



CRA-S-1098-SB-2011

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

CRA-S-1098-SB-2011

Reserved on : 29.08.2025

Date of Pronouncement : 10.09.2025

Ravinder Kumar

... Appellant

Versus

Central Bureau of Investigation

.. Respondent

CORAM : HON'BLE MR. JUSTICE H.S.GREWAL

Present:- Mr. Nitin Sharma, Advocate for the appellant.

Mr. Gagandeep Singh Wasu, Special Public Prosecutor
for the respondent-CBI.

H.S. Grewal, J.

1. This appeal is directed against the judgment of conviction and order of sentence dated 29.03.2011 passed by the learned Special Judge, CBI Court, Chandigarh in case FIR No.RCCHG2009A0005 dated 18.03.2009, registered under Sections 7 & 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988, (hereinafter referred as 'PC Act'), at Police Station CBI, ACB, Chandigarh, whereby the appellant had been convicted and sentenced to undergo imprisonment as under:-

Section(s)	Sentenced to undergo RI	Fine	In default of payment of fine
7 of PC Act	01 year	Rs.2,000/-	01 month RI
13(2) read with Section 13(1)(d) of PC Act	1 ½ years	Rs.5,000/-	02 months RI
It was ordered that both the sentences shall run concurrently.			



2. The case of the prosecution is that on 18.03.2009, the complainant-Varinder Kumar Tiwari s/o Jagdamba Prasad Tiwari, r/o House No.119, Village Dariya, UT, Chandigarh, had made a written complaint Ex.PW1/1 to the Superintendent of Police, CBI, ACB, Chandigarh against the appellant-Ravinder Kumar, who was posted and functioning as Assistant Sub Inspector, Government Railway Police, Railway Station, Chandigarh. It was alleged by the complainant that on 12.03.2009, his cousin brothers, namely, Karun Kumar, Arun Kumar and Prem Parkash had a scuffle with one Pankaj in the auto parking area of Railway Station, Chandigarh and the said Pankaj had submitted a complaint on 13.03.2009 against his cousin brothers in GRP Police Station which led to registration of FIR No.25, under Sections 323 and 506 IPC. It was further alleged that on 14.03.2009, he(complainant) had visited the Police Station GRP and met the appellant, who claimed to be the Investigating Officer of the said FIR. The complainant had requested the appellant to help him in this case, upon which, the appellant had allegedly demanded ₹7,000/- as bribe to help him. He is also alleged to have threatened the complainant that in case, the money was not paid, offence under Section 307 IPC would be added in the FIR against his cousin brothers. The appellant is also alleged to have asked the complainant to contact him after arrangement of money.

3. The complainant further alleged that he had contacted the appellant on 17.03.2009 on telephone and the appellant had informed him that he was out of station and he would contact him on 18.03.2009, after reaching Chandigarh. On 18.03.2009 at 01:35 P.M. and 02:45 P.M., the appellant had made two calls to the complainant on his mobile and is alleged to have



demanded bribe of ₹7,000/-. The appellant is also alleged to have directed him to bring the amount in his room of barrack of Police Station GRP, Railway Station, Chandigarh.

4. On the above complaint, the respondent-CBI, ACB, Chandigarh had registered aforesaid FIR against the appellant and assigned investigation to Inspector IMS Negi, who decided to lay a trap. A trap team consisting Inspector Anil Kumar, Inspector RS Gunjyal, SI Dinesh Kumar, Inspector Anupam Chauhan, (all officials of CBI, ACB Chandigarh), was constituted and two officials of the Food Corporation of India, Regional Office, Punjab, Chandigarh, namely, Ram Piara AG-I(D) and Pardeep Kumar Gupta, AG-I (Accounts) were also associated in the trap team as independent witnesses.

5. On 18.03.2009, pre-trap proceedings in the case were conducted in the office of Inspector IMS Negi (Trap Laying Officer) between 03:40 P.M. to 04:30 P.M. Ram Piara and Pardeep Kumar Gupta, who were the independent witnesses, were introduced to the members of the trap party and purpose of assembly was explained to all. The complainant-Varinder Kumar Tiwari was also introduced to all and his written complaint dated 18.03.2009 (Ex.PW1/1) was read over and shown to both independent witnesses. Both the independent witnesses were satisfied themselves about the genuineness of the complaint by asking certain questions from the complainant and the allegations of the complaint were also explained to all. Thereafter, the complainant had produced 14 government currency notes in the denomination of ₹500/- each, total amounting to ₹7,000/-. Distinctive numbers of the government currency notes

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were noted in the pre-trap memo Ex.PW1/2. Inspector R.S. Gunjiyal was directed to give the practical demonstration about the reaction of phenolphthalein powder with the sodium carbonate. Inspector RS Gunjiyal had treated the aforesaid currency notes and the independent witness-Pardeep Kumar Gupta, was requested to keep the treated currency notes in the left side pocket of T-shirt of the complainant, after conducting his search so as to ensure that no other cash or incriminating items were left on his person. Accordingly, he placed the currency notes in the left side pocket of T-shirt of the complainant. The complainant was also specifically directed not to touch the treated currency notes until and unless they were passed over to the appellant or any other person as per the direction of the appellant and not otherwise. The complainant was also directed not to shake hands with the appellant. Shadow witness-Ram Piara was instructed to accompany the complainant and over hear the conversation between the complainant and the appellant at the time of passing the bribe money and also to watch the transaction of passing over the bribe amount. He was further directed to give the signal by touching his head with both hands soon after the passing over the bribe amount by the complainant to the appellant.

