2026:JHHC:32730

IN THE HIGH COURT OF JHARKHAND AT RANCHI
Cr. Appeal (S.J.) No. 497 of 2014

Pradeep Kumar, Son of Shiv Prasad Sahu, R/o-Pradeep Kunj, near Auto Stand, Harmu Housing Colony, P.O.-Harmu, P.S.-Argora, Dist.-Ranchi **... .... Appellant**

Versus

The State of Jharkhand through C.B.I.

.... Respondent

For the Appellant : Mr. A.K. Kashyap, Sr. Advocate
Mr. Anurag Kashyap, Advocate
Mrs. Supriya Dayal, Advocate

For the Resp.-C.B.I. : Mr. Deepak Kumar Bharati, Adv.

CORAM: HON'BLE MR. JUSTICE PRADEEP KUMAR SRIVASTAVA

JUDGMENT

C.A.V. on 14.08.2026 **Pronounced on 06/11/2026**

1. Heard the arguments of learned Sr. counsel for the appellant and learned counsel appearing on behalf of C.B.I.

2. The instant criminal appeal has been preferred by the above named sole appellant challenging his conviction and sentence for the offence under Sections 7 & 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act, 1988 in R.C. Case No. 09A of 2007 (R) passed by the learned Special Judge, CBI, Ranchi vide its Judgment and order dated 10th July, 2014 whereby and whereunder, the appellant has been directed to undergo R.I. for three years with a fine of Rs. 5,000/- for the offence under Section 7 of P.C. Act; further directed to undergo R.I. for four years with a fine of Rs. 5,000/- for the offence under Section 13(2) and 13(1)(d) of the P.C. Act, with default stipulation.

Factual Matrix:-

3. The factual matrix giving rise to this appeal is that one Jitendra Kumar Singh (P.W.8) proprietor of M/s Maa Geevachh Enterprises lodged a complaint on 19.06.2007 against the present appellant stating *inter alia* that the appellant Pradeep Kumar, section Officer, SAIL, Ranchi was looking after Accounts work of SAIL Employees' Consumers' Co-operative Society Ltd. Ranchi (hereinafter referred to as SECCSL) has demanded illegal gratification/ bribe of Rs. 8,000/- in lieu of making payment of the bills of the complainant to the tune of Rs.80,000/- approximately in favour of the firm of the complainant against supplies of various consumable items to the said co-operative society. It is alleged that the accused was competent to process the bills of the said firm and to get issued the cheques against the pending bills of the said firm. It is further alleged that the accused had already got the cheques prepared in connection with discharge of bills of the complaint much before 19.06.2007 and kept in his custody and was not delivering the same to the complainant and was asking for illegal gratification for delivery of the same. It is further alleged that on repeated request and negotiation by the complainant on 19.06.2007 with the accused, the accused became ready to accept Rs. 6000/- as advance and remaining Rs. 2000/- after payment of the bills.

4. As the complainant was not intended to pay bribe , hence, he lodged a written complaint before S.P./CBI/ACB/Ranchi on 19.06.2007 requesting therein to take necessary legal action in the matter.

5. The complaint got verified through Sanjay Kumar Sinha (P.W.6), Inspector of CBI, Ranchi who thoroughly interrogated with the complainant and found the allegations leveled against the accused to be prima facie true and submitted his report. Accordingly, F.I.R. was registered and the charge of investigation was given to K.K.Singh (P.W.9), Inspector CBI, Ranchi.

6. A trap was laid to apprehend the accused red handed while demanding and accepting illegal gratification of Rs. 6000/- from the complainant. A team was constituted and all the members of trap team assembled in the office of K.K. Singh, Inspector on 19.06.2007 at about 7:30 PM. All the members were introduced about the purpose of assembly and pre-trap demonstration was conducted with assignment of role to each of the members. G.C. notes of Rs. 1000/- in denomination to number of the notes were noted and it was smeared with phenolphthalein powder, the reaction of phenolphthalein powder with sodium carbonate was also explained. The complainant was instructed to give the tainted G.C. Notes to the accused on being demanded by him as bribe otherwise not. The complainant was further instructed that after reaching the

co-operative society at SAIL, Ranchi, he would negotiate the bribe matter with the accused in an audible manner so that the conversation be over heard by the witnesses and other trap party members present in the vicinity. The complainant was also asked to give a signal by right hand fingers after acceptance of bribe amount by the accused. The independent witness Ashok Kumar (P.W.7) was asked to accompany the complainant to listen the conversation between the both and also to observe the acceptance of tainted bribe amount Rs.6000/- of by the accused and other independent witness Om Prakash Sharma was also instructed to try to place himself as near as possible to the complainant and the accused in an unobtrusive manner to overhear the conversation as well as to see the acceptance of bribe by the accused. After completion of pre trap proceeding, a memorandum (Ext.10) was prepared which was signed by all the members of trap team including both the independent witnesses as well as the complainant. Thereafter, the trap team proceeded towards SECCSL office and reached there at about 4.55 P.M. on the same day. At about 5.15 P.M. the complainant (P.W.8) along with shadow witness Ashok Kumar (P.W.7) entered into the office of the accused Pradeep Kumar where he was sitting. After exchanging of wishing in Hindi by saying "Namaskar", the accused also reciprocated the same by gesture and told that cheques were ready and he was waiting for him (the complainant).

