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CRA-231-2005

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE SANJEEV S KALGAONKAR

ON THE 23rd OF OCTOBER, 2026CRIMINAL APPEAL No. 231 of 2005

CNR No.: MPHC010035332005

*TAWAL SINGH**Versus**THE STATE OF M.P.*

.....
Appearance:

*Shri Sankalp Kochar - Advocate for the appellant.**Shri Abhinav Shrivastava - Advocate for the respondent.*
.....

ORDER

This criminal appeal under Section 374 (2) of Code of Criminal Procedure is filed assailing the judgment of conviction and order of sentence dated 12.01.2005 passed by the First Additional Sessions Judge and Special Judge (*Lokayukta*), under the Prevention of Corruption Act, Jabalpur in Special Case No.14/2002, whereby the appellant/accused Tawal Singh has been convicted and sentenced as follows:

Statute	Sentence	Fine	Imprisonment in default of payment of fine
Section 7 of the Prevention of Corruption Act, 1988	RI for 1 year	₹500/-	RI for 1 month
Section 13 (1) (d) r/w Section 13 (2) of the Prevention of Corruption Act, 1988	RI for 2 years	₹1,000/-	RI for 2 months

With a stipulation that sentences of imprisonment shall run concurrently.

2. For the sake of convenience, appellant - Tawal Singh shall be referred to



as 'the accused' and Halke Barman as 'the Complainant' and the Prevention of Corruption Act, 1988 shall be referred to as 'the Act, 1988'. The case of the prosecution, in brief, is as under:

(i) The appellant - Tawal Singh was posted as Constable at Police Station - Bargi, Jabalpur. The appellant along with Station House Officer, C.R. Patel and another Constables apprehended Bedilal on 2/6/2001 for possession of illicit liquor. Bedilal was released after execution of surety bail-bond by his father;

(ii) Halke Verman (PW-1) submitted a written complaint (Exhibit P-1) to the Superintendent of Police, Special Police Establishment, Lokayukta, *inter alia* alleging that the accused, Tawal Singh, demanded ₹3,000/- to release his relative, Bedilal on bail. He had paid ₹1,000. Thereafter, Tawal Singh released Bedilal Verman on bail. Tawal Singh demanded ₹1,000 threatening to impecate Badda and Bhura as accused and to file charge-sheet against them. The Superintendent, Special Police Establishment, instructed Inspector M. L. Verma to investigate the complaint.

(iii) Inspector M. L. Verma registered FIR (Exhibit P-27). The Panch witnesses, Rajendra and Prakash Mudliar verified the complaint from the complainant Halke Barman. Halke Barman furnished 10 currency notes of denomination of ₹100 each (total amount ₹1000/-). The numbers of currency notes were noted and both the panch witnesses appended their initials (short signature) on the currency notes. The currency notes were coated with phenolphthalein powder. Halke Verman was instructed not to touch the currency notes except at the time of handing over to the accused. Necessary precautions with regard to washing of hands of members of trap team with Sodium Carbonate solution were taken and the *panchnama* of preliminary proceeding (Exhibit P-9) was prepared.

(iv) Complainant Halke Verman led the trap team to Police Station, Bargi. Accused Tawal Singh came out from police station and took Halke Verman to nearby Pan Shop at the Bus Stand. Halke Verman handed over phenolphthalein-coated currency notes to Tawal Singh. Tawal Singh received bribe money. Halke Verman signaled the trap team. Police Constables, Ramanandan and Sant Kumar



Banjara, apprehended Tawal Singh and caught hold of his hands. Tawal Singh had thrown the currency notes on the ground. The Panch witnesses Prakash picked up the currency notes from the ground and verified their number. Both the panch witnesses also verified their initials on the currency notes. Currency notes were seized by seizure memo (Exhibit P-11). The fingers of the accused were dipped in sodium bi-carbonate solutions which turned pink.

(v) The site map (Exhibit P-15) was prepared. The accused was arrested vide arrest memo (Exhibit P-16). Final proceeding *panchnama* (Exhibit P-19) was prepared. The solutions were sent for chemical examination to Forensic Science Laboratory. The FSL reported traces of phenolphthalein on the hands of the accused. The relevant documents were seized. After receiving sanction from prosecution vide Exhibit P-20, the Final report was submitted before the Special Judge under the Prevention of Corruption Act, Jabalpur.