6. On 18.03.2009, at about 03:45 P.M. the appellant-Ravinder Kumar had made a call from mobile no.98760-18612 to mobile no.9888036982 of the complainant. The complainant told to the person on the other side of the phone that bribe money has been arranged and he would be reaching soon. The complainant, thereafter, had informed the trap party that the said caller was Ravinder Kumar (appellant).



7. Thereafter, all the members of trap team had conducted the searches of each other and nothing incriminating was left with anyone except their mobile phone and Identity Cards. A brief case containing kit for trap laying proceedings along with an amount of ₹1,000/- was kept to meet the exigencies, if any, during trap laying proceedings, were taken by the CBI officials. The pre-trap memo (Ex.PW-1/2) was accordingly prepared and the contents of the same were read over and explained to all the members of the trap party which was signed by all the members of the trap party including independent witness in token thereof. Pre-trap proceedings had been concluded at 04:30 P.M. on 18.03.2009 and the trap party had left for GRP Police Station, Chandigarh at Railway Station Chandigarh.

8. The complainant, along with the shadow witness, went to the GRP Police Station in an auto (No. PB-12G-5959) being driven by the complainant, while rest of the trap party followed them in another government vehicle. They reached near the Chandigarh Railway Station around 04:45 P.M. and parked their vehicles in the parking area in front of the Railway Station. At about 04:50 P.M., a phone call had been received by the complainant from the appellant on his mobile to know his exact location, who on telephone told that he was on the main gate of Railway Station Chandigarh near GRP booth. Thereafter, the complainant along with shadow witness-Ram Piara met the appellant near GRP police gypsy No.HR-03D-6516 in front of Railway Station. The remaining trap team members and the independent witness positioned themselves nearby while keeping visual contact. When the complainant and the shadow witness approached the appellant, he gestured to the shadow witness to



leave. Accordingly, the shadow witness stood at a distance from where both the complainant and appellant were clearly visible to him. As soon as the shadow witness walked away, the appellant signaled the complainant with his right hand by moving his fingers back and then sat down on the back seat of police gypsy i.e. HR-03D-6516 and left its door partially open. The complainant took out the bribe money from his left side pocket of his t-shirt and handed over to the appellant, who had accepted the same with his right hand and kept the same in his right side pant pocket. The said transaction was watched by Inspector IMS Negi, Inspector RS Gunjiyal and the shadow witness Ram Piara. Pre-decided signal was also given by Ram Piara (shadow witness) and then Inspector IMS Negi along with trap team and Pardeep Kumar Gupta (independent witness) had rushed towards the police gypsy to nab the appellant. As soon as the appellant had seen the people(police/trap party) coming towards him, he had thrown away the bribe money on the road. Thereafter, on the instructions of Inspector IMS Negi, the independent witness- Pardeep Kumar Gupta had recovered the bribe amount from the road nearby the police gypsy and had kept in his safe custody. The complainant had later identified the appellant as ASI Ravinder Kumar, GRP Police Station, Railway Station, Chandigarh, who had demanded and accepted bribe of ₹7,000/- from him. Thereafter, the wrists of both the hands of the appellant were caught by SI Dinesh Kumar and SI Anupam Chauhan. The shadow witness had also informed Inspector IMS Negi (Trap Laying Officer) and others that the appellant had demanded the bribe from the complainant by making gestures with his right hand and then sat down on the back seat of the police gypsy HR-



03D-6516. He left the back door of the said gypsy partially open and thereafter, the complainant had handed over the bribe money to the appellant, who had accepted the same with his right hand and kept the same in his right side pant pocket.

9. Thereafter, the right hand wash of the appellant was taken in solution of sodium carbonate, which turned pink in colour. Said solution was transferred in clean quarter bottle and a paper slip was pasted on the said bottles which was sealed, marked as RHW-1 and signed by Inspector IMS Negi and independent witnesses. Thereafter, pre-trap memo dated 18.03.2009 was handed over to shadow witness-Ram Piara. Independent witness-Pardeep Kumar Gupta was instructed to verify the recovered currency notes against the numbers recorded in the pre-trap memo. On checking and counting, the numbers matched with the numbers of the currency notes mentioned in the pre-trap memo. The tainted currency notes 14 in number in the denomination of ₹500/- each, totalling ₹7,000/- were kept in an envelope, which was sealed with the seal impression of 'CBI68CHG' and was signed by Inspector IMS Negi and independent witnesses. Thereafter, the appellant was asked to remove his pant and track suit (lower) was given to him to wear. A solution of sodium carbonate was prepared and lining of the right side pant pocket belonging to the appellant was dipped in the solution which turned pink. The said solution was transferred to a clean bottle, sealed and marked as 'RSPPW-2'. All the articles including right hand wash, solution, sealed envelope containing tainted money, right side pant pocket wash solution, sealed pant were taken into possession vide post trap memo Ex.PW-1/6. Original police file of case FIR No.25 dated



13.03.2009 of GRP Railway Station Chandigarh was found lying on the back seat of aforesaid police gypsy which was taken into possession after attesting all the pages of the said file by the independent witnesses, vide post trap memo Ex.PW-1/6. Thereafter, the appellant was arrested, vide arrest-cum-inspection memo Ex.PW-1/3 and recovery (*jamatalshi*) memo was also prepared. Rough site plan (Ex.PW-1/5) and post trap memo (Ex.PW-1/6) were prepared by Inspector RS Gunjyal. The impression of brass seal 'CBI68CHG' was also taken on each page of the post trap memo and after that, seal was handed over to Shadow witness-Ram Piara. The sealed bottles containing the appellant's right-hand wash solution and right pant pocket wash solution were sent to CFSL, New Delhi, for chemical analysis. As per report Ex.PW-12/1, the tests confirmed the presence of phenolphthalein and sodium carbonate. During investigation, the call details of the mobile of the appellant, the complainant and the copies of roznamcha dated 15.03.2009 & 18.03.2009 were also collected.