Upon this the complainant asked “whether his all cheques are ready”? The accused replied affirmatively and asked to the complainant whether he has brought money. The complainant answered in affirmative. The accused directed the complainant to keep the money below the file kept on the cooler lying in front of the table of the accused. Then the complainant took out the tainted G.C. notes from his pocket of wearing trouser and kept the same below the file which was kept on the said Cooler. The above conversation and transaction of bribe amount was clearly over heard and seen by the independent witness Ashok Kumar (P.W.7) who was present in the office room and also by O.P. Sharma (P.W.4) and Inspector K.K.Singh (P.W.9) who were standing there. Thereafter, the accused asked the complainant to sign on the vouchers. The complainant sat down on a chair lying there and started signing the vouchers. In the meantime Inspector (P.W.9) along with K. K. Singh, S. K. Sinha (P.W.6) and witness O.P. Sharma (P.W.4) entered into the office of the accused. The inspector K. K. Singh after disclosing his identity as well as other CBI trap team members who are present in the said office room challenged the accused for having demanded and accepted bribe of Rs.6000/- from the complainant. Then, the accused became nervous and told " Mai Rupaye Manga Nahi Tha Khushi Se Ye Diye Hai”. Thereafter, the accused declared arrested. On disclosure of the accused, tainted G.C. notes of

Rs.6000/- were recovered from the said Air Cooler by the independent witness O.P. Sharma (P.W.4), who compared and tallied the number and denomination of the recovered G.C. notes with the number and denomination of the G.C. notes as recorded in pre trap Memorandum (Ext.10) with the help of another witness Ashok Kumar (P.W.7) and the same were tallied in toto. The said recovered notes were kept in an envelope which was duly sealed and signed by all concerned. Thereafter, the accused was subjected to personal search but nothing incriminating was found on his person. However, a personal search memo (Ext. 12) was prepared and a copy of arrest memo (Ext.11) was given to the accused. The office table of the accused was also searched and four number of vouchers (Ext. 1 to 1/3) pertaining to issue the cheques of different dates and its enclosure lying on the table of the accused were seized. It is alleged that due to law and order problem created at the place of occurrence, the trap team members left the said office and proceeded for the house of the accused where search of the house was made and thereafter, memorandum of recovery and seizure (Ext.14) was prepared.

7. After completion of investigation, charge sheet was submitted against the accused for the offence under section 7 & 13 (2) r/w 13 (1) (d) of the P.C. Act 1988 and accordingly, cognizance of the offence was taken vide order dated 13.08.2007. The accused pleaded not guilty and claimed to be tried.

8. In order to substantiate the charges leveled against the appellant, the prosecution has examined altogether (Nine) 9 witnesses:-

P.W.-1	Jai Ram Oraon
P.W.-2	Jagdish Singh
P.W.-3	Ram Awatar
P.W.-4	Om Prakash Sharma (Independent Witness)
P.W.-5	Vidyapati Choudhary
P.W.-6	S.K. Sinha (Verifying Officer)
P.W.-7	Ashok Kumar (Independent Witness)
P.W.-8	Jitendra Kumar Singh (Complainant)
P.W.-9	K.K. Singh (I.O.)

9. Apart from oral testimony of the witnesses, the prosecution has adduced following documentary evidence:-

Ext.-1 to 1/3	Vouchers relating to supply of articles by the firm of the complainant.
Ext.-1/4 to 1/7	Signatures of the Treasurer at the SAIL SECCSL Ranchi on vouchers
Ext.-2 to 2/3	Cheques drawn in favour of firm of the Accused
Ext.-2/4 to 2/7	Signatures of treasurers of SECCSL on Cheques
Ext.-3	Sanction Order
Ext.-4 to 4/59	Signatures of witnesses on different material exhibits and different documents
Ext.-5	Endorsement of P.W.-5 regarding receipt of copy of letter dated 06.07.2007 written by Inspector K.K. Singh to P.W.-5

Ext.-6 Letter dated 06.07.2007 written by P.W.-5 to Inspector K.K. Singh

Ext.-7 Written report of the complainant

Ext.-8 to 8/3 Signature of P.W.-8 J.K. Singh on the vourchers of SAIL

Ext. -9 F.I.R.

