

2025:PHHC:065337



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRA-S-1473-SB-2018

Reserved on: 03.05.2025

Pronounced on: **12.05.2025**

Bunty Kumar

.... Appellant

Versus

State of Punjab

.... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Argued by: Mr. Aminder Singh, Advocate, for the appellant.

Mr. Amit Rana, Senior DAG, Punjab.

MANJARI NEHRU KAUL, J.

1. By way of present appeal, the appellant has assailed the judgment dated 23.03.2018 passed by learned Special Judge, Ludhiana, whereby in case FIR No.02, dated 05.04.2013, registered under Sections 8, 10, 13(1) & 13(2) of Prevention of Corruption Act, 1988 (for short, PC Act) and Section 120-B of IPC, at Police Station Vigilance Bureau, Ludhiana, he was convicted under Section 8 of PC Act and Section 120-B of IPC and order of even date, he was sentenced as under:-

Conviction under Section	Sentence
8 of PC Act	To undergo Rigorous Imprisonment for a period of 3 years and to pay a fine of Rs.1,000/- and in default of payment of fine, to undergo further imprisonment of 15 days.
120-B of IPC	To under Rigorous Imprisonment for a period of 1 year and to pay a fine of Rs.1,000/- and in default of payment of fine, to undergo further imprisonment of 15 days.

2. The case of the prosecution in brief is that a written complaint was received by the Vigilance Bureau, Ludhiana, from one Neeraj Rattan (hereinafter referred to as the complainant). The complainant alleged that he intended to purchase a plot measuring 75 square yards, situated in Flower Enclave, Ludhiana, and in furtherance of registering the sale deed thereof, he visited the office of the Sub-Registrar (West), on 04.04.2013.

3. At the said office, the complainant met one appellant-Bunty Kumar (hereinafter referred to as the accused), who represented himself as the Lambardar of Village Sunet and stated that he was working privately as an agent in the office of Sub-Registrar. The accused claimed that he facilitated the registration and attestation of sale deeds and was deployed in the office on the instructions of the Tehsildar. He further claimed that he was tasked with affixing a particular code on documents and extracting a minimum amount of Rs.2,000/- from the prospective registrants, failing which, such individuals would face undue harassment. The accused allegedly demanded Rs.2,000/- from the complainant to ensure smooth registration of the sale deed.

4. The complainant, while pretending to agree to the demand, lodged a complaint with the SSP, Vigilance Bureau, Ludhiana. The matter was marked to the DSP, Vigilance Bureau, Patiala. On 05.04.2013, a raiding team comprising DSP, K.D. Sharma (Investigating Officer), Food and Supplies Officer, Satsimran Singh Ghuman, Inspector Kirandeep Singh, and other members of the police force, was constituted. ASI Paramjeet Singh was instructed to conduct a preliminary enquiry, wherein

the allegations were prima facie found to be substantiated through a conversion recorded by Constable Sham Sunder. Consequently, an FIR was registered.

5. The raiding party collected at BSNL Rest House, Ludhiana. Phenolphthalein powder was applied to currency notes provided by the complainant, and a demonstration of its chemical reactivity was conducted. Kirandeep Singh was appointed as shadow witness and directed to accompany the complainant into the office of the Sub-Registrar and signal the raiding team through a missed call once the accused accepted the bribe.

6. The complainant and the shadow witness entered the office of the Sub-Registrar, where the accused was present. Upon receiving the prearranged signal, the raiding team entered the premises. The accused was confronted and directed to dip his fingers in a sodium carbonate solution, which turned pink, indicating the presence of phenolphthalein powder. A portion of the solution was sealed for evidentiary purposes.

7. A total of Rs.43,150/- was recovered from the right pocket of the trousers of the accused, including the tainted notes provided by the complainant. The serial numbers were matched with the prerecorded numbers. The accused was formally arrested at the spot. Certain sale deed documents were also recovered from him. Additionally, upon search of the vehicle of the accused (bearing registration No.PB-08-BF-4377), an amount of Rs.48,000/- – allegedly obtained through similar illegal means – was recovered. A further amount of Rs.26,000/- was seized from a concealed locker within the office premises.