10. Upon completion of investigation and after obtaining the requisite sanction (Ex.PW-3/1), report u/s 173 Cr.P.C. was presented against the appellant in the trial Court and consequent thereto, charges under Sections 7 & 13(1)(d) read with Section 13(2) of PC Act were framed against him to which he pleaded not guilty and claimed trial.

11. In order to substantiate the charge against the appellant, the prosecution had examined as many as 12 prosecution witnesses.



12. PW1 Pardeep Kumar Gupta, AG-I (Accounts, FCI), who was the independent witness of trap proceedings and recovery of the tainted currency notes, had apprised about the prosecution story as mentioned above. In his cross-examination, he had stated that he had not seen the transaction of bribe having been taken place between the complainant and the appellant because the door of gypsy was partly opened and was shielding the appellant and the complainant from his side. He further deposed that the gypsy had started moving and had covered the distance of only 2-3 feet, when the same was stopped by the CBI officials. He (PW1) was standing at a long distance from the complainant and the appellant, therefore, he could not hear any conversation between them at the time of said transaction. He further deposed that SHO/Inspector Tirath Ram, Police Station GRP, Chandigarh and the driver were sitting in the front seats of gypsy but they were not interrogated by the CBI officials. He further deposed that he had recovered the currency notes lying on the road not from the possession of the appellant. He had also admitted that this is the first trap case in which he had appeared as a witness, however, he had joined two search operations conducted by the CBI prior to the present trap. He had denied that he is a pocket witness of the CBI and was at backend call of the CBI.

13. PW-2 Ram Piara, AG-I (M), FCI, who was the shadow witness, had accompanied PW1 Pardeep Kumar Gupta, Inspector IMS Negi (Trap Laying Officer) and had participated in the trap proceedings. He had described the procedure executed in the trap. He deposed that he had gone with the complainant to the spot and stood at a distance from the complainant and the



appellant. He further deposed that the complainant and the appellant were not visible and audible to him and the complainant with his hands had given the signal and thereafter, all of them rushed towards the appellant. On seeing them, the appellant had thrown the bribe money on the road from his hand and on the instruction of Inspector IMS Negi, PW1 Pardeep Kumar Gupta had gathered the bribe money from the road and kept the same in safe custody. This witness was turned hostile and, thereafter, cross-examined by the CBI. This witness had refused to suggest that he had seen the complainant passing the currency notes to the appellant and receiving the same by the appellant and keeping the same in his right side pant pocket and thereafter, he had given the pre-decided signal. He had admitted that he had signed the post trap memo i.e. Ex.PW1/6 but the same was not allowed to be read out to him. He also deposed that it is wrong to suggest that he was allowed to read the post trap memo and all of them had signed after reading its contents.

14. PW3 Bharti Arora, IPS, Superintendent of Police, Ambala had proved the sanction order for the prosecution of the appellant i.e. Ex.PW-3/1.

15. PW4 Damandeep Singh, Nodal Officer, Vodafone, Mohali had brought the record pertaining to mobile No.98880-36982 in the name of Varinder Kumar (complainant). He tendered the call details generated from the system Ex.PW-4/2 and also tendered on record the true copies of customer application form and connected documents i.e. Ex.PW4/3 to Ex.PW4/4 and Letter Ex.PW4/1.



16. PW5 Varinder Kumar Tiwari, who is the complainant in this case, had reiterated the version as per the complaint as well as the procedure followed by the trap team. He had also narrated the whole sequence of events as mentioned above. In his cross-examination, he had deposed that he did not know what types of documents were prepared at the CBI office when he had reported the matter to them. The demand of bribe was raised by the appellant for the first time in the evening of 14.03.2009 when he had approached him in his room in the Police Station. However, he had not reported the matter regarding the demand of bribe to any authority including the concerned SHO Inspector Tirath Ram. He had also visited GRP Police Station prior to 18.03.2009 but had not complained about the demand of bribe raised by the appellant. He further deposed that when he had handed over the money to the appellant, nobody had seen him except Shadow witness-Ram Piara and Inspector Gunjiyal. Moreover, he did not know the exact location of the CBI team as they were scattered nearby. The shadow witness was standing at a distance of about 15 feet from the gypsy where the transaction took place. He even did not know as to whether Shadow witness-Ram Piara had given the pre-decided signal or not but he had given the signal by putting both hands on the head. He also deposed that the appellant had not counted the bribe money and he had asked him to hand over the same when the gypsy was going to move. Accordingly, he had handed over the bribe money when the appellant had sat inside the gypsy and the gypsy was moving ahead. He also deposed that the gypsy was stopped by the CBI team when it had covered hardly ten feet. He further deposed that the appellant had thrown the bribe money on the road from



a moving vehicle, causing it to scatter over an area of about 3–4 feet. This witness was thoroughly cross-examined regarding the possession of the bribe money, specifically as to which hand it was kept in and in which pocket while he was seated in the gypsy.

