



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

804

1. CRA-S-2688-SB-2011 (O&M)  
Date of decision: February 14<sup>th</sup>, 2025  
Gurinder Pal Singh .....Appellant

Versus

State of Punjab .....Respondent

2. CRA-S-2667-SB-2011 (O&M)  
Amrit Mehra alias Amit Mehra .....Appellant

Versus

State of Punjab .....Respondent

**CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL**

Present: Mr. Deepak Sabharwal, Advocate  
for the appellant (in CRA-S-2688-SB-2011).

Ms. Hargun Sandhu and Ms. Nandini Gupta, Advocates  
for the appellant (in CRA-S-2667-SB-2011).

Mr. Shiva Khurmi, Assistant Advocate General, Punjab.

**MANJARI NEHRU KAUL, J.**

This order shall dispose of the above-mentioned appeals filed by the appellants impugning the judgment of conviction and order of sentence dated 13.10.2011 passed by learned Special Judge, Amritsar, in FIR No.277 dated 24.11.2005 under Sections 7, 12, 13(2) of The Prevention of Corruption Act, 1988 (hereinafter referred to as 'the P.C. Act'), registered at Police Station Vigilance Bureau, Amritsar, whereby the appellants have been convicted and sentenced as follows:

Name of appellant/accused	Offence under Section	Period of sentence	Fine imposed	Period of sentence in default of payment of fine
Gurinder Pal Singh	7 read with 13(2) of the P.C. Act	RI for 03 years	₹15,000/-	R.I. for nine months
Amrit Mehra @ Amit Mehra	12 of the P.C. Act	RI for 2½ years	₹10,000/-	R.I. for six months

**2. Case of the prosecution in brief is as follows:**

Briefly stated, the story of the prosecution is that on 24.11.2005, a complaint was received from Anupam Gupta, who alleged that his car had met with an accident with a motorcycle within the jurisdiction of Police Post Ranjit Avenue, Amritsar. The complainant alleged that ASI Gurinder Pal Singh, the Incharge of the Police Post, in connivance with one Amrit Mehra, exerted undue pressure and coercion upon him. As a result, he was made to pay ₹15,000/- to the injured motorcyclist for medical expenses, ₹4,000/- for repair costs, and an additional ₹7,000/- as a bribe to ASI Gurinder Pal Singh. Upon receipt of the complaint, an inquiry was conducted by Superintendent of Police (City-II) Harmanbir Singh Gill, who found substance in the allegations, leading to the registration of an FIR under Sections 7, 12 and 13(2) of the P.C. Act, against both accused persons. During the investigation, Deputy Superintendent of Police (DSP) Ashish Kapoor, along with other police officials, visited Police Post Ranjit Avenue, where ASI Gurinder Pal Singh was present. Upon inquiry, ASI Gurinder Pal Singh allegedly admitted to having received the bribe and stated that the amount was kept

in his personal diary placed inside the almirah of his office. He then provided the key to the locker, which was used by DSP Ashish Kapoor to open the almirah. Upon doing so, 14 currency notes of ₹500/- each (totaling ₹7,000/-) were recovered from the diary and taken into possession through a recovery memo. Following this, Amrit Mehra was contacted and directed to present himself at the Police Post, where he was interrogated. During questioning, he allegedly disclosed that he had received ₹15,000/- from Anupam Gupta to be given to the injured party, ₹4,000/- for vehicle repairs, and ₹7,000/- to be handed over as a bribe to ASI Gurinder Pal Singh. This confession was recorded as part of the case investigation. Both accused were subsequently arrested, and after obtaining the necessary sanction for prosecution, a charge sheet was filed in Court. The prosecution, in support of its case, examined several witnesses, including: PW1 Inspector Jaspal Singh, PW2 HC Raj Kumar, PW3 HC Tejinder Singh, PW4 Anupam Gupta, PW5 HC Kashmir Singh, PW6 DSP Ashish Kapoor. On the other hand, the accused in support of their defence examined DW1 ASI Dilbagh Singh, DW2 Navjot Singh. The learned trial Court, after perusing the evidence of the parties, convicted both accused. ASI Gurinder Pal Singh was sentenced under Sections 7 and 13(2) of the P.C. Act while Amrit Mehra was convicted under Section 12 of the same Act. Hence, the present appeal.

