

K.B. Mulla vs State Of Karnataka on 29 January, 1976

Briefly the prosecution case is that the Accused was working as Sub-Inspector of Police in Hospet Rural Police Station. P.W. 11 Hulugappa is a resident of a village called Ananthasayana Gudi, which is situated about 11/2 miles away from Hospet town, and within the jurisdiction of Hospet Rural Police Station, P.W. 11 is an agriculturist by profession. On a certain day in the month of October 1972, the Accused met P.W. 11 near the railway gate at Ananthasayana Gudi and gave him a ticket : for Rs. 50/- in connection with the celebration of All India Children's Day. P.W. 11 had no money and hence he told him that he would pay within two or three days. On 29-10-1972 there was a wrestling match in a maidan near Bellary Toll gate in Hospet town. The Accused met P.W. 11 in the wrestling match and asked him to come to the Rural Police Station at Hospet, P.W. 11 went and met the Accused at about 6 p.m. or 630 p.m. The Accused asked P. W 11 to pay him the amount of Rs. 50/- P.W. 11 paid him one currency note of 100 rupee denomination. The Accused asked P. W, 11 to see him the next day. On 30-10-1972 P.W. 11 went to the Hospet Rural Police Station at 8 a.m. or 8-30 a.m. At that time four persons, viz., Pompapathi, Mahaboob Sab, Imam Sab and Nagabhusana, were present in the Police Station, The accused told P.W. 11 that he had information that he (P. W, 11) was involved in the cheating case of Ananthasayana Gudi. P.W. 11 told him that he had nothing to do with the cheating case and that it may be inquired into. At that time, Pampapathi, the brother of fambanna, was also in the Police Station. Then the Accused told P.W. 11 that the four persons named above had been detained in the Police Station, as they were involved in the cheating case of Ananthasayana Gudi, and if they agree to pay Rs. 2,000/- each, as illegal gratification for their release, he would release them, and he wanted P.W. 11 to stand as surety for them and later arrange to collect the money from those persons and pay to him, otherwise, he (P.W. 11) would also be involved in that cheating case. P.W. 11 and P.W. 12 Meti Jambanna held consultations with those four persons and agreed to stand as surety for the release of those persons and assured the accused that they would collect the amount, as promised and pay to him. The accused released those four persons. P.W. 11 collected Rupees 1,960/- from Pompapathi, Rupees 1,700/- from Mahaboob Sab, Rs. 300/- from his own pocket and went to pay an amount of Rs. 3,960/- to the Accused. The Accused refused to receive that amount in piecemeal and asked P.W. 11 to get the entire amount of Rs. 8000/- and pay it to him in a lump sum. On 31-10-1972 P.W. 11 met the Accused who asked him to take promissory notes from those persons who had not paid the amount and to pay the amount from his own pocket. Accordingly, P.W. 11 after obtaining the promissory notes from two persons, viz., Nagabhushana and Imamsab for Rs. 2,000/- each paid the entire amount to the Accused. The promissory notes were ante dated. On 3-11-1972 the accused secured P.W. 11 and brought him to Bellary. With his help, he got one Abdulla identified. The Accused took Abdulla and his driver, Bhakta, to Hospet.

Three days thereafter, P. Ws. 11 and 12 accompanied the Accused to Bangalore where one Jani Sait paid Rs. 4,000/- to the Accused and promised to pay the remaining amount of Rs. 6,000/-. On 28-12-1972 P.W. 11 was proceeding towards Kampli on a motor cycle. The Accused came from the opposite direction on a motor cycle and met him (P.W. 11) at about 8 a.m. The Accused asked P.W. 11 to go to Hospet Rural Police Station and see him there. P.W. 11 pleaded his inability. Then the Accused asked him at least to come up to Kamalapur out post, Both of them went to Kamalapur out-post. There the Accused asked the constables to detain P.W. 11 and produce him before him in the Hospet Rural Police Station and went away to Hospet, P.W. 11 asked the police constables to take him to Hospet Rural Police Station. The constables had no conveyance. Therefore, they asked P.W. 11 himself to go and meet the Sub-Inspector (the Accused) in the Hospet Rural Police Station. They also warned P.W. 11 that he should not fail to meet the accused, as they would take action against them. P.W. 11 went to the Hospet Rural Police Station at about 10 a.m. The Accused called him to his chambers and told him that he (P.W. 11) had cheated one of his relations from Ilkal and had secured Rupees 10,000/- from them and that the party had sent a message to the G.I.D. Police at Belgaum and the C.I.D. Police were expected to arrive at Hospet. The Accused told P.W. 11 that he had obtained Rs. 5,000/- out of Rs. 10,000/- P.W. 11 denied the allegation. But the Accused detained P. W.11 in the police station near jamedar's seat, and was not allowed to stir out of the police station. The Accused again called P.W. 11 and told him that he should either face the prosecution or pay Rs. 5,000/-. It is alleged that in the evening the Accused assaulted P.W. 11 in the police station at about 10 p.m. He called him to his house and told him that all along he had maintained good relations with him and that it was not proper on his part to refuse to pay the amount which he had received from Ilkal party. He asked P.W. 11 to agree to pay him the money so that he might release him. P.W. 11 was detained for two days in the police station and ultimately P.W. 11 agreed to pay the money. He was released. On 30-12-1972 two constables went to call P.W. 11 at 6 a. m, P.W. 11 told them that he would meet the Accused after taking bath. He went to the police station at 9 a.m. and informed the Accused that his master had gone out of the village and that he could not get the money and assured the Accused that he would pay the money within three or four days. The Accused told him that he was under orders of transfer to Raichur and that P.W. 11 should, on any account, pay him the money within 5-1-1973 and that if he failed to do so, he would detain him in the police station and ultimately finish him, P.W. 11 agreed to pay the amount of Rs. 5,000/- to the Accused before 5-1-1973. P.W. 11 was allowed to go. On 30-12-1972 P.W. 11 went to Koppal and informed Mr. Veerupakshappa, a Member of the Legislative Assembly from Koppal, of the entire matter and sought his assistance. Mr. Veerupakshappa prepared an affidavit of P.W. 11, got it sworn before the Sheristedar in the Taluk Office at Koppal, and gave him a letter addressed to Mr.