17. PW6 Inspector IMS Negi, who was the Trap Laying Officer, had deposed in details about the steps taken by him in laying the present trap. He had supported the case of the prosecution. He had admitted that both the independent witnesses were from FCI and usually, they call the independent witness from FCI. Many scams of FCI are investigated by CBI. However, he had denied the suggestion that FCI is under the influence of CBI. He further deposed that the appellant had entered the gypsy from its rear side which was partially opened, when the transaction had taken place. However, half of the rear door of the gypsy was covered with fibre sheet and half was covered with glass and the complainant was standing outside the gypsy. The door of the gypsy was touching the body of the complainant and the appellant was sitting inside the gypsy. He further deposed that the recovery witness was standing on his right side which was at a distance of about 1 ½ to 2 feet from him and both were looking at the gypsy. He also deposed that although the telephonic conversation had taken place between the complainant and the appellant, but he had not made any effort to get it recorded while the recording facility was available in the office. He also deposed that he had not heard the said conversation and the complainant had informed him about the conversation. He had not asked the complainant to talk with the appellant on this issue in order to verify the genuineness of the alleged demand of bribe during the pre-



trap proceedings. Moreover, he did not ask the complainant to contact the appellant over his mobile during the pre-trap proceedings. He also deposed that the appellant had thrown the currency notes from the back side of the gypsy as its back side door was already partially open. He also deposed that the appellant had taken out the currency notes from his pocket and had thrown the same on the ground with a jerk and he was standing on the driver side of the gypsy.

18. PW7 ASI Shiv Ram, GRP PS Railway Station, Chandigarh had brought the original FIR No.25 dated 13.03.2009 registered u/s 323 and 506 IPC, PS GRP, Chandigarh and tendered the true copy of the same as Ex.PW7/1. He had also deposed that the appellant was Investigating Officer of the aforesaid case and tendered on record the attested copies of the documents Ex.PW-7/2 to Ex.PW-7/11 (i.e. complaint, ruqa, MLR, applications etc.) of the aforesaid FIR.

19. PW8 HC Om Parkash, Police Station GRP, Ambala Cantt had tendered the true copy of rapat roznamcha bearing no.23 dated 18.03.2009 as Ex.PW-8/1. PW9 HC Bodh Raj No.356, PS GRP, Chandigarh had tendered the true copy of rapat roznamcha entry no.40 dated 15.03.2009 as Ex.PW-9/1.

20. PW10 EASI Raj Kumar, No.179 Police Line Ambala City had deposed that on request of CBI vide letter Ex.PW-10/1, he had furnished the information. He identified the signatures of Smt. Subhash Rani, Deputy Superintendent of the Office of SP Railways Haryana, Ambala Cantt on the letter Ex.PW-10/1 at 'Point A'. He had also tendered on record the transfer



order (Ex.PW-10/2) along with other orders Ex.PW-10/3 and Ex.PW-10/4 after identifying the signatures of the authors thereof.

21. PW11 Jatinder Singh, Nodal Officer, Bharti Airtel, IT Park, Manimajra, Chandigarh had tendered call details in respect of mobile No.98760-18612 in the name of Om Parkash from 17.03.2009 to 19.03.2009 generated by him from the system as Ex.PW-11/1. He had also tendered on record the attested copies of subscriber application form and connected documents with regard to aforesaid mobile number Ex.PW11/2 to Ex.PW11/3.

22. PW12 Inspector Dinesh Kumar, CBI, ACB, Chandigarh, who was the subsequent Investigating Officer of the case, had deposed about the steps taken by him in the investigation of the case.

23. After closing the prosecution evidence, the statement of the appellant under Section 313 Cr.P.C. was recorded wherein he had denied all the allegations and pleaded innocence. He pleaded that he had never demanded and accepted bribe of ₹7,000/- from the complainant in order to help him in a case registered against his cousin brothers. He had denied threatening the complainant that Section 307 IPC would be added if the bribe was not paid and the accused therein would not be allowed to be released on bail. He further denied about receiving any call from the complainant on 17.03.2009 in which the complainant had allegedly asked him to reconsider the case and he had not told the complainant that he was out of station and would speak to him after returning to Chandigarh. He further denied about calling the complainant on 18.03.2009 around 01:30 P.M. on mobile number 98880-36982 and asking him to meet at the GRP Police Station, Chandigarh, in his room. He also denied



making another call to the complainant around 02:35 to 02:45 P.M. asking him to come immediately with ₹7,000/-, failing which he would leave the station.

24. The appellant had also pleaded that a false case had been registered against him and the prosecution witnesses had deposed falsely, being highly interested in the success of the case. Both the witnesses from FCI are facing many scams and are under the surveillance of CBI. The respondent-CBI had been misled by the complainant and had been involved in the case as he was entrusted with the investigation of case bearing FIR No.25 of 2009 against the cousin brothers of the complainant. He had conducted raids at the residential houses of the cousin brothers of the complainant and was compelling the complainant and their relatives to allow the surrender of the wanted accused in the said FIR. In order to get the investigation transferred from him to some other Officer, he had been involved in this false trap. He further pleaded that on 18.03.2009, he was present at Railway Station along with SHO and others for the installations of hoardings while the complainant, who had already promised him to produce his cousin brothers(accused) wanted in FIR No.25, came near him. He (the appellant) was about to get into the gypsy after making inquiries about the accused in FIR No.25 but the complainant had tried to thrust the currency notes in his pocket while the appellant had immediately pushed the hand of the complainant and in that process, the said currency notes fell on the road. He also pleaded that the requisite sanction order to prosecute him had been passed in a mechanical manner and without pursuing the record.



