



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

**CRA-S-1342-SB-2008
Reserved on : 18.01.2025
Pronounced on : 05.02.2025**

Parminderjit Singh SodhiAppellant

Versus

The State of PunjabRespondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Argued by : Capt. Arun Sharma with Mr. Suneet Pal Singh, Advocate
for the appellant.

Mr. Navdeep Singh, DAG, Punjab.

MANJARI NEHRU KAUL, J.

1. The instant appeal has been preferred by the appellant-accused (hereinafter referred to as 'accused') against the judgement of conviction and order of sentence dated 12.07.2008 passed by learned Special, Nawanshahr, in case FIR No.47 dated 18.08.2000 under Sections 7, 13(1)D read with Section 13(2) of the Prevention of Corruption Act, 1988 (hereinafter referred to as 'PC Act'), vide which he was convicted and sentenced as under:-

Offence(s) under Section	Period of sentence	Fine imposed	Period of sentence in default of payment of fine
7 of the PC Act	RI for 02 years	Rs.3,000/-	RI for 03 months
13(1)(d) punishable under Section 13(2) of the PC Act	RI for 02 years	Rs.3,000/-	RI for 03 months

1A. Both the sentences were ordered to be run concurrently.

2. As per the case of the prosecution, the accused, a public servant, demanded and accepted a bribe of Rs.3,000/- from complainant, Balbir Kaur (PW-1), for granting an undue favour.



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Complainant PW-1 Balbir Kaur while recoding her complaint Ex.PA, stated that she had been serving as the Sarpanch of village Sanawa since 1998 and was also a member of the Parent Teacher Association (PTA) Committee of Government High School, Sanawa. She alleged that approximately two months prior, Tarsem Lal, son of Bishna, had filed a complaint with the Deputy Commissioner, Nawanshahr against the PTA Committee. In the complaint, it was alleged that the Committee had illegally sold 05 "*Tahli*" trees, misappropriated the proceeds, and failed to deposit the amount in question. According to the complainant, the Deputy Commissioner had referred the matter to the accused, who was the District Development and Panchayat Officer (DDPO), Nawanshahr, for an inquiry. As a result, the staff of the Block Development and Panchayat Office (BDPO) conducted an investigation and submitted its report to the DDPO. The complainant further stated that on 17.08.2000, she visited the office of the accused, and informed him that the allegations made by Tarsem Lal were baseless and intended to harass the members of the PTA Committee. However, the accused asserted that the complaint contained serious allegations and that, if she wanted a favourable report for the PTA Committee and the members of the Panchayat, she would have to pay him a bribe of Rs.5,000/-. The complainant stated that she informed him that neither the PTA Committee nor the Panchayat members could arrange such a payment, as the sale of the *Tahli* trees had been conducted legally and the proceeds had been utilized for public welfare. Despite this, the accused allegedly insisted that if she wanted his favour, she should pay



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him Rs.3,000/- instead.

3. The complainant further stated in the complaint that she left his office under the pretense of not having the required money at that time. On 18.08.2000, she arrived with Rs.3,000/- in cash, consisting of five notes of Rs.500/- and five notes of Rs.100/-, as bribe money. However, she did not wish to resolve the matter through bribery and, instead requested legal action against the accused.

4. Based on the statement of the complainant, Ex.PA, FIR Ex.PM was registered. A plan was devised to apprehend the accused in the act. A raiding team led by DSP Amrik Singh was formed. The currency notes provided by complainant Balbir Kaur were treated with phenolphthalein powder. After verifying that the complainant was carrying no additional money, the tainted currency notes were handed over to her with instructions to deliver it to the accused upon demand.

5. Dass Ram was assigned as a shadow witness to accompany complainant Balbir Kaur, with the specific task of overhearing the conversation between Balbir Kaur, complainant, and the accused, observing all interactions, and signalling the raiding team once the accused accepted the money. A demonstration of the chemical reaction between phenolphthalein powder and water was conducted. The serial numbers of the currency notes were recorded in a memorandum. Dr. Raj Kumar and Dr. Shamsheer Singh were included in the raiding team as recovery witnesses.