(vi) Learned special judge framed charges against the accused for offences punishable under Section 7 and 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act. On completion of the trial, learned special judge convicted the appellant for offences punishable under Sections 7 and 13(1)(d) read with 13(2) of the Prevention of Corruption Act, vide impugned judgment dated 12/1/2005 and sentenced him as stated in paragraph 1 of the judgment.

3. The impugned judgment of conviction and order of sentence have been assailed in the present appeal on the following grounds:

(A) The appellant was working as constable, therefore, he was not competent to release the accused Bedilal on bail or set him free from the allegations.

(B) The tainted currency notes of amount ₹1000/- were not seized from the possession of the appellant.

(C) The independent witness of transaction of tainted currency notes, namely, Bunt @ Alok (PW-10) did not support the prosecution case.

(D) The prosecution failed to prove the motive, therefore, it cannot be



presumed that the appellant demanded or received bribe money from the complainant.

On these grounds, it is prayed that the appellant be acquitted from all the charges and the impugned judgment dated 12.01.2005 be set aside.

4. The learned counsel, appearing for the appellant, in addition to the facts and grounds pleaded in the memorandum of the appeal, submitted that the prosecution failed to prove beyond reasonable doubt that the accused had demanded illegal gratification. The complainant had grudge against the accused for the reason that his brother Bedi Lal was apprehended by the accused and the Station House Officer regarding possession of the illicit liquor. The prosecution failed to establish that the accused voluntarily accepted the bribe money, as the bribe money was recovered from the ground. The accused has proved the possibility of his defense that the complainant was trying to thrust the money in his pocket which fell down on the ground. The accused was compelled to pick up the phenolphthalein tainted currency notes so, traces of phenolphthalein were found in his hands. Learned counsel referred to evidence of punch witnesses, Prakash Mudliar (PW-6) and Rajendra (PW-4) to substantiate his contentions. It is further submitted that none of the members of the trap team, including the Trap Leading Officer, M.L. Verma, had seen handing over the tainted currency notes to the accused and acceptance of the same by the accused. The sole testimony of the complainant is merely supported by exaggerated statement of investigating officer N.K. Agrawal (PW-13), which is not reliable.

5. The learned counsel for the appellant also contended that the prosecution failed to prove the motive or reason for demand of bribe money by the accused. Bedilal (PW-2) did not support the prosecution case. Other relatives, Badda, Bhura, and Bhaddi (father of Bedi Lal) were not examined to support the allegation of demand of bribe by the accused. The accused



was not investigating the excise case against Bedilal. He did not sign any document in the investigation against Bedi Lal. The complainant, Halke Verman specifically alleged that the SHO C. R. Patel, had demanded bribe money but C. R. Patel was not implicated as an accused. The trial court committed an error in paragraph 62 of the impugned judgment to impute motive for demand of bribe money against the accused. Learned counsel for the appellant has further submitted that the only eye-witness of the prosecution, namely owner of the pan shop, Bunty @ Alok, PW-11, did not support the prosecution. The trial court overlooked the material inconsistency, lapses, and contradictions in prosecution evidence and hence, committed grave error in convicting the appellant. Learned counsel for the appellant, in support of his contentions, relied on the decisions in the cases of *State by Lokayuktha Police v. C.B. Nagaraj*, 2025 INSC 736; *Madan Lal v. State of Rajasthan*, 2025 INSC 340; *State v. Shri M. Hari Krishna*, (CRA No.7/2025 decided on 06.02.2026 by High Court of Calcutta); *P. Satyanarayana Murthy v. The Dist. Inspector of Police and Another*, (2015) 10 SCC 152, *N. Vijayakumar v. State of Tamil Nadu*, (2021) 3 SCC 687; *Prabhugowda Patil v. State of Karnataka*, (Criminal Petition No.5163/2023 decided on 21.02.2026); *Prakash Pai v. State of Kerala*, 2015 SCC OnLine Ker 39662; *Hariprasad Lal Shrivastava v. State of MP*, ILR 2022 MP 2079; *Mir Mustafa Ali Hashmi v. State of AP*, (2024) 10 SCC 489; *Dileepabhai Nanubhai Sanghani v. State of Gujarat*, 2025 LiveLaw (SC) 273; and *N. Mathai Nellikkaparambil v. State of Kerala*, 2015 SCC OnLine Ker 22534 to buttress his contentions.