Ext.-10 Pre-trap Memorandum

Ext.-11 Personal Search Memo of Accused

Ext.-12 Memorandum of Arrest

Ext.-13 Memo of recovery and seizure

Ext.-14 Search List dated 19.06.2007 made from the house of the accused

10. The prosecution has also adduced following material exhibits:-

M. Ext.-1 Bottle Containing solution of demonstration.

M. Ext.-II Envelope containing tainted piece of paper

M. Ext.-III Envelope Containing residual phenolphthalein powder

M. Ext.-IV Sealed Envelope Containing G.C. Notes recovered and seized from the office of the accused

M. Ext.-V to V/17 G.C. Notes recovered from the cooler of the office

11. On the other hand, the defence has also examined following two witnesses:-

D.W.-1 Ashwini Kumar Sinha

D.W.-2 Ashok Kumar Jha

12. Apart from the above oral testimony, following documentary evidence has been adduced on behalf of the defence:-

Ext.-A Certified Copy of Deposition of P.W.-4 (O.P. Sharma) in R.C. Case No. 11A/2006(R)

Ext. –B Bye-Laws of SAIL Employer Consumer Co-operative Society Limited

Ext.-C to I Different dates of Letters

13. The learned trial Court after evaluating the oral as well as documentary evidence along with material exhibits relied upon by the prosecution arrived at definite findings of guilt of the appelalnt for the offence as stated above which has been assailed in this appeal.

Submissions on behalf of appellant: -

14. Assailing the impugned judgment of conviction and sentence of the appellant, learned Sr. counsel for the appellant has vehemently argued and raised following points:-

- It is an admitted case of the prosecution that no bribe amount was recovered and seized from the conscious possession of the appellant and the evidence of complainant as well as shadow witnesses does not prove in clear terms that the appellant have ever demanded any amount of money of Rs. 6000/- as illegal gratification for passing the bills and issuing the cheques in favour of the complainant.
- The G.C. Notes have also not been recovered from the conscious possession of the appellant, as such, very important limbs for constituting the offence under Section 7 of the P.C. Act i.e. “Demand”, “Acceptance”

and "Recovery" of the bribe amount have not been proved by the prosecution beyond all reasonable doubt. Therefore, conviction and sentence of the appellant is absolutely illegal and liable to be set aside.

- It is further submitted that the complaint (P.W.-8) and independent witness P.W.-4 and P.W.-7 alleged to be shadow witnesses have given mutually destructive statement regarding initiation of conversation between the complainant and the accused and as regards, the demand of money and its recovery. Therefore, their evidence cannot be relied upon.
- It is further submitted that written complaint was lodged on 12:30 PM, the same was got verified and its report was submitted and the pre-trap proceeding was concluded till 4:55 PM. Therefore, within four hours, all exercise has been completed in a haste at the instance of the complainant. The C.B.I. has called upon Shadow witnesses who are professionals and have given evidnce in several trap cases, therefore, they have become professionals. It is further submitted that the appellant was not a competent authority to pay the bills of the complainant. The bills submitted by the complainant itself was not attached with Form-9C which is mandatory for passing the bills as such there was no question of payment of bills of the complainant.

- The very vital aspect of the case is that as per the complainant, his cheques for discharging the bills were prepared but have not been given due to non-payment of bribe money but the alleged cheques issued in favour of the complainant has not been seized and brought on record as evidence. Therefore, the very genesis of the prosecution case becomes doubtful.
- It is further submitted that since the bills of the complainant could not be processes without support of Form 9-C, therefore, due to anguish, in connivance with C.B.I. officials, he has lodged this false case. The prosecution has miserably failed to prove necessary ingredients of the offence charged against him, therefore, impugned judgment of conviction and order of sentence of the appellant is liable to be side aside allowing this appeal.
- Learned Sr. counsel for the appellant has also placed his reliance upon the case of Hon'ble Supreme Court in the matter of **Satvir Singh vs. State of Delhi through CBI reported as (2014) 13 SCC 143**.

Submissions on behalf of the State-CBI

15. On the other hand, learned Sp.P.P. (C.B.I.) controverting the aforesaid contentions raised on behalf of the appellant has submitted that the learned trial Court has very wisely and aptly considered the vital aspects of the case, scrutinized and

appreciated the evidence of witnesses, pre-trap and post-trap proceedings, material exhibits and arrived at right conclusion that the prosecution has proved the charges leveled against the accused beyond all reasonable doubt. It is also settled law that if the demand and acceptance of gratification has been proved by the prosecution even through holding trap, the presumption under Section 20 of the P.C. Act can be invoked to the effect that gratification was demanded and accepted as a motive or reward as contemplated under Section 7 of the P.C. Act. The defence has miserably failed to rebut the aforesaid presumption invoked against the appellant. During trap proceeding, the demand, acceptance and recovery has been proved which was in connection with passing the bills of the complainant. It is also submitted that if any work is pending before the accused, and there is demand, acceptance and recovery of bribe money, the presumption under Section 20 of the P.C. Act can be raised. Therefore, there is no illegality or infirmity in the impugned judgment of conviction and sentence of the appellant and no merits in this appeal which is fit to be dismissed.

The learned counsel appearing on behalf of the C.B.I. has place reliance in the matter of **Neeraj Dutta Vs. State (Govt. of NCT of Delhi) [**(2023) 4 SCC 731].

Analysis, reasons and decision:

16. I have gone through the record of case along with impugned

judgment in the light of contentions raised on behalf of respective parties.

17. The only point for determination in this appeal is "as to whether the impugned judgment of conviction and sentence of the appellant suffers from any error of law, which requires any interference in this appeal?"

18. Before imparting my verdict on the above point, it is pertinent to take brief resume of the evidence available on record for proper adjudication.