6. As per the prearranged plan, the raiding team, led by DSP Amrik Singh, proceeded with the operation. The accused was caught



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red handed, and the tainted currency notes were recovered from inside the drawer of his office table. The investigation followed standard procedures, including obtaining the report of the chemical examiner and recording statements of the witnesses under Section 161 of the Cr.P.C. Upon completion of the investigation, challan was presented in the Court on 25.01.2005.

7. On the basis of the material and other documents annexed with the challan, the accused was charged for offences under Sections 7 and 13(1)(d) read with Section 13(2) of the PC Act. The accused pleaded not guilty to the charges and opted for trial.

8. In support of its case, the prosecution examined as many as 12 witnesses including complainant Balbir Kaur who deposed as PW-1, shadow witness Dass Ram as PW-2, Dr. Shamsheer Singh, recovery witness as PW-3, Dr. Raj Kumar recovery witness as PW-8, DSP Amrik Singh (investigating officer) as PW-10. In addition, PW-4 Pawan Kumar and PW-5 Pradeep Kumar, both Superintendents of the office of BDPO were also examined.

9. Upon conclusion of the prosecution evidence, the statement of the accused was recorded under Section 313 of the Cr.P.C. He was confronted with all the incriminating evidence. The accused denied the allegations entirely, claiming that he was falsely implicated by complainant Balbir Kaur due to personal malice. The accused alleged that complainant Balbir Kaur orchestrated the complaint because he had refused to provide a favourable report in an inquiry with respect to the cutting of trees in the Government High School, Sanawa.



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The accused further contended that on the fateful day when the alleged raid was carried out on 18.08.2000, he was absent in his office as he was away to Banga to attend an official function in connection with the visit of the Chief Minister; during his absence the complainant had planted the tainted money in his office file to frame him as he was unwilling to oblige her.

10. The accused, however, did not lead any evidence in his defence.

Submissions on Behalf of the Appellant-Accused

11. Learned counsel for the appellant-accused has assailed the impugned order primarily on the following grounds:-

(i) Inconsistencies with respect to the demand for bribe:

The statements made by the complainant regarding the amount demanded by the appellant were contradictory. While in the complaint, Exhibit PA the alleged demand was Rs.3,000/-, however, during her testimony in Court, the complainant mentioned an initial demand of Rs.10,000/-, later reduced to Rs.5,000/-. Such material inconsistencies cast serious doubts on the veracity of the allegation of demand.

(ii) Absence of proof of undue favour: The accused was not in a position to extend any undue favour to the complainant since the relevant inquiry report had not only been received but had been submitted by the BDPO before the alleged demand was even made. This fact was corroborated by PW-5 Pradeep Kumar, Superintendent in the BDPO office.

(iii) Questionable recovery of tainted money: The tainted



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money was not recovered from the conscious possession of the accused, but from the drawer of his office table; the accused neither demanded nor accepted the amount and evidently the money had been planted.

(iv) **Unreliable testimony of shadow witness:** The shadow witness, PW-2 Dass Ram, categorically deposed that he did not overhear any conversation between the complainant and the accused regarding the demand for bribe inside the place of occurrence, thereby creating a serious dent in the case of the prosecution as it had been categorically explained to the shadow witness that he would overhear the conversation with respect to demand between the accused and the complainant and thereafter signal the raiding party, which was stated to be standing in close vicinity.

(v) **Absence of the accused at the time of alleged bribe:** The accused was attending an official function organized on account of the visit of the Chief Minister at Banga; this fact of the accused being away from the office to attend the function at Banga was admitted and acknowledged by PW-5 Pradeep Kumar, Superintendent, BDPO Office, and thus, the possibility of planting the money in the absence of the accused could not be ruled out.