6. *Per contra*, learned counsel for the respondent organization submitted that demand of illegal gratification stands proved beyond reasonable doubt by the evidence of complainant Halke Verman and the complaint (Exhibit P-1), which was verified in the presence of panch witnesses, Prakash Mudiliar (PW-6) and Rajendra (PW-4). The obtainment of illegal gratification also



stands proved beyond reasonable doubt. The tainted currency notes were recovered from the ground near the accused which he had thrown after he was apprehended. The trial court duly considered and discussed the inconsistency pointed out by the accused. The appeal is devoid of merits and deserves to be dismissed. Learned counsel for the appellant, referring to the judgment of the Division Bench of this Court in the case of **Gopal Shivhare Vs. State of M.P. in Criminal No.5460/2018 decided on 31.07.2024** contended that it is insignificant that the accused was capable of giving any favour to the bribe giver, but the important thing is that whether the accused had induced the bribe giver to give illegal gratification by making demand of the same or not? The impression in the mind of the bribe giver is more important. Learned counsel for the respondent relied upon the Constitution Bench decision of the Supreme Court in *Neeraj Dutta v. State (Govt. of NCT of Delhi)*, reported in (2023) 4 SCC 731 to buttress his contentions.

7. Heard counsel for both the parties. Perused the record.
8. The points for determination in the present appeal are as under:

(A) Whether the learned trial Court committed an error of law or fact in holding that the accused/appellant demanded illegal gratification from Halke Burman (complainant) for facilitating release of his relative - Bedilal on bail and forbearing to register the offence against Badda and Bhura?

(B) Whether the learned trial Court committed an error of law or fact in holding that the accused-appellant, being a public servant, had dishonestly obtained or voluntarily received illegal gratification in the discharge of his official duties?

(C) Whether the impugned Judgement of conviction and order of sentence is sustainable?

9. In view of the unamended provisions of section 7 and 13 of the Act, 1988 applicable to the matter under consideration, to establish the guilt of



public servant for offence punishable under Section 7 of the Act, 1988, the prosecution is required to prove following ingredients: -

- (i) The accused is a public servant.
- (ii) He has accepted or obtained or agreed to accept or attempted to obtain any gratification other than legal remuneration for himself or any other person.
- (iii) As a motive or reward for doing or forbearing to do any official act or to show or forbearing to show any official or disfavour to any person in exercise of his official functions.

Further, in order to establish the guilt of public servant for offence punishable under Section 13(1)(d) of the Act, 1988 the prosecution is required to prove following ingredients:-

- (i) The accused is a public servant.
- (ii) He has **obtained** for himself or any other person any valuable thing or pecuniary advantage by corrupt or illegal means or by abusing his position as public servant or without any public interest.

10. In case of *C.K. Damodaran Nair Vs. Union of India* reported in (1997) 9 SCC 477, the Supreme Court while interpreting Section 5 of the Prevention of Corruption Act, 1947 discussed the expressions "accept" and "obtain" as under:-

"12. The position will, however, be different so far as an offence under Section 5(1)(d) read with Section 5(2) of the Act is concerned. For such an offence, prosecution has to prove that the accused "obtained" the valuable thing or pecuniary advantage by corrupt or illegal means or by otherwise abusing his position as a public servant and that too without the aid of the statutory presumption under Section 4(1) of the Act as it is available only in respect of offences under Section 5(1)(a) and (b) and not under Section 5(1)(c), (d) or (e) of the Act. "Obtain" means to secure or gain (something) as the result of request or effort (Shorter Oxford Dictionary). In case of obtainment the initiative vests in the person who receives and in that context a demand or request from him will be a primary requisite for an offence under Section 5(1)(d) of the Act unlike an offence under Section 161 IPC, which, as noticed above, can be, established by proof of either "acceptance" or "obtainment".

11. In case of *Subash Parbat Sonvane Vs. State of Gujarat* reported in (2002) 5 SCC 86, the expressions "accepts" and "obtains" were explained as under : -

In Sections 7 and 13(1)(a) and (b) of the Act, the Legislature has specifically used the words 'accepts' or 'obtains'. As against this, there is departure in the language used in clause (1)(d) of Section 13 and it has omitted the word



'accepts' and has emphasized the word 'obtains'. Further, the ingredient of sub-clause (i) is that by corrupt or illegal means, a public servant obtains any valuable thing or pecuniary advantage; under clause (ii), he obtains such thing by abusing his position as public servant; and sub-clause (iii) contemplates that while holding office as the public servant, he obtains for any person any valuable thing or pecuniary advantage without any public interest. Therefore, for convicting the person under Section 13(1)(d), there must be evidence on record that accused 'obtained' for himself or for any other person any valuable thing or pecuniary advantage by either corrupt or illegal means or by abusing his position as a public servant or he obtained for any person any valuable thing or pecuniary advantage without any public interest.