P.W.1 Jai Ram Oraon is the then Deputy Manager, SAIL-cum-Executive Officer, SECCSL, Ranchi where the appellant was also the employee who has deposed that Pradeep Kumar was looking after work of Account and Finance in SECCSL, Ranchi and it was his duty to maintain record of daily sell, vouchers, preparation of cheque and delivery of the same to the person concerned. He further deposed that during the said period different product of Hindustan Lever Co. were purchased by SECCSL by its distributors M/s Maa Geevachh Co. Ltd. and proprietor of the said company was Jitendra Kumar. This witness has further identified and proved handwriting and signatures on four vouchers issued by SECCSL in favour of M/s Maa Geevachh Co. Enterprises. He has further deposed that after passing of the vouchers, four cheques were prepared by the accused Dr. Pradeep Kumar.

In his cross-examination, **this witness admits that suppliers have to enclose "Form-9 C" along with bills presented by him for payment proving that supplier has paid sale tax but vouchers submitted by the complainant was not attached with Form-9C. This witness also admits that vouchers are passed by Treasurer and cheques are prepared by Pradeep Kumar but the same is signed by Secretary.**

P.W.2 Jagdish Singh who was the Director- in- charge, R.D.C.I.S. SAIL, Ranchi from October, 2006 to March, 2009. And he was competent authority to remove Dr. Pradeep Kumar (the accused) from his service. He has also supported the fact that accused Dr. Pradeep Kumar was posted as Section Officer, SAIL who was to look after Accounts work in SECCSL. This witness had accorded sanction for prosecution against the accused.

In his cross-examination, he has denied the suggestion that he has not applied his mind in order to accord sanction.

P.W.3 Ram Awatar is also an employee of the SAIL, Ranchi. Who has also stated that the appellant was to look after the account work. **He has further stated that all the cheques issued from the Honourary society is signed by Treasurer and counter signed by the Secretary. In absence of secretary the cheque has to be counter signed by the Chairman. This witness has stated that M/s Maa Geevachh**

Enterprises was also one of the suppliers of goods to SECCSL but Form-9 "C" was submitted by the said firm alongwith its vouchers or not, he could not tell expressing his no knowledge whether Form-9 "C" was submitted by the aforesaid firms in the year of 2005-06 or not. This witness has also admitted the fact in para 7 that the responsibility of accounts rests upon treasurer.

P.W.4 Om Prakash Sharma is an independent witness (Shadow Witness) who has deposed that CBI Inspector K.K. Singh (P.W.9) introduced this witness with the complainant Jitendra Kumar Singh (P.W.8) and other CBI Officers sitting there. Ashok Kumar, another shadow witness, Public Relation Inspector of his Office was also present there and this witness was explained about the complaint with regard to demand of bribe by the appellant and about the pre trap proceedings including use and demonstration of phenolphthalein powder and after completing all the formalities, all the G.C. notes were treated by phenolphthalein and thereafter, said notes were returned to the complainant with direction that he would give the same to the accused when bribe would be demanded by him otherwise not and at about 4:00 P.M. alongwith trap team members proceeded for SAIL co-operative by two vehicles and reached there at about 4:20 P.M. This witness further states that the complainant Jitendra Singh entered in the office of the accused, wished him then

the accused told that his all the cheques were ready and demanded bribe money from the complainant. The complainant took out money from his pocket to give but accused Pradeep Kumar directed the complainant to keep the money below the file kept on a Cooler situated in front of his table and complainant signed on those vouchers and gave signal to the trap team, then, all the members of the trap team including the CBI Inspector and witness reached there and recovered the said G.C. notes kept on the cooler and all post-trap formalities were completed.

In his cross-examination, this witness has stated that he has no documentary proof that his controlling officer directed him to go CBI Office. He himself stated that verbal direction was given to him.

P.W.5 Vidhyapati Chaudhary the then Branch Manager of SBI, who has only proved the letter sent by the C.B.I. Officers which has been marked as Ext-6.

P.W.6 Sanjay Kumar Sinha is the then Inspector CBI, ACB, Ranchi who has verified the complaint by only interrogating with the complainant in the C.B.I. office and submitted his report.

In his cross-examination, this witness admits that the complainant was present in the office of CBI and he orally interrogated to the complainant regarding the allegation and no statement of the complainant was recorded by him.