**3. Submissions on behalf of Appellant/Accused-  
Gurinder Pal Singh:**

**(i) Hostility of the complainant and lack of support for the case of the prosecution:** That the complainant, PW-4 Anupam Gupta, did not support the case of the prosecution and expressly denied having paid any

amount as a bribe to any police official, let alone the appellant-ASI Gurinder Pal Singh. He further deposed that the name of the appellant was inserted in the complaint by the officials posted at the Police Post and he had not made statement Exhibit PW/4 to the police.

(ii) **Absence of corroborative evidence to prove demand and acceptance:** That it is an admitted fact that the complainant turned hostile and categorically stated that the matter was amicably settled for ₹27,000/- through mediation by family members and staff of Police Post. There was no corroborative evidence on record to prove the essential ingredients of demand and acceptance, which are *sine qua non* for convicting a public servant under Section 7 and Section 13(2) of the P.C. Act.

(iii) **Failure to examine the Investigating Officer (S.P.) and non-compliance with principles of natural justice:** That the Superintendent of Police (S.P.), who purportedly investigated the matter, found the allegations to be true, and directed the registration of the FIR, but for reasons best known, was not examined during trial. Furthermore, there was no evidence to indicate that the appellant was afforded an opportunity to be heard during the investigation, thereby violating the principles of natural justice.

(iv) **Discrepancies with respect to the alleged bribe amount and recovery process:** That the complainant initially mentioned a bribe amount of ₹8,000/-, whereas only ₹7,000/- was allegedly recovered on 24.11.2005 by DSP Ashish Kapoor, and that too from the almirah of the Police Post, Ranjeet Avenue, where it was allegedly kept inside a diary of the year 2005. Furthermore, neither the serial numbers of the recovered currency notes were recorded in the recovery memo Exhibit PW1/A, nor were the

recovered notes sealed, casting serious doubt on the authenticity of the recovery process.

(v) **Failure to prove demand and payment of bribe:** That the prosecution failed to establish when the alleged bribe was demanded or when it was purportedly paid. It is well settled that in bribery cases, the prosecution must prove that there was a demand for illegal gratification and the same was voluntarily accepted by the accused. Mere recovery of currency notes, in the absence of proof of demand and acceptance, is not sufficient to sustain a conviction under the P.C. Act.

(vi) **Unexplained delay in recovery of alleged bribe amount:** That the alleged tainted money was recovered ten days after the alleged incident. It has been consistently held by Hon'ble the Supreme Court that where neither the demand nor the acceptance of a bribe has been proved, the mere recovery of currency notes is of no legal significance.

(vii) **Judicial precedence emphasizing the necessity of proof of demand and acceptance:** That a Constitutional Bench of Hon'ble the Supreme Court in *Neeraj Dutta Versus State (NCT of Delhi), 2023 (4) SCC 731*, has categorically held that proof of demand and acceptance of illegal gratification by a public servant is a *sine qua non* for proving guilt under Sections 7 and 13(1)(d)(i) and (ii) of the P.C. Act

(viii) **Further weakening of the case of the prosecution due to bank transactions:** That the prosecution's case is further rendered untenable by the fact that ₹8,000/- (in two transactions of ₹5,000/- and ₹3,000/-) was withdrawn from the bank account of the complainant on 24.11.2005 itself- the very date on which the alleged recovery was made.

(ix) In addition to the above, the counsel for the appellant placed reliance on the following judgments, which consistently affirm that the absence of proof of demand and acceptance is fatal to a conviction under the P.C. Act: *Ganapathi Sanya Naik Versus State of Karnataka 2007(4) Crimes 85, State of M.P. Versus J.B. Singh 2000(4) Crimes 162, Anand Parkash and another Versus State of Haryana 2008(2) R.C.R. (Criminal) 335.*

4. Learned counsel for the appellant has, therefore, vehemently argued that the prosecution failed to prove the essential ingredients of the offences under Section 7 and 13(2) of the P.C. Act, as there was no cogent evidence on record to prove demand and acceptance of illegal gratification by the appellant. The complainant turned hostile, the Investigating Officer was not examined, there were material discrepancies with respect to the bribe amount and its recovery, and the statutory presumption under Section 20 of the P.C. Act is inapplicable in the absence of foundational facts. Learned counsel has, therefore, urged that the impugned order deserves to be set aside as the conviction of the appellant is unsustainable in law.

5. **Submissions on behalf of appellant/accused-  
Amrit Mehra alias Amit Mehra:**

(i) That the impugned judgment convicting and sentencing the appellant is contrary to well settled principles of criminal jurisprudence and against the facts on record. The learned trial Court has proceeded on erroneous assumptions and incorrect application of law, thereby rendering the findings perverse and unsustainable.