12. In case of *State of Kerala Vs. C.P. Rao*, reported in (2011) 6 SCC 450, it was observed by the Supreme Court that in absence of any evidence to prove the payment of bribe or to prove that accused has voluntarily accepted the money knowing it to be bribe, mere recovery would not be sufficient to prove the charges under Sections 7 and 13(1)(d) of the Act, 1988.

13. In case of *B. Jayaraj Vs. State of Andhra Pradesh* reported in (2014) 13 SCC 55, the complainant did not support the prosecution, therefore, declared hostile. The prosecution did not examine any other witness present at the time when the money was allegedly handed over to the accused by the complainant to prove that money was given pursuant to the demand made by the accused. The Supreme Court held that when the complainant has disowned the allegation made in the complaint and in absence of other evidence with regard to proof of demand by the accused, the evidence of the complainant and the complaint could not be relied upon as proof of demand by the accused. It was further held that mere possession and recovery of currency notes from the accused without any proof of demand would not establish the offence punishable under Sections 7 or 13(1)(d) (i) and (ii) of the Act, 1988. It was also held that the presumption under Section 20 of the Act, 1988, could be drawn only if there was proof of "acceptance of illegal gratification" for which proof of demand was a sine qua non.

14. In case of *P. Satyanarayana Murthy Vs. State of Andhra Pradesh* reported in (2015) 10 SCC 152, the complainant died before the evidence.



The Supreme Court held that proof of demand of illegal gratification is gravamen for offences punishable under Sections 7 and 13(1)(d)(i) and (ii) of the Act, 1988. Mere acceptance of any amount by way of gratification or recovery thereof de hors the proof of demand would not be sufficient to bring home the charge under aforesaid sections of the Act, 1988. The proof of demand is a sine qua non and in the absence of proof of demand, legal presumption under Section 20 of the Act, 1988, cannot be raised.

15. In case of *Hazari Lal Vs. State (Delhi Administration)* reported in *(1980) 2 SCC 390*, the Supreme Court observed that it is not necessary to prove passing of money by direct evidence. The Court may presume the existence of any fact which happened in any course of natural events, human conduct and public business under Section 114 of the Evidence Act, 1872. The accused had taken out the currency notes from his pocket and flung them across the wall. It was proved that the currency notes were obtained from the complainant a few minutes earlier. Considering the legal presumption, accused was held guilty for the offence.

16. Relying on *Hazari Lal (supra)*, the three Judge Bench of Supreme Court in case of *N. Narsinga Rao Vs. State of Andhra Pradesh* reported in *(2001) 1 SCC 691* held that once it was established that there was a demand or acceptance of illegal gratification and once the foundational facts were proved, the legal presumption for payment or acceptance of illegal gratification for motive or reward for doing or forbearing to do official act is applicable.

17. In case of *N. Narsinga Rao (supra)*, the complainant and other witnesses turned hostile and denied that appellant had demanded bribe. The appellant raised the defence that tainted currency notes were forcefully stuffed into his pocket. The Supreme Court observed that the circumstance preceding and succeeding the discovery of tainted currency notes from the pocket of appellant is sufficient to draw factual presumption that appellant had



willingly received the tainted currency notes. It was further observed that since the prosecution has proved that appellant had accepted gratification. The Court was under legal obligation to draw statutory presumption that such gratification was accepted as a reward for doing the public duty. The two witnesses examined in defence were unable to rebut the presumption and, hence, accused was found guilty.

18. In case of *Kishan Chand Mangal Vs. State of Rajasthan* reported in (1982) 3 SCC 466, it was observed that complainant's visit to Anti-Corruption Bureau, his proposing currency notes, the Officer of Department arranging a trap and the Raiding Party going to the house of accused indicated that a prior demand for payment was made by the accused.

