

NEW DELHI;
AUGUST 27, 2019.

ITEM NO.101

COURT NO.3

SECTION II-C

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Criminal Appeal No(s).1669/2009

NEERAJ DUTTA

Appellant(s)

VERSUS

STATE(GOVT.OF N.C.T.OF DELHI)

Respondent(s)

([TO GO BEFORE THREE HON'BLE JUDGES] PART-HEARD BY HON'BLE N.V. RAMANA, HON'BLE MOHAN M. SHANTANAGOUDAR AND HON'BLE AJAY RASTOGI, JJ.)

Date : 27-08-2019 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE N.V. RAMANA
HON'BLE MR. JUSTICE MOHAN M. SHANTANAGOUDAR
HON'BLE MR. JUSTICE AJAY RASTOGI

For Appellant(s) Mr.S.Guru Krishna Kumar, Sr.Adv.
Mr.Satinder S.Gulati, Adv.
Mrs.Kamaldeep Gulati, AOR

For Respondent(s) Ms.Kiran Suri, Sr.Adv.
Ms.Rukhmini Bobde, Adv.
Mr. B. V. Balaram Das, AOR

UPON hearing the counsel the Court made the following
O R D E R

We consider it appropriate to refer the question of law framed to be decided by a bench of appropriate strength. The Registry is directed to place the papers before the Chief Justice of India for appropriate orders.

(SATISH KUMAR YADAV)
AR-CUM-PS

(RAJ RANI NEGI)
ASSISTANT REGISTRAR

(Signed order is placed on the file)