(ii) That the conviction and sentence imposed upon the appellant are based on mere conjectures and surmises rather than on legally admissible and credible evidence.

(iii) That the trial Court failed to appreciate the serious contradictions and inconsistencies that rendered the case of the prosecution wholly unreliable. The prosecution presented a highly improbable, unnatural, and inconsistent version of events, whereas the defence version clearly is more logical, consistent, and supported by a reasonable chain of events. The learned trial Court erred in not giving due weight to these inconsistencies, which cast serious doubt on the veracity of the allegations against appellant-Amrit Mehra alias Amit Mehra.

(iv) That the trial Court overlooked the fundamental principle that conviction in a criminal case must be based on clear, cogent and convincing evidence. In the present case, the prosecution miserably failed to prove any direct or corroborative evidence linking the appellant to the alleged offence. The facts and evidence on record categorically proved that the appellant was merely present at the Police Post, having been called by certain police officials of Police Post Ranjit Avenue, Amritsar, in his capacity as a subordinate of the complainant. Furthermore, during his personal search, only a sum of ₹120/- was recovered from him, which does not support the allegations made by the complainant. The appellant has, therefore, been falsely implicated merely to create a scapegoat.

(v) That the essential ingredients of an offence under the P.C. Act that is demand and acceptance of illegal gratification could not be proved in the present case. It is a well settled principle that in order to

prove an offence under the P.C. Act, the prosecution must prove beyond a reasonable doubt that:

- (a) there was a specific demand for illegal gratification by the accused.
- (b) the illegal gratification was voluntarily paid by the complainant.
- (c) the accused accepted the illegal gratification with knowledge and intent.

(vi). In the present case, the entire case of the prosecution rests upon the testimony of PW-1 Anupam Gupta. However, this witness did not support the case of the prosecution regarding any demand or acceptance of illegal gratification by the accused ASI Gurinder Pal Singh. Furthermore, PW-1 was declared hostile, and his testimony could not have been relied upon by the trial Court to convict the appellant.

(vii). That the trial Court erroneously relied upon a retracted and highly inconsistent testimony, which clearly renders the entire judgment legally unsound. The following observations made by the trial Court indicate a complete misappreciation of facts and law:

*“Although he denied having mentioned name of Gurinder Pal Singh in his application, Ex-PW4/A but, when cornered, he stated that the officers present in the Police Post directed him to insert name of ASI Gurinder Pal Singh then the whole of staff and on directions of the officers, he made cutting on the word "Staff" and inserted name of ASI Gurinder Fal Singh. This explanation is least convincing. Post Post is headed by an officer of rank of ASI. No cogent and convincing reason has been explained or established on the record for mentioning of name of ASI Gurinder Pal Singh in written complaint, Ex. PW4/A., allegedly at instance of some unknown officer. This witness did not clarify that who was the officer who had directed him to insert name of ASI Gurinder Pal Singh. The witness is an*

*educated person holding responsible post in the bank and it is highly unlikely that he would have mentioned name of ASI Gurinder Pal Singh just at the instance of some other police officer. Although he denied having given any bribe money to any of the police officials or any other person stating that the money was directly paid to the injured, but, when his attention was drawn to portion A to A1 of his statement, Ex.PW4/B where it is so mentioned, he simply denied it and could not give any satisfactory reply for the same.”*

*“The fact is that he had moved written complaint. Ex.PW4/A, to the police levelling specific allegations by name against SI Gurinder Pal Singh of demanding and accepting bribe from him, which matter, was inquired into by a responsible officer of the rank of Superintendent of Police, who, in his report, Ex. PW7/A, had found truth in the allegations and then formal FIR had been registered. It seems that this witness, under the influence of accused, has back tracked in an attempt to help the accused during trial.”*

(viii). The trial Court has drawn arbitrary conclusions that are not based on any reliable evidence, which vitiates the entire reasoning adopted in the impugned judgment.

(ix). That the prosecution failed to prove the alleged recovery of tainted money in a legally sustainable manner. The following grave lapses in the investigation further render the alleged recovery highly suspect:

(i) The distinctive numbers of the currency notes were not recorded.

(ii) The recorded currency notes and diary were not converted into sealed parcels.

(iii) The key of the almirah was not taken into possession by the Investigating Officer.