19. In case of *Neeraj Dutta Vs. State (NCT of Delhi)* reported in (2023) 4 SCC 731, the Constitution Bench of the Supreme Court considered all these precedents to answer the reference as under-

Question for consideration:

45. On consideration of the aforesaid cases, the question framed for determination by the larger Bench is as under: "(1) Whether, in the absence of evidence of complainant/direct or primary evidence of demand of illegal gratification, is it not permissible to draw an inferential deduction of culpability/guilt of a public servant under Section 7 and Section 13(1)(d) read with Section 13(2) of Prevention of Corruption Act, 1988 based on other evidence adduced by the prosecution?"

The reference was answered by holding in following terms:-

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 Section 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 Section 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 Section 13 (1) (d) and (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) In so far 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 Section 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 point (e) as the former is a mandatory presumption while the latter is discretionary in nature.

89. In view of the aforesaid discussion and conclusions, we find that there is no conflict in the three judge Bench decisions of this Court in B. Jayaraj and P. Satyanarayana Murthy with the three judge Bench decision in M. Narasinga Rao, with regard to the nature and quality of proof necessary to sustain a conviction for offences under Sections 7 or 13(1)(d)(i) and (ii) of the Act, when the direct evidence of the complainant or "primary evidence" of the complainant is unavailable owing to his death or any other reason. The



position of law when a complainant or prosecution witness turns “hostile” is also discussed and the observations made above would accordingly apply in light of Section 154 of the Evidence Act. In view of the aforesaid discussion, we hold that there is no conflict between the judgments in the aforesaid three cases.

90. Accordingly, the question referred for consideration of this Constitution Bench is answered as under:

In the absence of evidence of the complainant (direct/primary, oral/documentary evidence) it is permissible to draw an inferential deduction of culpability/guilt of a public servant under Section 7 and Section 13(1)(d) read with Section 13(2) of the Act based on other evidence adduced by the prosecution."

20. It is also trite law that in a case based on circumstantial evidence, the judgment remains essentially inferential. The inference is drawn from established facts as the circumstances lead to particular inference. The Court must draw inference with respect to whether the chain of circumstances is complete and when the circumstances therein are collectively considered, the same must lead to the irresistible conclusion that the accused alone is the perpetrator of the crime in question. All the circumstances so established must be of a conclusive nature and consistent with the hypothesis of the guilt of accused. The three-Judge Bench of the Supreme Court in *Sharad Birdhichand Sarda Vs. State of Maharashtra* reported in (1984) 4 SCC 116, held as under:-

"152. Before discussing the cases relied upon by the High Court we would like to cite a few decisions on the nature, character and essential proof required in a criminal case which rests on circumstantial evidence alone. The most fundamental and basic decision of this Court is Hanumant v. The State of Madhya Pradesh, AIR 1952 SC 349. This case has been uniformly followed and applied by this Court in a large number of later decisions up-to-date, for instance, the cases of Tufail (Alias) Simmi v. State of Uttar Pradesh 1969 (3) SCC 198 and Ramgopal v. State of Maharashtra, 1972 (4) SCC 625. It may be useful to extract what Mahajan, J. has laid down in Hanumant's case (supra):-

"It is well to remember that in cases where the evidence is of a circumstantial nature, the circumstances from which the conclusion of guilt is to be drawn should in the first instance be fully established and all the facts so established should be consistent only with the hypothesis of the guilt of the accused. Again, the circumstances should be of a conclusive nature and tendency and they should be such as to exclude every hypothesis but the one proposed to be proved. In other words, there must be a chain of evidence so far complete as not to leave any reasonable ground for a conclusion consistent with the innocence of the accused and it must be such as to show that within all human probability



the act must have been done by the accused."

153. A close analysis of this decision would show that the following conditions must be fulfilled before a case against an accused can be said to be fully established:

(1) the circumstances from which the conclusion of guilt is to be drawn should be fully established. It may be noted here that this Court indicated that the circumstances concerned 'must or should' and not 'may be' established. There is not only a grammatical but a legal distinction between 'may be proved' and 'must be or should be proved' as was held by this Court in *Shivaji Sahabrao Bobade & Anr. v. State of Maharashtra* where the following observations were made:

"Certainly, it is a primary principle that the accused must be and not merely may be guilty before a court can convict and the mental distance between 'may be' and 'must be' is long and divides vague conjectures from sure conclusions."

(2) The facts so established should be consistent only with the hypothesis of the guilt of the accused, that is to say, they should not be explainable on any other hypothesis except that the accused is guilty,

(3) the circumstances should be of a conclusive nature and tendency

(4) they should exclude every possible hypothesis except the one to be proved, and

(5) there must be a chain of evidence so complete as not to leave any reasonable ground for the conclusion consistent with the innocence of the accused and must show that in all human probability the act must have been done by the accused.