Submissions on Behalf of the State

12. Learned counsel for the State has defended the impugned order by contending as follows:-

(i) While there were variations in the statements made by the complainant regarding the initial demand, the amount of Rs.3,000/- ultimately paid remained consistent throughout.



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(ii) The testimonies of complainant, PW-1 Balbir Kaur, and the shadow witness, PW-2 Dass Ram, along with the recovery of the tainted money from the office table of the accused sufficiently proved the demand and acceptance of the bribe.

(iii) Even if the accused was not in a position to extend any favour, explanation sub-clause (d) to Section 7 of the PC Act, makes it clear that the mere act of obtaining gratification is an offence.

(iv) The contention of the accused that the money was planted was not supported by any evidence nor did the accused present any defence witness to substantiate his claim of absence from office.

Findings of the Court

13. I have heard learned counsel for the parties and perused the relevant material on record.

14. It is a settled principle that mere recovery of tainted money is not sufficient to establish an offence under the PC Act. The prosecution must prove beyond a reasonable doubt that there was a specific demand for an illegal gratification and that the accused voluntarily accepted the money.

15. In the present case, the complainant gave inconsistent statements regarding the amount demanded. Pertinently, the shadow witness, PW-2 Dass Ram, categorically deposed that he did not hear any demand being made by the accused, even though as per the case of the prosecution, he had accompanied the complainant inside the office of the accused. There was no other independent witness to corroborate the alleged demand.



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16. As already observed, in the present case, the testimony of the complainant, PW-1, Balbir Kaur, is riddled with inconsistencies. While she initially stated that the accused demanded Rs.10,000/-, she later modified this to Rs.5,000/- before finally settling at Rs.3,000/-. This inconsistent narration raises serious doubts about the veracity of her claim. Furthermore, to establish an offence under the PC Act, it is imperative to prove that the accused made a demand for illegal gratification. It needs to be emphasized that the proof of demand for illegal gratification is an essential prerequisite for establishing an offence under the PC Act. The mere recovery of tainted currency notes is insufficient to establish the guilt of an accused unless there is conclusive evidence of bribe demand preceding its acceptance. The existence of such a demand is a fundamental and indispensable element of the offence. In the absence of clear evidence demonstrating that the accused solicited or requested a bribe, a conviction cannot be sustained under the law. In bribery cases, the prosecution must establish beyond a reasonable doubt that the accused initially demanded a bribe before any acceptance or recovery of money can be considered as evidence of guilt. If the prosecution fails to prove this crucial element, the entire case collapses, regardless of whether the money was later recovered from the accused. The demand for a bribe is the foundation of the offence because it demonstrates the corrupt intent of the accused and willingness to engage in unlawful conduct. Without clear and unequivocal proof of this demand, the recovery of money alone becomes circumstantial and does not automatically establish that the



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accused solicited or agreed to accept a bribe in exchange for an improper act.

17. Furthermore, the testimonies of the prosecution witnesses in the present case, regarding the recovery of money too are riddled with contradictions. The complainant stated that the money was recovered from a file, whereas the shadow witness PW-2 claimed that the complainant placed the money under a file at the direction of the accused, PW-3 Dr. Shamsheer Singh and PW-8 Dr. Raj Kumar, gave conflicting versions about whether the money was found in a file or an envelope. On top of it, the investigating officer, PW-10, DSP Amrik Singh, contradicted his own statement regarding the mode of recovery. These inconsistencies create serious doubt about the authenticity of the recovery and further undermine the case of the prosecution. It needs to be emphasized that when there are inconsistencies or contradictions in the prosecution's version of events concerning the manner in which the recovery of tainted money was carried out, the credibility of the prosecution's case is significantly weakened. If different witnesses provide conflicting accounts regarding how the alleged bribe money was recovered—such as variations in the location, sequence of events, or the specific circumstances under which the money was found—it creates reasonable doubt about the reliability of the prosecution's narrative. In such a situation, the Court cannot blindly accept the prosecution's version without scrutiny.