(x). That these serious procedural lapses raised substantial doubt over the credibility of the recovery process, thereby rendering the prosecution case unreliable. That the trial Court approached the case with a preconceived notion and failed to apply its judicial mind to the facts and circumstances of the case, which is evident from the following submissions made in the impugned judgment:

*“There is no denying the fact that investigation of cases by police in this region is not of very high quality and done in a scientific manner. The reasons for it may be increase in work load. lack of training in use of scientific methods, lack of education etc. But, then a criminal cannot be allowed to go off the hook merely due to a slip here or there in the investigation.”*

(xi). That the above reasoning demonstrates a complete disregard for the well established principle that any deficiency in the case of the prosecution must necessarily enure to the benefit of the accused.

(xii). That the trial Court wrongly inferred guilt from the appellant’s alleged failure to make representations before the higher authorities, as is evident from the following erroneous observations:

*“Admittedly, till date, the accused have not submitted any written representations to the higher officers and other wings of administration that they have been involved in this case falsely. They have not agitated this matter before any Forum, Commission or in any Court of law. If they had been roped in wrongly, they would not have kept quiet with democlean sword of conviction hanging over their head. Their silence and inaction in the matter goes to show that they have nothing to say and their plea of false implications, lacks merit.”*

(xiii). That the onus was on the prosecution to prove the guilt of the accused beyond reasonable doubt. The failure of the accused to approach

external forums cannot be used as a substitute for legal proof of guilt.

(xiv). That the conviction of the appellant under Section 12 of the P.C. Act is based on a completely erroneous conclusion. The only reasoning given by the trial Court is that complainant Anupam Gupta had paid a bribe of ₹7,000/- to co-accused ASI Gurinder Pal Singh through Amrit Mehra alias Amit Mehra (present appellant) and he is, therefore, clearly guilty of abetting the offence of giving a bribe to a public servant.

(xv). That the trial Court failed to appreciate that mere presence or association does not constitute abetment unless there is evidence of intentional assistance in the commission of the offence.

**Findings of the Court:**

6. Upon hearing the learned counsel for the parties and meticulously perusing the evidence on record, including the testimonies of the prosecution witnesses and the documentary evidence adduced, this Court finds that the prosecution has failed to establish the foundational facts necessary to sustain a conviction under the P.C. Act. The substratum of the case of the prosecution rests on the allegations of illegal gratification; however, the most crucial witness, the complainant, PW-4 Anupam Gupta, turned hostile and categorically denied having paid any bribe to either of the accused (appellants). His testimony not only dismantles the version put forth by the prosecution but also casts serious doubt on the voluntariness and credibility of the initial complaint itself.

6. It is a well-settled proposition of law that proof of demand and acceptance of illegal gratification by a public servant is a *sine qua non* for proving an offence under Sections 7 and 13(1)(d)(i) and (ii) of the P.C. Act. Mere possession or recovery of tainted money, without evidence of any

prior demand and conscious acceptance, is wholly insufficient to sustain a conviction. Hon'ble the Supreme Court has consistently held that a conviction under these provisions cannot rest merely on suspicion, conjecture, or the recovery of money. Instead, the prosecution must, as a matter of legal necessity establish that that there was a clear and unequivocal demand for illegal gratification made by the accused public servant; the accused consciously accepted the bribe amount in furtherance of that demand.

7. These two essential ingredients i.e. demand and acceptance are indispensable and must be proved as foundational facts before the statutory presumption under Section 20 of the P.C. Act can be invoked. Mere possession or recovery of tainted money, in the absence of proof of prior demand and voluntary acceptance cannot lead to conviction.

8. The prosecution can discharge its burden of proof either by way of direct evidence, including oral testimony of the complainant, documentary proof such as recorded conversations, or trap proceedings that explicitly prove both demand and acceptance or by way of circumstantial evidence, where direct evidence is unavailable, the prosecution must adduce compelling circumstantial evidence that leads to an unambiguous inference of guilt, beyond a reasonable doubt.

9. In *Neeraj Dutta Versus State (NCT of Delhi), 2023 (4) SCC 731*, Hon'ble the Supreme Court laid down the following principles governing convictions under the P.C. Act:

(a) The prosecution must prove both demand and acceptance of illegal gratification as a fact in issue to prove the guilt of the accused public servant.

(b) Demand must first be proved, followed by proof of subsequent acceptance. This may be proved through direct oral or documentary evidence or, in its absence, by circumstantial evidence.

(c) Mere acceptance of money, without proof of prior demand, does not constitute an offence under Section 7 or Section 13(1)(d) of the P.C. Act.