154. These five golden principles, if we may say so, constitute the panchsheel of the proof of a case based on circumstantial evidence."

21. However, in *State of Maharashtra v. Mohd. Yakub*, reported in (1980) 3 SCC 57, it was held that the Evidence Act does not insist on absolute proof for the simple reason that perfect proof in this imperfect world is seldom to be found, that is why under Section 3 of the Evidence Act, a fact is said to be "proved" when, after considering the matters before it, the court either believes it to exist or considers its existence so probable that a prudent man ought, under the circumstances of the particular case, to act upon the supposition that it exists. This definition of "proved" does not draw any distinction between circumstantial and other evidence.

22. Now, the evidence on record is analysed to examine the proof of demand and obtainment of "illegal gratification" by direct or circumstantial evidence.

Point for determination (A) – Reasons for conclusion

23. In a trap case under the Prevention of Corruption Act, 1988, the



complainant occupies a peculiar evidentiary position. He is the person from whom illegal gratification is said to have been demanded and he is also the person who sets the trap proceeding in motion by approaching the investigating agency and furnishing the money to lay the trap. Although, complainant is not an accomplice as he does not participate in the crime but is it's victim. Still, he is an interested and partisan witness concerned with the success of the trap laid at his instance so, his evidence need to be scrutinised with the same caution applied to any other interested witness. However, there is no absolute or inflexible rule that the uncorroborated testimony of complainant can never relied for a conviction. Recently, in case of *CBI v. Baljeet Singh*, reported as 2026 INSC 221, the Supreme Court held that there is no rule of discarding the testimony of persons in the raiding party (or the complainant) unless independent corroboration is available; the complainant is not an accomplice and raiding-party officials, discharging a public duty without personal rancour, are not to be treated as interested merely by virtue of participation. Where the evidence of the complainant and trap witnesses is found **trustworthy** and is supported by recovery of the tainted money and surrounding circumstances, it can safely form the basis for a conviction.

24 . In the present case, Halke (PW-1) admitted in paragraph 15 of his cross-examination that his brother Bedilal, manufactures and sells illicit liquor. He further stated that he was annoyed when the Bargi police apprehended Bedilal and had thought of teaching the police a lesson. His brother Santosh works with DSP Pateriya. He had submitted written complaint (Exhibit P-1) at the office of Shri Pateriya and affixed his thumb impression to it at Shri Pateriya's instance, without being aware of its contents. Halke stated that he is a daily-wage labourer earning about ₹25 per day (para-), still he provided ₹1,000 for laying the trap. These circumstances warrant careful scrutiny of his testimony in the light of the other evidence and surrounding circumstances on record.



25. The Supreme Court in *Vadivelu Thevar v. State of Madras*, reported in *1957 SCC OnLine SC 13*, has observed thus -

“11. ... Hence, in our opinion, it is a sound and well-established rule of law that the court is concerned with the quality and not with the quantity of the evidence necessary for proving or disproving a fact. Generally speaking, oral testimony in this context may be classified into three categories, namely:

(1) Wholly reliable.

(2) Wholly unreliable.

(3) Neither wholly reliable nor wholly unreliable.

12. In the first category of proof, the court should have no difficulty in coming to its conclusion either way — it may convict or may acquit on the testimony of a single witness, if it is found to be above reproach or suspicion of interestedness, incompetence or subornation. In the second category, the court equally has no difficulty in coming to its conclusion. It is in the third category of cases, that the court has to be circumspect and has to look for corroboration in material particulars by reliable testimony, direct or circumstantial.”

26. Complainant Halke Verman (PW-1) initially deposed that the SHO and the accused Tawal Singh came to house of Bedilal and apprehended Bedilal, Bhura and Badda. When he went to Police Station Bargi next day, the accused demanded ₹2,000 for their release. He paid ₹1,000 and promised to pay the balance later, whereupon Bedilal and Badda were released. Tawal Singh threatened to implicate Badda and Bhura in the liquor case, if the balance amount was not paid. However, in paragraph 18 of his testimony, Halke (PW-1) attributed the demand of ₹2,000 to the SHO and stated that he paid ₹1,000 to the accused on the instructions of SHO. He neither informed the SHO of the payment nor lodged any complaint against him.