P.W.7 Ashok Kumar is independent-cum-shadow witness who is professional in witnessing the pre-trap and post-trap proceedings as and when required by the C.B.I. Similarly, as per direction of Sr. Postal Superintendent, Ranchi he along with another shadow witness Om Prakash Sharma went to CBI Office and were introduced with the complainant. He has further deposed that after completion of pre-trap formalities, they reached at co-operative society situated at SAIL Town, Ranchi. This witness has stated that he and complainant entered in the office room of the accused Pradeep Kumar and asked the accused whether his bill and cheques are ready? The accused answered affirmatively and asked whether the complainant has brought money? The complainant replied "Yes" and took out tainted money from his pocket of wearing trouser to give but the appellant directed to keep the bribe money below the file kept on the Cooler placed in front of his table and the complainant kept the G.C. Notes as per direction and the complainant signed on some bills/ papers and signal was raised, all the members rushed and on the direction of CBI inspector the money was recovered by witness Om Prakash Sharma (P.W.4) and the same was tallied with the numbers of notes mentioned in the pre trap memorandum which matched and further post-trap formalities were done. **This witness in para 12 to 16 of his deposition has stated that he cannot tell the direction of**

office room , how many chairs for other officials were in the office of the accused and where the accused was sitting is also not known by this witness. He has also expressed his unawareness regarding the way to the office of the accused after entry from main gate. Further, he has also expressed his unawareness with regard to total number of members in the raiding party. He has also no knowledge that where all the raiding parties had taken their position to witness the post-trap proceedings. This witness has also expressed his unawareness with respect to position of cooler in the office of the accused which is alleged that money was kept upon the cooler.

P.W.8 Jitendra Kumar Singh, complainant, one of the partner as well as proprietor of M/s Maa Geevachh Enterprises has deposed that payment for supply of some goods was pending since June, 2007 and for that purpose, he met with the accused and the accused demanded illegal gratification of Rs. 8,000/- at the rate of 10% of the bill amount and as this witness was not willing to give bribe money, he met with S.P. CBI, Ranchi on 19.06.2007 and submitted a complaint. The S.P. CBI sent him to S.K. Sinha (P.W.6) who interrogated him about the matter. And asked him to come in the office of CBI with Rs. 8,000/- and accordingly, he at about 12:30 P.M. again went to CBI office. This Witness has further stated that when he again reached in the office of CBI, Ranchi Inspector K.K. Singh (P.W.9),

Inspector S.K. Sinha (P.W.6), other personnel of CBI and witnesses O.P. Sharma (P.W.4) and Ashok Kumar (P.W.7) were present there and was introduced with pre-trap formalities and the same were completed including two G.C. Notes of denomination of Rs. 1000/-, six G.C. Notes of denomination of Rs. 500/- and ten G.C. notes of denomination of Rs. 100/- total amounting to Rs. 6,000/- which were noted down with denomination of the said G.C. notes, smeared the white powder on the notes and returned the same to him with direction that the tainted G.C. Notes should be given to the accused only when the bribe money was demanded by the accused otherwise not and Ashok Kumar (P.W.7) was directed to remain along with him, so that he (P.W.7) may see the transaction of bribe money between the complainant and the accused and may also over hear conversation between the both. He has further stated that he along with witness Ashok Kumar (P.W.6) entered into SAIL co-operative building where accused Pradeep Kumar was sitting in his office. **He wished the accused and asked that whether his cheques are ready? The accused replied affirmatively then, this witness requested him to hand over the cheque. The accused asked whether he had brought money. This witness took out the money and tried to give to the accused but he did not take money and asked him (P.W.8) to keep the money in the file kept on the Cooler and**

the same was kept there. Thereafter, he came outside the room and gave pre fixed signal upon which CBI team reached there. CBI Inspector K.K. Singh (P.W.9) introduced himself and challenged the accused for demanding and accepting the bribe, **the accused firstly refused for accepting bribe but on interrogation the accused accepted that he has taken money but he has not demanded the money rather the same was given by the complainant voluntarily**. When it was asked that where is the money? The accused indicated towards the said file kept on the cooler. Then, upon instruction of the Inspector (P.W.9), witnesses Ashok Kumar (P.W.7) and Om Prakash (P.W.4) recovered the tainted notes from the said file and tallied the number of recovered notes from the numbers mentioned in the memo of pre trap proceeding (Ext-10) and all numbers were matched completely and sealed in an envelop which was signed by the all present including himself and accused was arrested and was taken to his residence where search of his residence was made and an inventory of his property was prepared.

In his cross-examination, **this witness admits that he has no document with regard to the fact that he met with the accused on 17.6.2007 and there is no witness of the fact that accused demanded Rs. 8,000/- as bribe on 17.6.2007. He has further admitted that the supplier has to submit Form-9C regarding payment of Sale Tax along with the bills**

presented for payment before the society but in the year 2006 which ever payment was received by him for the said firm, neither Form-9 "C" was asked to be submitted by the society nor the same was submitted along with the bills presented for payment before the society. He has further stated that सेल कोआपरेटिव सोसाइटी के बाहर पहुँचने के 15-20 मिनिट्स बाद हमलोग अंदर गए और उस सोसाइटी के बिल्डिंग की चौहद्दी नहीं बता सकता हूँ उस कमरे का दरवाज़ा किस दिशा में है नहीं बता सकता हूँ उस कमरे में एक और आदमी बैठा था नहीं पहचानता हूँ