25. In his defence, the appellant had examined DW1 Head Constable Naresh Kumar, who had brought the record of DDR(s) bearing No.5 dated 14.03.2009, No.41 dated 14.03.2009 and No.9 dated 15.03.2009 as Ex.DW1/1 to Ex.DW1/3. DW2 Jagmohan Singh, Taxi Operator had deposed that on 18.03.2009, the appellant along with SHO Tirath Ram and other officials was present at the Railway Station for installation of hoardings and a dispute had taken place between the auto drivers prior to 18.03.2009 and a scuffle had also taken place in this regard.

26. The Learned Special Judge, CBI, Chandigarh, based on the evidence and material on record, found the appellant guilty, convicted and sentenced him to undergo imprisonment as enumerated above.

27. Learned counsel for the appellant submits that the trial Court had erred in convicting the appellant primarily on the ground that the demand of illegal gratification, which is *sine qua non* for conviction under Sections 7 and 13 of PC Act, has not been proved in the present case. He further submitted that the entire prosecution case rests solely on the testimony of the complainant (PW-5 Varinder Kumar Tiwari), who is an interested witness because he was tensed to protect his cousins from arrest in an earlier FIR. His testimony was full of contradictions and improvements which cannot be relied upon unless it is supported by any other independent evidence. In fact, the shadow witness (PW-2 Ram Piara) had admitted during his cross-examination that he neither heard any demand of bribe from the appellant nor saw the complainant handing over any money to him. He further admitted that he was standing at a



considerable distance where neither conversation nor gestures between the appellant and the complainant were visible. Even the independent witness (PW-1 Pradeep Kumar) admitted that he had not seen the transaction and the currency notes were recovered from the road and not from the person of the appellant and he did not hear any conversation regarding the demand. Thus, the three material witnesses i.e. PW-1 Pradeep Kumar Gupta, PW-2 Ram Piara (Shadow witness) and PW-5 Varinder Kumar Tiwari (complainant) have failed to prove the demand or acceptance of the bribe by the appellant. Learned counsel further submitted that the independent witnesses were not genuinely independent as both PW-1 and PW-2, who were employees of FCI, were verbally summoned to the CBI office without any written order from either their superior officers or the CBI. Their departure was not recorded at the FCI office, nor was their entry recorded at the reception of the CBI office. In fact, PW-1 had earlier been associated with the CBI in other operations and was already known to them, which makes him a planted witness rather than an unbiased one.

28. Learned counsel further argued that the trap itself was defective inasmuch as the complainant alleged to have received a call from the appellant while being present inside the CBI office, but the CBI, despite having the necessary equipment, made no attempt to record this conversation. On the contrary, the admitted position is that between 14.03.2009 and 17.03.2009 there were several telephonic conversations, but none of them was about raising demand of bribe. Even the mobile number in question was registered in the name of one Om Parkash, who was never examined by the prosecution.



Moreover, the material witnesses i.e. SHO Tirath Ram and driver Sohan Lal, who were admittedly present in the gypsy at the time of the alleged trap, were neither examined nor arrayed as witnesses. Similarly, Inspector R.S. Gunjiyal, who allegedly apprehended the appellant and signed the post-trap proceedings, was also not examined. Their non-examination gives rise to an adverse inference against the prosecution and no independent public witness from the crowd gathered at the spot was associated.

29. Learned counsel has also pointed out several contradictions and unlikelihood in the prosecution case such as the gypsy was moving when the transaction allegedly took place which makes it improbable for the witnesses to see or hear anything. PW-1 Pardeep Kumar (independent witness) had admitted that the notes were found lying scattered on the road and not recovered from the person of the appellant. The complainant himself had admitted that the appellant never called him by gesture or words to hand over the money, nor was the bribe ever demanded telephonically before 18.03.2009. No videography, no photographs and no scientific corroboration were produced while the proceedings allegedly occurred in a public place.

30. Learned counsel also contended that the defence version is probable. The appellant had pleaded that the complainant attempted to thrust the money into his pocket, which he resisted, leading to the notes falling on the road. This explanation is supported by the testimony of DW-2 Jagmohan Singh, which the trial Court failed to consider. Learned counsel also emphasized that in the absence of proof of demand, the statutory presumption



under Section 20 of the PC Act does not arise. Mere recovery of currency notes which was from the road and not from the appellant's possession, cannot sustain conviction. Moreover, the investigation was biased and *mala fide*, in order to falsely implicate the appellant at the instance of the complainant, who wanted to save his relatives. He, therefore, submitted that the prosecution had miserably failed to establish the guilt beyond reasonable doubts and the order passed by the trial Court convicting the appellant is wholly unsustainable in law and deserved to be set aside.

31. On the other hand, learned counsel for the respondent-CBI submitted that the trial Court had rightly convicted the appellant on the basis of cogent, reliable and trustworthy evidence which fully established the case of the prosecution. He further submitted that the complainant had consistently supported the prosecution version in its entirety which supports both the demand and subsequent acceptance of the bribe money by the appellant. The testimony of the complainant stood corroborated by the evidence of the shadow witness, who fully supported the prosecution in relation to the recovery of the tainted currency notes from the pocket of the trousers worn by the appellant. Learned counsel further pointed out that the appellant was caught red-handed at the spot with the tainted money and both his hands as well as his trousers tested positive in the sodium carbonate solution, which turned pink. This scientific evidence, coupled with the recovery, clearly established the guilt of the appellant.



32. Learned counsel further submitted that although recording of the telephonic call between the complainant and the appellant could not take place which would make the case even stronger but its absence does not weaken the prosecution case. The case of the prosecution is still strong because there is clear evidence of demand, acceptance, recovery of money and the positive hand-wash test. The plea raised by the appellant for false implication at the instance of the complainant and alleged connivance of CBI officials was wholly baseless, without any evidence and only a mere assertion. There was no occasion for police officials or the CBI to conspire with the complainant to implant a false case.