27. Halke Verman (PW-1) further deposed that he prepared the complaint (Exhibit P-1) and submitted it to the *Lokayukta* office at Jabalpur. The complaint was lodged after a delay of six days. There is no explanation for delay in submitting the complaint, which raises a possibility of implication of accused only, after premeditation and consultation with the concerned *Lokayukta* officer through Basant. His inconsistent versions as to whether the demand of ₹2,000 was made by the SHO or the accused, affect the reliability of his testimony. It would be unsafe to treat his evidence as “wholly reliable”. In these circumstances, corroboration by reliable direct or



circumstantial evidence is imperative.

28. Bedilal (PW-2) initially stated that Halke had paid ₹1,000 to secure his release on bail. Although, he accepted the prosecution's suggestion that the accused had demanded ₹2,000 and received ₹1,000, he denied witnessing either the alleged demand or the payment and resiled from his police statement (Exhibit P-2). He further stated that his father, Bhaddi had secured his release and had later informed him that ₹1,000 was paid to the accused. To that extent, his testimony is hearsay and cannot corroborate the evidence of complainant Halke (PW-1) regarding the alleged demand and receipt of ₹1,000 by the accused.

29. Significantly, neither Bhaddi, the father of Bedilal nor Badda or Bhura was examined to corroborate the alleged demand and payment of ₹1,000. Further, no shadow witness accompanied the complainant to verify the demand and the FIR (Exhibit P-26) was registered without prior verification of the allegation.

30. In the case of *Mir Mustafa Ali Hashmi (supra)*, the Supreme Court observed that the Trap Laying Officer must make diligent efforts to verify the factum of demand of illegal gratification before initiating the trap proceeding. Failure to verify coupled with evidentiary gaps regarding demand of illegal gratification makes the prosecution case doubtful. Further, in the case of *Meena w/o Balwant Hemke v. State of Maharashtra (2005) SCC 21* and *Mukut Bihari v. State of Rajasthan (2012) 11 SCC 642*, it was held that the presence and evidence of shadow witness is desirable to corroborate the existence of demand and obtainment of illegal gratification.

31. The Supreme Court in the case of *Takhaji Hiraji v. Thakore Kubersing Chamansing* reported in (2001) 6 SCC 145, observed as under:

“19. So is the case with the criticism levelled by the High Court on the prosecution case finding fault therewith for non-examination of independent witnesses. It is true that if a material witness, who would unfold the genesis of the incident or an essential part of the prosecution case, not convincingly brought to fore otherwise, or where there is a gap or infirmity in the



prosecution case which could have been supplied or made good by examining a witness who though available is not examined, the prosecution case can be termed as suffering from a deficiency and withholding of such a material witness would oblige the court to draw an adverse inference against the prosecution by holding that if the witness would have been examined it would not have supported the prosecution case. On the other hand if already overwhelming evidence is available and examination of other witnesses would only be a repetition or duplication of the evidence already adduced, non-examination of such other witnesses may not be material. In such a case the court ought to scrutinise the worth of the evidence adduced. The court of facts must ask itself — whether in the facts and circumstances of the case, it was necessary to examine such other witness, and if so, whether such witness was available to be examined and yet was being withheld from the court. If the answer be positive then only a question of drawing an adverse inference may arise. If the witnesses already examined are reliable and the testimony coming from their mouth is unimpeachable the court can safely act upon it, uninfluenced by the factum of non-examination of other witnesses.”

32. The trial Court relied upon the verification of the complaint by panch witnesses, Prakash Mudliar (PW-6) and Rajendra (PW-4). Such verification corroborates only that the complainant reiterated the allegations contained in the complaint but does not constitute independent proof of demand. In view of the material inconsistencies in the testimony of complainant Halke, the absence of prior verification and the lack of reliable corroboration, the prosecution had failed to prove beyond reasonable doubt that the accused demanded and received illegal gratification as alleged in the complaint.

In view of foregoing discussion, considering the inconsistencies in evidence of complainant and evidentiary gaps, this Court is of considered opinion that the prosecution failed to prove beyond reasonable doubt that the accused demanded illegal gratification from the complainant. The finding of the trial Court on this point is not sustainable. Accordingly, point (A) is answered in the affirmative and in favour of the appellant.