(d) A presumption of fact regarding demand and acceptance can only be drawn when foundational facts are proved by cogent, oral and documentary evidence.

(e) If the complainant turns hostile, has died, or is unavailable, demand of illegal gratification can be proved through the testimony of other witnesses or through circumstantial evidence. The trial does not abate nor does it automatically result in acquittal.

(f) Under Section 7 of the P.C. Act, upon proof of demand and acceptance, the Court must raise a presumption that the illegal gratification was received as a motive or a reward, subject to rebuttal. However, this statutory presumption does not apply to offences under Section 13(1)(d) of the P.C. Act.

Thus what flows from the above principles laid down by the apex court is that in the absence of both direct and circumstantial evidence establishing demand and conscious acceptance, a conviction cannot be sustained merely on the basis of recovery.

10. Adverting to the present case, the failure of the prosecution to prove demand and acceptance is evident from the fact that the complainant PW-4 Anupam Gupta, himself disowned the allegations of bribery. He unequivocally stated that the inclusion of appellant-Gurinder Pal Singh's name in the written complaint was done at the behest

of other police officials present at the Police Post. This assertion fundamentally weakens the case of the prosecution and raises serious concerns about the voluntariness and authenticity of the complaint, which forms the very genesis of the case.

11. Another glaring infirmity in the case of the prosecution is the non-examination of the Investigating Officer (Superintendent of Police), who allegedly verified the complaint and directed the registration of the FIR. His testimony was crucial for establishing the sequence of events leading to the trap proceedings, the manner in which the complaint was verified and the authenticity of the investigation.

12. The failure to examine this key witness clearly deprives the Court of the opportunity to scrutinize the veracity of the investigation and without doubt creates a serious dent in the case of the prosecution. The absence of such a critical witness cannot be brushed aside as a minor irregularity; rather, it strikes at the very root of the case of the prosecution.

13. The alleged recovery of ₹7,000/- from an almirah at the Police Post further fails to inspire confidence. The recovered money was not found in the conscious possession of either of the appellants. Further, the prosecution failed to record the serial numbers of the currency notes before the trap proceedings, coupled with the fact that the recovered notes were not sealed, raising doubts about their authenticity as tainted money. Pertinently the key to the almirah, where the alleged bribe money was kept, was not taken into possession, making it impossible to link the recovery exclusively to the appellants. Without doubt, these grave procedural lapses rendered the recovery highly suspect.

14. It is a settled position of law that mere recovery of money, without proof of prior demand and conscious acceptance, is insufficient to convict an accused under the P.C. Act.

15. As regards appellant-Amrit Mehra alias Amit Mehra, his conviction under Section 12 of the P.C. Act is premised on the allegation that he abetted the bribery transaction by collecting money on behalf of the co-accused Gurinder Pal Singh. However, there is a complete lack of independent or corroborative evidence to support this charge. The complainant himself did not support this version and no witness testified to having seen this appellant demanding or receiving any bribe.

16. It is well-settled that mere presence at the scene or passive association with the principal accused/offender does not amount to abetment under Section 12 of the P.C. Act. The conclusion drawn by the learned trial Court in the impugned order convicting him is, therefore, purely speculative and legally unsustainable.

17. The learned trial Court's approach in convicting the appellants is based on conjectures rather than proof beyond reasonable doubt. The trial Court erroneously disbelieved the complainant merely because he did not raise his grievance before superior officers. Such reasoning is legally untenable, as the burden of proof always rests on the prosecution and the alleged failure of the accused to make representations or complaints cannot substitute proof of guilt.

18. Upon a comprehensive evaluation of the evidence on record, this Court finds that the prosecution has failed to prove the guilt of the appellants beyond reasonable doubt. The following factors decisively undermine the case of the prosecution:

- (i) The complainant having turned hostile and categorically disowned the allegations of bribery.
- (ii) Absence of independent proof of demand or acceptance
- (iii) Significant procedural lapses during the recovery of the bribe amount.
- (iv) Non-examination of the Investigating Officer, a crucial witness.
- (v) The findings of the trial Court resting on presumptions rather than legal proof.

19. Accordingly, this Court sets aside the impugned judgment of conviction and order of sentence dated 13.10.2011 by allowing the instant appeal. The appellants are acquitted of the charges framed against them.

February 14<sup>th</sup>, 2025  
*Puneet*

(MANJARI NEHRU KAUL)  
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : Yes