P.W.9 K.K. Singh is the then Inspector CBI/ACB/Ranchi, main leader of the trap team and I.O. of this case. He deposed that on 19.6.2007 the complainant Jitendra Singh (P.W.8) filed a written complaint before the S.P. CBI, Ranchi alleging therein that the accused Pradeep Kumar, the then Section Officer, SAIL Co-operative society has demanded Rs. 8,000/- as illegal gratification for issuance of cheque regarding payment of the bills total amounting to Rs. 80,000/- in favour of the complainant against supplies of various goods to the co- operative society and after verification by S.K. Sinha, F.I.R. was lodged and investigation of the case was handed over to this witness. Accordingly, trap team was constituted and two independent witnesses namely O.P. Sharma (P.W.4) and Ashok Kumar (P.W.7) were arranged through their controlling officers. On 19.06.2007 at about 2:15 P.M. all the aforesaid trap team members, both

independent witnesses and the complainant Jitendra Singh (P.W.8) assembled in the CBI Office and they were introduced to one another and were explained the use of phenolphthalein powder and sodium carbonate which was followed by a practical demonstration and all other formalities were done and instructed that after reaching in the office of the accused, the complainant would negotiate the bribe matter with the accused in an audible manner so that the conversation be over heard by the witnesses present in and to give a signal after acceptance of bribe money by the accused. He further deposed that witness Ashok Kumar (P.W.7) was directed to accompany the complainant to listen the conversation between the both and also observe acceptance of bribe money by the accused. The witness O.P. Sharma (P.W.4) and members of trap team were also instructed to try to place themselves in vicinity. He has further deposed that at about 4:20 P.M. entire team was proceeded for SAIL Township, Ranchi and reached there at 16:55 P.M. He has further deposed that at about 17:55 P.M. the complainant (P.W.8) and shadow witness Ashok Kumar (P.W.7) were asked to enter in the office room of the accused and negotiate the bribe matter. In the meantime, members of trap team took their position in near vicinity of the office and he (P.W.9) along with witnesses O.P. Sharma placed themselves at the door of the said office. He further stated that the complainant alongwith witnesses

Ashok Kumar (P.W.7) entered in the office room of the accused and wished him and the accused reciprocated with gesture and said "I have kept ready cheques and waiting for you." The complainant asked whether cheques for his all bills are ready"? The accused replied affirmatively and asked whether he had brought money. The complainant replied that he has brought Rs. 6,000/- and rest amount would be paid within one or two days. Then, the accused directed the complainant to keep the money beneath the file kept on the Cooler placed there and the complainant did so and on signal, this witness introduced himself and challenged the accused that **he has demanded and accepted the bribe then, the appellant told that he has not demanded money and the money was given by the complainant voluntarily** and the accused was arrested and on his disclosure bribe money was recovered by witness O.P. Sharma which was kept below the file on the Cooler placed in front of the accused in the office. P.W.9 has further testified that as directed, both the independent witnesses O.P. Sharma and Ashok Kumar tallied the number and denomination of recovered notes with the number and denomination of the notes mentioned in the pre trap memorandum (Ext-10). Thereafter, recovered notes were kept and sealed in an envelope which was signed by all the members of the trap team and after completing all other post-trap formalities, at about 18:30 hours, he alongwith accused

and entire trap team went to the house of accused and search of the house of the accused was conducted. A memo of recovery and seizure and an inventory was prepared there.

In his cross-examination, this witness has admitted that the questions asked by the witnesses and answer given by the complainant during pre trap proceeding has not been mentioned in the diary. He further deposed that it has been mentioned in pre trap memorandum that trap team was constituted by S.P. CBI. He deposed that in para-2 of the case diary, he has mentioned that on the request of S.P. CBI two employees of Postal Department were sent to observe the proceeding as independent witnesses. He also admits that vouchers were seized from the table of the accused but cheques were not seized, so that the complainant could get payment of the same.

19. On the other hand, D.W.-1 and D.W.-2 and both of them has proved letters.

20. Before adverting to evaluate the aforesaid evidence available on record, it appears pertinent to extract the relevant provisions of the Prevention of Corruption Act, 1988.

(Prior to Amendment in the year 2018)

"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)……..

(b)……..

(c)……..

(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;

(e)……..

Explanation:- ……

(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 seven years and shall also be liable to fine."

21. It is also pertinent to mention relevant judgments of Hon'ble Supreme Court of India. The Apex Court in the matter of **K. Shanthamma Vs. State of Telangana**, [(2022) 4 SCC 574] and **Neeraj Dutta Vs. State (Govt. of NCT of Delhi) [**(2023) 4 SCC 731] has held that for recording conviction under Sections 7, 13(1)(d)(i) and (ii), the prosecution has to first prove the demand and acceptance of illegal gratification.

22. The relevant paragraph number 11 of **K. Shanthamma (Supra)** is reproduced as hereunder:-

11. In P. Satyanarayana Murthy v. State of A.P. [P. Satyanarayana Murthy v. State of A.P., (2015) 10 SCC 152 : (2016) 1 SCC (Cri) 11] , this Court has summarised the well-settled law on the subject in para 23 which reads thus : (SCC p. 159)

"23. The proof of demand of illegal gratification, thus, is the gravamen of the offence under Sections 7 and 13(1)(d)(i) and (ii) of the Act and in absence thereof, unmistakably the charge therefor, would fail. Mere acceptance of any amount allegedly by way of illegal gratification or recovery thereof, dehors the proof of demand, ipso facto, would thus not be sufficient to

bring home the charge under these two sections of the Act. As a corollary, failure of the prosecution to prove the demand for illegal gratification would be fatal and mere recovery of the amount from the person accused of the offence under Section 7 or 13 of the Act would not entail his conviction thereunder."