33. Learned counsel for the respondent had also put emphasis on the facts that once the prosecution had proved the demand, acceptance and recovery of the tainted money, the legal presumption under Section 20 of the PC Act squarely applied and the onus shifted upon the appellant to rebut the same. The appellant had miserably failed to discharge this burden. He, therefore, submitted that the appeal be dismissed as the conviction of the appellant was fully justified and the judgment of the trial Court convicting the appellant be upheld.

34. I have taken into account the submissions of the learned counsel for the parties and perused the material available on record.

35. Before examining the evidence, it is appropriate to set out Sections 7 and 13 of the PC Act under which the appellant had been convicted in the aforesaid FIR, which are as follows:-



“Section 7 Public servant taking gratification other than legal remuneration in respect of an official act.—

Whoever, being, or expecting to be a public servant, accepts or obtains or agrees to accept or attempts to obtain from any person, for himself or for any other person, any gratification whatever, other than legal remuneration, as a motive or reward for doing or forbearing to do any official act or for showing or forbearing to show, in the exercise of his official functions, favour or disfavour to any person or for rendering or attempting to render any service or disservice to any person, with the Central Government or any State Government or Parliament or the Legislature of any State or with any local authority, corporation or Government company referred to in clause (c) of section 2, or with any public servant, whether named or otherwise, shall be punishable with imprisonment which shall be not less than six months but which may extend to five years and shall also be liable to fine.

(Explanations) –

(a) “Expecting to be a public servant”. If a person not expecting to be in office obtains a gratification by deceiving others into a belief that he is about to be in office, and that he will then serve them, he may be guilty of cheating, but he is not guilty of the offence defined in this section.

(b) “Gratification”. The word “gratification” is not restricted to pecuniary gratifications or to gratifications estimable in money.

(c) “Legal remuneration”. The words “legal remuneration” are not restricted to remuneration which a public servant can lawfully demand, but include all remuneration which he is permitted by the Government or the organisation, which he serves, to accept.

(d) “A motive or reward for doing”. A person who receives a gratification as a motive or reward for doing what he does not intend or is not in a position to do, or has not done, comes within this expression.



(e) Where a public servant induces a person erroneously to believe that his influence with the Government has obtained a title for that person and thus induces that person to give the public servant, money or any other gratification as a reward for this service, the public servant has committed an offence under this section.”

13. Criminal misconduct by a public servant.—

(1) A public servant is said to commit the offence of criminal misconduct,—

(a) to (c) xxxx xxxx xxxx

(d) if he, - (i) by corrupt or illegal means, obtains for himself or for any other person any valuable thing or pecuniary advantage; or

(ii) by abusing his position as a public servant, obtains for himself or for any other person any valuable thing or pecuniary advantage; or

(iii) while holding office as a public servant, obtains for any person any valuable thing or pecuniary advantage without any public interest;

xxxxxxxxx

(2) Any public servant who commits criminal misconduct shall be punishable with imprisonment for a term which shall be not less than one year but which may extend to three years and shall also be liable to fine.”

36. Admittedly, Section 7 of the PC Act imposes a stringent requirement on the prosecution to unambiguously prove beyond any shadow of doubt, demand of bribe by the accused. Without proving this foundational fact, mere acceptance of money would be insufficient to convict an accused. It is settled principle of criminal jurisprudence that the guilt of an accused cannot rest on presumptions or conjectures but must be firmly rooted in cogent evidence, whether direct or circumstantial. Therefore, in cases under the PC



Act, the demand for a bribe must be substantiated through unquestionable evidence.

37. Primarily, this Court does not find any merit in the submissions made by the Standing Counsel for the CBI that the recovery of bribe/tainted money from appellant proves both demand and acceptance of illegal gratification, thereby invoking presumption under Section 20 of the PC Act and consequently, the burden falling on the appellant to explain how the bribe/tainted money came into his possession.

38. It is settled principle of law that merely because tainted money was found in the possession of an accused would not suffice as a proof of demand nor would it trigger presumption under Section 20 of the PC Act. For presumption under Section 20 of the PC Act to arise, the prosecution must, at the first instance, establish the demand and acceptance of bribe beyond reasonable doubt.

39. The Hon'ble Supreme Court in the case of *State of Punjab versus Madan Mohan Lal Verma, 2013 (14) SCC 153*, has explained the correct approach for applying Section 20 of the PC Act and observed that the statutory presumption does not arise automatically upon recovery of tainted money. Firstly, the prosecution must establish the foundational facts i.e. **there was a demand of illegal gratification by the accused and such gratification was accepted by him**. The presumption under Section 20 comes into operation only after the prosecution has successfully established these essential facts. At that stage, the burden shifts to the accused/appellant to explain how the tainted money came into his possession. Importantly, the law does not require the



accused/appellant to prove his defence beyond a reasonable doubt but the explanation put forth by the accused/appellant has to be evaluated on the standard of preponderance of probability and considered in light of whether it seems reasonably plausible in the circumstances of the case. The demand of illegal gratification is *sine qua non* for constituting an offence under the PC Act and mere recovery is insufficient to prove demand and acceptance. The relevant extract of the judgment is reproduced hereunder:-

“6. It is a settled legal proposition that in exceptional circumstances, the appellate court for compelling reasons should not hesitate to reverse a judgment of acquittal passed by the court below, if the findings so recorded by the court below are found to be perverse, i.e. if the conclusions arrived at by the court below are contrary to the evidence on record; or if the court’s entire approach with respect to dealing with the evidence is found to be patently illegal, leading to the miscarriage of justice; or if its judgment is unreasonable and is based on an erroneous understanding of the law and of the facts of the case. While doing so, the appellate court must bear in mind the presumption of innocence in favour of the accused, and also that an acquittal by the court below bolsters such presumption of innocence.