8. During the investigation, it came to light that the accused had been granted access to official records by the Tehsildar Arvinderpal Singh and Clerks Bhim Singh and Parvinder Jeet Singh. All three were nominated as co-accused. Subsequently, Tehsildar Arvinderpal Singh was arrested but later discharged as no sanction under Section 19 of the PC Act was granted for his prosecution.

9. Upon completion of the investigation, a challan was presented against accused Bunty Kumar and other co-accused. Charges were framed under Section 120-B of IPC against the accused, Bunty Kumar, Bhim Singh and Parvinder Jeet Singh, under Section 8 of PC Act against Bunty Kumar and under Section 13(1) and 13(2) of PC Act against co-accused Bhim Singh and Parvinderjit Singh. All accused pleaded not guilty and claimed trial.

10. The prosecution examined 18 witnesses, including the complainant (PW1), shadow witness (PW2) and Investigating Officer (PW18), among others. After the conclusion of the prosecution evidence, all the accused were examined under Section 313 Cr.P.C. Accused Bunty Kumar denied all allegations and claimed that no bribe was demanded or accepted by him. He asserted that he merely conveyed to the complainant the costs involved in registration and denied having any authority or influence over the process of registration. Accused Bunty Kumar did not lead any defence evidence.

SUBMISSIONS ON BEHALF OF THE APPELLANT

11. Learned counsel for the appellant-accused contended that the learned Special Judge, erred in law by convicting the appellant under Section 8 of the PC Act, and Section 120-B of IPC, without proper appreciation of the evidence on record. It was submitted that the conviction, vide judgment dated 23.03.2018, was rendered despite the fact that the prosecution failed to prove its case beyond reasonable doubt.

12. It was argued that the appellant was not a public servant and, therefore, the provisions under the PC Act were not applicable to him. His role, as per the defence, was merely that of a Lambardar, who was occasionally made a witness to sale deeds, and he had no official status within the office of the Sub-Registrar.

13. Learned counsel further pointed out that the complainant, examined as PW1, turned hostile and did not support the case of the prosecution. Likewise, PW2, the shadow witness, did not depose that any bribe was demanded by the accused in his presence. He further admitted that his signatures were obtained later at the Vigilance Bureau, casting doubt on his presence at the time of alleged transaction and, therefore, creating a serious dent in the case of the prosecution.

14. Learned counsel still further submitted that PW3-Satsimran Singh Ghuman, another member of the raiding party, also stated that no gratification was paid in his presence. Thus, the crucial elements of demand

and acceptance of illegal gratification were not proved through the testimony of any of the key witnesses.

15. Learned counsel also further emphasized that the impugned judgment was riddled with internal contradictions. Specifically in paragraph 27 of the impugned judgment, the Trial Court itself acknowledged the absence of a specific demand in the recorded transcript, thereby undermining the essential ingredient of offence under Section 8 of the PC Act.

16. Still further, learned counsel argued that the report of Dr. Amandeep Kaur, PW-11, who was examined to prove the voice sample of the appellant, also failed to conclusively establish that the recorded voice belonged to the appellant. Furthermore and pertinently, handwriting analysis of documents allegedly bearing specific codes attributed to the appellant did not conclusively link him to the alleged crime and, therefore, it was evident that the appellant had been falsely implicated to shield the real perpetrators.

17. It was also contended that if the version of the prosecution was that the accused was collecting bribes on behalf of the Tehsildar, the absence of any testimony from or against the said Tehsildar (who was later discharged) rendered the entire case against the appellant implausible and unsustainable.

SUBMISSIONS ON BEHALF OF THE STATE

18. Learned State counsel submitted that the case against the appellant stood fully proved through the testimony of the complainant and

other witnesses. It was asserted that the complainant clearly deposed regarding the demand and acceptance of Rs.2,000/- by the appellant on 04.04.2013 in the office of the Sub-Registrar.

19. Furthermore, learned State counsel argued that the accused was found dealing with the public on behalf of the office of Sub-Registrar and was actively involved in facilitating registration of documents in exchange for money. Tainted currency notes were recovered from his possession, and the phenolphthalein test conducted at the spot conclusively proved the acceptance of the bribe.