18. Moreover, for the statutory presumption under Section 20 of the PC Act to apply, it must first be established that the accused was



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in possession of the tainted money and had accepted it as illegal gratification. Section 20 of the PC Act creates a legal presumption that, once the acceptance of a bribe is proven, the money was received as an undue advantage unless the accused can provide a satisfactory explanation to rebut this presumption. However, if the accused never physically handled or possessed the tainted money, there is no foundational fact upon which the presumption can be invoked. A mere recovery of the tainted money, without proof that the accused voluntarily accepted it, does not trigger the statutory presumption.

19. Therefore, when there are contradictions in the case of the prosecution regarding how the money was recovered and no evidence to establish that the accused physically handled or accepted the tainted money, the presumption under Section 20 of the PC Act cannot be legally applied. In such a scenario, the burden does not shift to the accused to prove their innocence, and the prosecution must independently establish both the demand for and the acceptance of the alleged bribe beyond a reasonable doubt. Hence, applying this principle, the recovery in the present case, being inconsistent and uncorroborated by reliable evidence, cannot form the sole basis for conviction.

20. Coming next to the claim of the accused that on the day when the alleged raid was carried out he was away at an official function, is supported by the testimony of the prosecution's own witness PW-5 Pradeep Kumar. If the accused had gone to attend the function at Banga, and in his absence the complainant had come to his



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office, the possibility of planting the money cannot be ruled out. The benefit of doubt must, therefore, be given to the accused as per the settled principle that prosecution must prove its case beyond reasonable doubt. This also needs to be considered in the light of the admitted case of the prosecution that the report of the BDPO had already reached the office of the accused.

21. In a criminal trial, the prosecution must prove the guilt of an accused beyond a reasonable doubt, and if the defence successfully casts doubt on the credibility of the prosecution's version, the accused must be given the benefit of that doubt. The complainant's testimony is often central to the case of the prosecution, and any inconsistencies, contradictions, lack of corroboration, implausibility, or ulterior motives that undermine its reliability can create reasonable doubt. Since the law presumes an accused person innocent until proven guilty, any uncertainty regarding the truthfulness of the allegations prevents conviction. This principle safeguards against wrongful convictions by ensuring that no one is punished based on weak, unreliable or unverified testimonies. Courts must resolve doubt in favour of the accused, reinforcing the requirement that guilt must be established through credible, compelling, and conclusive evidence rather than mere suspicion or uncorroborated claims. In the present case, the Trial Court has done exactly this by inferring without any corroborative evidence that even though the inquiry report had already been received and the accused may not have had any crucial role to play in the same, however, he was still in a position to influence the decision of the



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inquiry report. Therefore, in corruption cases, the mere recovery of money from an accused is not enough to secure a conviction unless the prosecution presents reliable and substantive evidence proving the essential elements of the crime. The recovery of money, while significant, does not automatically demonstrate that the accused engaged in a criminal conduct, as it fails to provide evidence of the demand for or acceptance of the bribe in exchange for an improper act. Therefore, a conviction in a bribery case requires much more than the recovery of money; it requires compelling proof that the accused knowingly demanded and accepted the bribe in return for corrupt conduct.

22. Considering the inconsistencies in the case of the prosecution, lack of corroborative evidence, circumstances surrounding the recovery of the tainted money, and the substantiated absence of the accused from his office during the day of the raid in question, this Court is of the view that benefit of doubt must be given to the accused as per the settled principle that prosecution must prove its case beyond reasonable doubt.

23. In view of the foregoing reasons, the instant appeal is allowed. The impugned judgement of conviction and order of sentence dated 12.07.2008 are set hereby set aside and the accused-appellant is acquitted of the charges framed against him.

05.02.2025

Vinay

(MANJARI NEHRU KAUL)

JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No