23. Similarly, the relevant paragraph number 88 of **Neeraj Dutta (supra)** is reproduced as hereunder:-

"***88.*** *What emerges from the aforesaid discussion is summarised as under:*

88.1. *(a) Proof of demand and acceptance of illegal gratification by a public servant as a fact in issue by the prosecution is a sine qua non in order to establish the guilt of the accused public servant under Sections 7 and 13(1)(d)(i) and (ii) of the Act.*

88.2. *(b) In order to bring home the guilt of the accused, the prosecution has to first prove the demand of illegal gratification and the subsequent acceptance as a matter of fact. This fact in issue can be proved either by direct evidence which can be in the nature of oral evidence or documentary evidence.*

88.3. *(c) Further, the fact in issue, namely, the proof of demand and acceptance of illegal gratification can also be proved by circumstantial evidence in the absence of direct oral and documentary evidence.*

88.4. *(d) In order to prove the fact in issue, namely, the demand and acceptance of illegal gratification by the public servant, the following aspects have to be borne in mind:*

(i) if there is an offer to pay by the bribe-giver without there being any demand from the public servant and the latter simply accepts the offer and receives the illegal gratification, it is a case of acceptance as per Section 7 of the Act. In such

a case, there need not be a prior demand by the public servant.

(ii) On the other hand, if the public servant makes a demand and the bribe-giver accepts the demand and tenders the demanded gratification which in turn is received by the public servant, it is a case of obtainment. In the case of obtainment, the prior demand for illegal gratification emanates from the public servant. This is an offence under Sections 13(1)(d)(i) and (ii) of the Act.

(iii) In both cases of (i) and (ii) above, the offer by the bribe-giver and the demand by the public servant respectively have to be proved by the prosecution as a fact in issue. In other words, mere acceptance or receipt of an illegal gratification without anything more would not make it an offence under Section 7 or Sections 13(1)(d)(i) and (ii), respectively of the Act. Therefore, under Section 7 of the Act, in order to bring home the offence, there must be an offer which emanates from the bribe-giver which is accepted by the public servant which would make it an offence. Similarly, a prior demand by the public servant when accepted by the bribe-giver and in turn there is a payment made which is received by the public servant, would be an offence of obtainment under Sections 13(1)(d)(i) and (ii) of the Act.

88.5. *(e) The presumption of fact with regard to the demand and acceptance or obtainment of an illegal gratification may be made by a court of law by way of an inference only when the foundational facts have been proved by relevant oral and documentary evidence and not in the absence thereof. On the basis of the material on record, the court has the discretion to raise a presumption of fact while considering whether the fact of demand has been proved by the prosecution or not. Of course, a presumption of fact is*

subject to rebuttal by the accused and in the absence of rebuttal presumption stands.

88.6. *(f) In the event the complainant turns "hostile", or has died or is unavailable to let in his evidence during trial, demand of illegal gratification can be proved by letting in the evidence of any other witness who can again let in evidence, either orally or by documentary evidence or the prosecution can prove the case by circumstantial evidence. The trial does not abate nor does it result in an order of acquittal of the accused public servant.*

88.7. *(g) Insofar as Section 7 of the Act is concerned, on the proof of the facts in issue, Section 20 mandates the court to raise a presumption that the illegal gratification was for the purpose of a motive or reward as mentioned in the said Section. The said presumption has to be raised by the court as a legal presumption or a presumption in law. Of course, the said presumption is also subject to rebuttal. Section 20 does not apply to Sections 13(1)(d)(i) and (ii) of the Act.*

88.8. *(h) We clarify that the presumption in law under Section 20 of the Act is distinct from presumption of fact referred to above in sub-para 88.5(e), above, as the former is a mandatory presumption while the latter is discretionary in nature."*

24. In the instant case, the evidence of witnesses as discussed above especially the evidence of P.W.-1, it appears that the complainant had filed its vouchers without attaching Form-9C. The complainant was not furnishing the Form-9C as was required for passing his bills and delivery of cheques in satisfaction of the bills. Moreover, P.W.-3 has also fortified the fact that whether Form-9 "C" was submitted by the said firm along with its vouchers or not, is not clear. It is further

revealed from the evidence of P.W.-3 that all the cheques issued from the Honourary society are signed by Treasurer and counter signed by the Secretary and in absence of secretary, the cheque has to be counter signed by the Chairman and there was no duty of the appellant to hand over the cheques in discharge of the bills. It is also revealed from the evidence of complainant himself that he was partner of the said firm and used to supply various textiles, consumable items of Hindustan Liver to the said co-operative society in the last financial year 2005-2006. The said firm was not registered with sales tax department in order to avoid sales tax. It is further revealed from the evidence of P.W.-4 O.P. Sharma as well as (P.W.-9) I.O. that the currency notes were put below the file. The complainant also told him that he has kept the money below the file, and the currency notes were recovered from the same place where the complainant had put the same but not from the possession of the appellant as alleged. Therefore in such circumstances, there is no involvement of the appellant either in demanding or accepting illegal gratification in the post-trap proceedings wherein the appellant has not even touched the money as alleged to be demanded by the appellant which casts a doubt upon the prosecution story. Therefore, the prosecution witnesses have failed to prove the demand, acceptance and recovery of bribe money as alleged by the complainant.