7. The law on the issue is well settled that demand of illegal gratification is sine qua non for constituting an offence under the Act 1988. Mere recovery of tainted money is not sufficient to convict the accused when substantive evidence in the case is not reliable, unless there is evidence to prove payment of bribe or to show that the money was taken voluntarily as a bribe. Mere receipt of the amount by the accused is not sufficient to fasten guilt, in the absence of any evidence with regard to demand and acceptance of the amount as illegal gratification. Hence, the burden rests on the accused to displace the statutory presumption raised under [Section 20](#) of the Act 1988, by bringing on record evidence, either direct or circumstantial, to establish



with reasonable probability, that the money was accepted by him, other than as a motive or reward as referred to in Section 7 of the Act 1988. While invoking the provisions of Section 20 of the Act, the court is required to consider the explanation offered by the accused, if any, only on the touchstone of preponderance of probability and not on the touchstone of proof beyond all reasonable doubt. However, before the accused is called upon to explain how the amount in question was found in his possession, the foundational facts must be established by the prosecution. The complainant is an interested and partisan witness concerned with the success of the trap and his evidence must be tested in the same way as that of any other interested witness. In a proper case, the court may look for independent corroboration before convicting the accused person.”

40. Similarly, in the case of ***Neeraj Dutta Vs. State (Govt. of N.C.T. of Delhi)*** **2023 SCC OnLine SC 280**, the Hon'ble Supreme Court has emphasized that proof of demand and acceptance of illegal gratification by a public servant must be established through evidence that leaves no room for reasonable doubt. The relevant extract of the said judgment is as follows:-

“The presumption under Section 20 can be invoked only when the two basic facts required to be proved under Section 7, are proved. The said two basic facts are ‘demand’ and ‘acceptance’ of gratification. The presumption under Section 20 is that unless the contrary is proved, the acceptance of gratification shall be presumed to be for a motive or reward, as contemplated by Section 7. It means that once the basic facts of the demand of illegal gratification and acceptance thereof are proved, unless the contrary are proved, the Court will have to presume that the gratification was demanded and accepted as a motive or reward as contemplated by Section 7. However, this presumption is rebuttable. Even on the basis of the preponderance of probability, the accused can rebut the presumption.

12. In the case of ***N. Vijayakumar, 2021(3) SCC 687***, another bench of three Hon'ble Judges dealt with the issue of presumption under



Section 20 and the degree of proof required to establish the offences punishable under Section 7 and clauses (i) and (ii) Section 13(1)(d) read with Section 13(2) of PC Act. In paragraph 26, the bench held thus:

*“26. It is equally well settled that mere recovery by itself cannot prove the charge of the prosecution against the accused. Reference can be made to the judgments of this Court in **C.M. Girish Babu v. CBI** [**C.M. Girish Babu v. CBI, (2009) 3 SCC 779 : (2009) 2 SCC (Cri) 1**] and in **B. Jayaraj v. State of A.P.** [**B. Jayaraj v. State of A.P., (2014) 13 SCC 55 : (2014) 5 SCC (Cri) 543**] In the aforesaid judgments of this Court while considering the case under Sections 7, 13(1)(d)(i) and (ii) of the Prevention of Corruption Act, 1988 it is reiterated that to prove the charge, it has to be proved beyond reasonable doubt that the accused voluntarily accepted money knowing it to be bribe. Absence of proof of demand for illegal gratification and mere possession or recovery of currency notes is not sufficient to constitute such offence. In the said judgments it is also held that even the presumption under Section 20 of the Act can be drawn only after demand for and acceptance of illegal gratification is proved. It is also fairly well settled that initial presumption of innocence in the criminal jurisprudence gets doubled by acquittal recorded by the trial court.”*

(emphasis added)

Thus, the demand for gratification and its acceptance must be proved beyond a reasonable doubt.

13. Section 7, as existed prior to 26 th July 2018, was different from the present Section 7. The unamended Section 7 which is applicable in the present case, specifically refers to “any gratification”. The substituted Section 7 does not use the word “gratification”, but it uses a wider term “undue advantage”. When the allegation is of demand of gratification and acceptance thereof by the accused, it must be as a motive or reward for doing or forbearing to do any official act. The fact that the demand and acceptance of gratification were for motive or



reward as provided in Section 7 can be proved by invoking the presumption under Section 20 provided the basic allegations of the demand and acceptance are proved. In this case, we are also concerned with the offence punishable under clauses (i) and (ii) Section 13(1)(d) which is punishable under Section 13(2) of the PC Act. Clause (d) of subsection (1) of Section 13, which existed on the statute book prior to the amendment of 26th July 2018, has been quoted earlier. On a plain reading of clauses (i) and (ii) of Section 13(1)(d), it is apparent that proof of acceptance of illegal gratification will be necessary to prove the offences under clauses (i) and (ii) of Section 13(1)(d). In view of what is laid down by the Constitution Bench, in a given case, the demand and acceptance of illegal gratification by a public servant can be proved by circumstantial evidence in the absence of direct oral or documentary evidence. While answering the referred question, the Constitution Bench has observed that it is permissible to draw an inferential deduction of culpability and/or guilt of the public servant for the offences punishable under Sections 7 and 13(1)(d) read with Section 13(2) of the PC Act. The conclusion is that in absence of direct evidence, the demand and/or acceptance can always be proved by other evidence such as circumstantial evidence. 14. The allegation of demand of gratification and acceptance made by a public servant has to be established beyond a reasonable doubt. The decision of the Constitution Bench does not dilute this elementary requirement of proof beyond a reasonable doubt. The Constitution Bench was dealing with the issue of the modes by which the demand can be proved. The Constitution Bench has laid down that the proof need not be only by direct oral or documentary evidence.”