Dharam Rao Afzalpurkar, a Member of the Parliament from Gulbarga. A complaint was also got prepared and Veerupakshappa asked P.W. 11 to go to Gulbarga and hand over the complaint, affidavit and the letter to Mr. Dharam Rao Afzalpurkar. On 2-1-1973 P.W. 11 went to Gulbarga, met Dharam Rao Afzalpurkar and handed over the papers to him. Dharam Rao Afzalpurkar contacted the Deputy Inspector General of Police, P. W, 2 Mr. B.N. Garudaclxar, on phone and talked to him about P. W, 11's complaint P.W. 2 asked him to send P.W. 11 to him. P.W. 11 went and met P.W. 2 at Gulbarga and handed over the papers, Exts. P. 2 to P. 4, and complained to him that the Accused was demanding illegal gratification from Mm and threatening him that if he did not pay the amount, he (the accused) would involve him (P.W. 11) in a cheating case. P.W. 2 told P.W. 11 that he himself would go to Hospet and inquire into the matter and asked P.W. 11 to meet him on 3-1-1973 near Indira Bhavan cross. P.W. 11 waited there, but he could not meet P.W. 2 in the cross. At about 8.30 a.m. on 4-1-1973 P.W. 11 learnt that P.W. 2 was in the tourist home. He went and met P.W. 2 in the tourist home. P.W. 2 and P.W. 4 K, Srinivasa Alva, Superintendent of Police, Special Investigation Agency, Gulbarga, were present in the tourist home. P.W. 2 asked him whether he had brought the money. P.W. 11 told him that he had brought Rs. 500/-. P.W. 2 secured panchayatdars P.W. 7 Sekharaya P.W. 8 Ethirajahu Naklu and another person; received five currency notes of Rs. 100/- denomination each and showed the five currency notes to the panchayatdars, They were signed by P.W. 2 4, 7 and 8 and also one Khandeppa. The currency notes were handed over to P.W. 11 with instructions that he should offer the amount to the Accused if the Accused demanded. A panchanama, Ex. P. 5, was drawn up in this respect P.W. 11 went to the Hospet Rural Police Station and learnt that the Accused was not in the Police Station, He sent the sentry to bring the Accused to the police station. The Accused came to the police station, met P.W. 11 and asked him whether he had brought the money. P.W. 11 told him that he had brought the money and the Accused asked him to give the money to him. P.W. 11 gave five marked currency notes of hundred rupee denomination near an ahnirah. The accused took the currency notes and kept them in his right hand pant pocket Within a short time thereafter, P. Ws. 2, 4, 7 and 8 came to the police station. They got themselves searched and entered the office of the Accused P.W. 2 asked the Accused to take out all the contents in his pockets and place them on the table. Accordingly, the Accused took out all the things that were in his pant pockets and shirt pockets. He also produced a handkarchief and five currency notes of hundred rupee denomination from his right side pant pocket He produced certain other currency notes which were in his shirt pocket and put them all on the table. These witnesses found the five signed currency notes produced by the Accused. P.W. 11 was. present there and when he was questioned he stated that he offered those signed notes when the Accused demanded bribe. A panchanaxna was drawn up as per Ex. P. 5A. Thereafter, P.W. 2 sent for the Deputy

Superintendent of Police, Shivanna Gouda, P.W. 13, and gave a complaint, Ex. P. 6, against the Accused, P.W. 13 registered a case against the Accused for offences under [Section 161, I.P.C.](#) and [Section 5\(1\)\(d\)](#) and (c) of the Act in Crime No. 4 of 1973 of Hospet Town Police Station. He prepared the first information report and sent it to the Court of First Class Magistrate at Hospet and also to his official superiors. He produced the panchanama and the seized articles before the Magistrate and obtained permission to retain them for the purpose of investigation. P.W. 13 made a requisition to the First Class Magistrate at Hospet seeking sanction to investigate into the case. The First Class Magistrate at Hospet accorded him permission and authorised him to investigate into the case. On 5-1-1973 P.W. 13 arrested the Accused and released him on bail. He examined several witnesses on different dates and got the sketch of the scene of offence drawn up. He wrote to Government through his official superiors to accord sanction for launching prosecution against the Accused and sent the case records along with the requisition. Government on 7-12-1973 accorded sanction to prosecute the Accused for offences under [Section 161 I.P.C.](#) and [Section 5\(1\)\(d\)](#) and (c) of the Act. On 23-1-1974 he submitted the charge sheet against the Accused to the Court of Special Judge at Bellary for the aforesaid offences. The case was registered in the Special Judge's Court in Special Case No. 1 of 1974. After going through the relevant papers, the learned Special Judge framed the charge already quoted above. It was read over and explained to the Accused. The Accused pleaded not guilty and claimed to be tried. Thereafter, 13 witnesses were examined for the prosecution to substantiate the charge against the Accused and 13 documents were marked. The statement of the Accused was recorded and no defence witness was examined.