Moreover, it appears that it was initially demanded Rs. 8000/-, thereafter, two installments were fixed but no evidence has been brought on record. The learned trial Court has failed to appreciate the oral as well as documentary evidence which clearly indicates that the complainant desiring to press his bills illegally and without observing the legal procedure and upon objection raised by the appellant, complainant has falsely implicated the appellant in this case. The learned trial Court has also failed to consider that the sanction order was not issued by the competent authority.

25. The Hon'ble Supreme Court of India in the case of **P. Satyanarayana Murthy Vs. District Inspector of Police, State of A.P. and Anr.** reported in (2015) 10 SCC 152 has held in para 22 and 23 **that mere possession and recovery of currency notes from an accused without proof of demand would not establish an offence under Section 7 as well as Section 13(1)(d)(i) and (ii) of the Act.** Para 22 and 23 are reproduced hereunder for ready reference:-

> *"22. In a recent enunciation by this Court to discern the imperative prerequisites of Sections 7 and 13 of the Act, it has been underlined in B. Jayaraj [B. Jayaraj v. State of A.P., (2014) 13 SCC 55 : (2014) 5 SCC (Cri) 543] in unequivocal terms, that mere possession and recovery of currency notes from an accused without proof of demand would not establish an offence under Section 7 as well as Sections 13(1)(d)(i) and (ii) of the Act. It has been propounded that in the absence of any proof of demand for illegal gratification, the use of corrupt or illegal means or abuse of position as a*

public servant to obtain any valuable thing or pecuniary advantage cannot be held to be proved. The proof of demand, thus, has been held to be an indispensable essentiality and of permeating mandate for an offence under Sections 7 and 13 of the Act. Qua Section 20 of the Act, which permits a presumption as envisaged therein, it has been held that while it is extendable only to an offence under Section 7 and not to those under Sections 13(1)(d)(i) and (ii) of the Act, it is contingent as well on the proof of acceptance of illegal gratification for doing or forbearing to do any official act. Such proof of acceptance of illegal gratification, it was emphasised, could follow only if there was proof of demand. Axiomatically, it was held that in absence of proof of demand, such legal presumption under Section 20 of the Act would also not arise.

23. The proof of demand of illegal gratification, thus, is the gravamen of the offence under Sections 7 and 13(1)(d)(i) and (ii) of the Act and in absence thereof, unmistakably the charge therefor, would fail. Mere acceptance of any amount allegedly by way of illegal gratification or recovery thereof, dehors the proof of demand, ipso facto, would thus not be sufficient to bring home the charge under these two sections of the Act. As a corollary, failure of the prosecution to prove the demand for illegal gratification would be fatal and mere recovery of the amount from the person accused of the offence under Section 7 or 13 of the Act would not entail his conviction thereunder." (Emphasis Supplied)"

26. Therefore, there is complete absence of any demand of bribe made by the accused, its acceptance and recovery as alleged by the complainant and, I find substance in the points of argument raised on behalf of the appellant that the appellant was not competent to issue any cheques in satisfaction of the

bills of the complainant rather it was the duty of the Secretary of the society to sign the same before the delivery of cheques. As discussed above, I also find substance in the points of argument that vouchers which were submitted by the complainant were not duly attached with Form-9C as per the evidence of P.W.-1 and P.W.-3 and thus the above formalities were required to be completed by the complainant by submitting Form-9C which may be the reason behind non-issuance of cheques of the complainant. Thus, this creates doubts regarding demand and acceptance of bribe. Therefore, the benefit of doubt may be given to the appellant.

27. In the above factual background, the ingredients of either offence under Section 7 & 13 (1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988 is absolutely not attracted against the appellant. The learned trial Court has believed the testimony of the witnesses only on conjecturing and the observations of the learned trial Court are absolutely beyond the record. The totality of circumstances as proved by the prosecution clearly proves the innocence of the appellant.

28. In view of the above discussions and reasons, I find substance in the above points of argument raised on behalf of the appellant and merits in this appeal. Accordingly, impugned judgment of conviction and order of sentence of the appellant is hereby **set aside** and he is acquitted from the charges leveled against him.

29. The appellant is on bail, hence, he is discharged from the liabilities of bail bond. Sureties are also discharged.

30. In result, **this appeal is allowed.**

31. Pending I.A(s), if any, is also disposed of, accordingly.

32. Let a copy of this judgment along with Trial Court Records be sent back to the court concerned for information and needful.

(Pradeep Kumar Srivastava, J.)

Jharkhand High Court, Ranchi
Dated: 06/11/2026
Basant / **NAFR**
Uploaded On: 06/11/2026