20. Additional amounts of Rs.48,000/- and Rs.26,000/-, allegedly received as bribes from other persons, were also recovered from the vehicle of the accused and a concealed locker in the office, respectively.

21. Learned State counsel further referred to the corroborative evidence, including the recording of the conversation between the complainant and the accused, which was duly verified through comparison of voice. Furthermore, handwriting samples of the appellant matched with the codes appended to official documents. It was argued that the prosecution had proved its case beyond reasonable doubt and that the accused acted in concert with public officials to extract illegal gratification from the general public. A prayer was, therefore, made for upholding the conviction of the appellant.

FINDINGS

22. Having heard learned counsel for the parties and after careful perusal of the record, this Court is of the considered view that the

conviction of the accused-appellant is not sustainable for the reasons discussed below.

23. At the outset, it may be noted that the conviction of the appellant is under Section 8 of the PC Act and 120-B of the IPC. Section 8 of the PC Act criminalises the act of giving or promising to give an undue advantage to another person to induce or reward a public servant for improper performance of public duty. Notably, the offence under Section 8 of PC Act does not require the accused himself to be a public servant. However, the prosecution must establish that: (i) an undue advantage was given or promised; (ii) the same was intended to induce or reward a public servant; and (iii) there existed an element of **improper performance of public duty**.

24. In the instant case, the entire case of the prosecution hinges on an alleged demand made by the appellant on behalf of the Tehsildar. However, the prosecution miserably failed to produce any cogent evidence to substantiate this allegation.

25. First and foremost, the complainant-Neeraj Rattan, PW-1, turned hostile and did not support the case of the prosecution. He did not depose to any demand of bribe by the appellant. Similarly, shadow witness-Kirandeep Singh, PW-2, categorically deposed that his signatures were obtained later at the office of the Vigilance Bureau; he did not testify to any bribe being demanded by the accused in his presence. Similarly, PW-3,

Satsimran Singh Ghuman, also failed to affirm any gratification being paid or demanded.

26. The prosecution, thus, failed to establish the essential ingredients of demand and acceptance, both of which are *sine qua non* for proving an offence under the PC Act. The Hon'ble Supreme Court has consistently held that in the absence of proof of demand, recovery alone is insufficient to convict an accused under the PC Act.

27. Moreover, while Phenolphthalein test and recovery of tainted notes may create suspicion, they are not substitutes for substantive evidence of demand or acceptance. The audio recording, allegedly capturing the conversation, was not proved beyond doubt to feature the voice of the appellant. The forensic analysis report by Dr. Amandeep Kaur, PW11, was also inconclusive. Similarly, the handwriting comparison report did not definitively link the appellant to any incriminating document.

28. It is also pertinent that even the learned Trial Court in paragraph 27 of the impugned judgement, observed that the transcript of the recorded conversation did not reveal a specific demand for bribe. This crucial admission contradicts the very basis of the case of the prosecution.

29. Notably, the Tehsildar, on whose behalf the alleged bribe was being demanded, was not prosecuted due to want of sanction. This casts serious doubt on the narrative of the prosecution regarding the appellant acting as a conduit for a public servant. The absence of any corroborative

testimony from or against the Tehsildar undermines the case of the prosecution.

30. The conviction under Section 120-B IPC also cannot be sustained in the absence of substantive evidence of any conspiracy or meeting of minds between the appellant and the co-accused. Mere association or presence at the site is not sufficient to attract liability under Section 120-B IPC.

31. In view of the foregoing discussion, this Court is of the considered opinion that the prosecution has failed to prove its case against the appellant beyond reasonable doubt. The testimonies of key witnesses do not support the prosecution version; there are serious deficiencies with respect to proof of demand and acceptance of bribe; and no conclusive link has been established between the appellant and the improper performance of any public duty.

32. Hence, the appellant is entitled to the benefit of doubt. Accordingly, the judgment of conviction and order of sentence dated 23.03.2018 passed by learned Special Judge, Ludhiana, are hereby set aside, and the appellant is acquitted of all charges.

33. Present appeal stands allowed accordingly.

(MANJARI NEHRU KAUL)
JUDGE

May 12, 2025

sanjeev

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No