41. In somewhat similar circumstances, the Coordinate Bench of this Court in the case of **Gurpreet Singh versus Central Bureau of Investigation**, bearing CRA-S-2987-SB-2011, decided on 20.02.2024, has observed as under:-

“Merely because the accused was found in possession of the currency notes would not dispense with the proof of demand and even the



*presumption under section 20 of the PC act would not be attracted in the circumstances. The Supreme Court in **State of Punjab Versus Madan Mohan Lal Verma (2013) 14 SCC 153**, held that while invoking the provisions of Section 20 of the P.C. Act, the Court is required to consider the explanation offered by the accused, if any, only on the touchstone of preponderance of probability, and not on the touchstone of proof beyond reasonable doubt. However, before the accused is called upon to explain how the amount in question was found in his possession, the foundational facts must be established by the prosecution. Hon'ble the Supreme Court further observed that a complainant is an interested and partisan witness, concerned with the success of the trap, and thus his evidence must be tested in the same manner as that of any other interested witness. In a proper case, the court may look for independent corroboration before convicting the accused person. Therefore, in the absence of any other witness or evidence to corroborate and substantiate the version of the complainant regarding demand of bribe by the accused, it cannot be said that the demand in the present case was proved beyond reasonable doubt, and even presumption under Section 20 of the P.C. Act would not be attracted.”*

42. In the present case, the prosecution case mainly relies on the testimony of the complainant (PW5), who although had supported the case in his examination-in-chief but his cross-examination reveals glaring contradictions and improvements. He admitted that no demand was raised by the appellant on 14.03.2009 or 17.03.2009, in spite of multiple telephonic conversations with the appellant. He further admitted that he had called the appellant on 18.03.2009 and the currency notes were not counted by the appellant. His version of the location of the alleged demand also varied because sometimes he had stated the place as ‘Police Station GRP’ but on another



occasion, he stated the place as 'entrance of the Railway Station'. These inconsistencies weaken his credibility.

43. Furthermore, the evidence of PW-1 Pardeep Kumar Gupta (independent witness) and PW-2 Ram Piara (shadow witness) does not inspire confidence. PW-1 had clearly admitted that neither he had heard any conversation between the appellant and the complainant nor he saw the actual passing of money. He further admitted that the tainted notes were recovered from the road, already scattered and not from the person of the appellant. PW-2 Ram Piara (shadow witness) had admitted that he was standing at a distance of about 15 feet and he could not hear or see the transaction. He had not even seen the complainant handing over the money or the appellant accepting it. Their testimonies, therefore, does not corroborate the complainant on the critical element of demand.

44. It is admitted fact that SHO Tirath Ram and driver Sohan Lal were present in the gypsy at the relevant time but their statements were neither recorded nor they were produced as witnesses. Likewise, Inspector R.S. Gunjiyal, who allegedly apprehended the appellant and signed the post-trap memos, was not examined. These witnesses were the best possible witnesses to corroborate the prosecution story. Their non-examination casts a serious shadow on the fairness of the investigation and raises an adverse inference against the prosecution.



45. The complainant (PW5) had alleged that the appellant had asked for a bribe over the phone while he was sitting inside the CBI office. Although the respondent/CBI had all the tools needed to record that call but no effort had been made to do so. Even PW6 Inspector IMS Negi had admitted that he made no effort to get it recorded despite the facility being available in the office. Since they could have easily recorded the conversation but chose not to, it creates doubt about the prosecution version. This becomes even more important because the earlier phone records already show that the appellant and the complainant had spoken several times prior thereto, but in none of those calls, there was any demand for money.

46. It is true that the appellant's hands and trousers tested positive and tainted notes were recovered. However, when recovery itself is from the road and not from the person of the appellant and when no witness has seen him accepting the money, the recovery loses its incriminating value. In such circumstances, the defence version regarding attempt of the complainant to thrust the money into the appellant's pocket which he pushed away, resulting in the notes falling on the road, cannot be brushed aside as doubtful.

47. Since the prosecution has failed to establish the foundational facts of demand and acceptance, no presumption under Section 20 of the PC Act can be invoked. The entire case rests on the shaky testimony of the complainant, which stands uncorroborated and contradicted by the independent witnesses. Moreover, PW2 Ram Piara-shadow witness has not supported the prosecution version and turned hostile.



48. In view of the above, this Court is of the considered opinion that the prosecution has failed to bring home the guilt of the appellant beyond reasonable doubt. The demand and acceptance of bribe which are the core ingredients of the offences under Sections 7 and 13 of the PC Act, have not been proved.

49. Consequently, the appeal is allowed. The judgment of conviction and order of sentence dated 29.03.2011 passed by the learned Special Judge, CBI, Chandigarh are hereby set aside and the appellant is acquitted of the charges framed against him under Sections 7 and 13(2) read with Section 13(1)(d) of the PC Act.

50. Pending application(s) shall stand disposed of accordingly.

10.09.2025
A.Kaundal

(H.S.GREWAL)
JUDGE

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