Point for determination (B)- Reasons for conclusion

Voluntarily Acceptance or Obtainment of Illegal Gratification :

33. Halke (PW-1) deposed that he went to the Police Station, Bargi along with the trap team. He went inside the Police Station, Bargi. He could not find anyone inside the Police Station, therefore, he went to the local market. He met Tawal Singh at a *paan* shop. He handed over bribe money of ₹1000/-



to Tawal Singh. According to Halke, the accused counted the notes but threw them on the ground when the trap officials apprehended him. In cross-examination in paragraph 26, Halke stated that he offered ₹1000/- to the accused which he received. However, in paragraph 27, he stated that the accused picked up the currency notes from the ground at the direction of the Lokayukta officials.

34. Panch witness Rajendra Prasad (PW-4) stated in paragraph 8 of the examination-in-chief that when he reached the *paan* shop, two constables were holding the hands of Tawal Singh. The currency notes were lying on the ground near feet of Tawal Singh. Prakash Mudliar picked up some currency notes, while the accused was made to pick up the remaining notes. Rajendra reiterated this fact in paragraph 22 of his testimony.

35. Prakash Mudliar (PW-6) stated that Ramanand and Sant Ram Banjara apprehended the accused after a scuffle. The currency notes were lying on the ground. He picked up the currency notes and verified their numbers. The evidence of Prakash was deferred on the request of public prosecutor to requisition the currency notes. In the cross-examination (conducted on the very next day) in paragraph 23, Prakash Mudliar deposed that accused had picked up two currency notes and thereafter his hands were dipped in sodium carbonate solution.

36. The evidence of the complainant and the panch witnesses indicates that the accused was made to pick up the tainted currency notes from the ground before his hands were washed in sodium carbonate solution. This circumstance provides a plausible explanation for the presence of phenolphthalein on his hands. Since the currency notes were not recovered from the person or exclusive possession of the accused, the recovery evidence does not establish beyond reasonable doubt that the accused had voluntarily received or accepted the tainted currency notes.

37. The trial Court, in paragraphs 45 to 47 of the impugned judgment,



discarded the aforesaid evidence relying on the judgment of the Supreme Court in the case of *Khujji @ Surendra Tiwari v. State of Madhya Pradesh, AIR 1991 SC 1853*. Rajendra Prasad (PW-4) in examination-in- chief and Prakash Mudliar (PW-6) in cross examination, deferred for next day at request of prosecution, had voluntarily stated that the accused was made to pick up some of the currency notes. However, neither Rajendra Prasad (PW-4) nor Prakash Mudliar (PW-6) was confronted by the prosecution, with any previous inconsistent statement on this aspect. The finding of trial Court is, apparently, based on conjecture and surmise rather than proper appreciation of evidence on record. Hence, the Trial Court committed apparent error in disbelieving this part of their testimony as an improvement.

38. The independent panch witnesses, Prakash Mudliar (PW-6) and Rajendra Prasad (PW-4), neither overheard the conversation between the complainant and the accused nor witnessed the handing over of the tainted currency notes. M. L. Verma (PW-12) also admitted that he neither witnessed the transaction nor overheard their conversation. Further, Buntty alias Alok (PW-11), the owner of the *paan* shop and the only independent eyewitness, did not support the prosecution case.

39. Police Constables, Sant Kumar Banjara and Ramanand, who first reached the spot on signal by the complainant and apprehended the accused, were not examined by the prosecution. Their testimony could have corroborated the circumstances of the apprehension, the recovery of the tainted currency notes and conduct of the accused at the spot. Their non-examination leaves a material gap in the prosecution evidence.

40. The trap laying officer N. K. Agrawal (PW-13) in paragraphs 8, 10 and 30 of his testimony tried to cover up the evidentiary gap by stating that he overheard the accused saying- *आ* (bring). It is obviously an improvement, which is inconsistency with testimony of complainant Halke. He also deposed that he had witnessed handing over the currency notes by the



complainant to the accused and he had seen the accused counting the currency notes. However, his testimony in paragraphs 26 and 27 regarding the sequence of events of the transaction is materially inconsistent with that stated by the complainant and panch witnesses.

41. N. K. Agrawal (PW-13), at para 26 and 28 of his testimony, deposed that he was standing at the passenger waiting hall of the Bus Stand, Bargi with Inspector M. L. Verma. The panch witnesses, Prakash Mudaliar and R. P. Rajoriya were standing 2 to 3 feet away from them. The Constables Sant Kumar Banjara and Ramanand reached first on the spot after the signal of the complainant. He, along with Inspector Verma and panch witness Mudaliar, reached thereafter. When this deposition is examined in consonance with the site map (Exhibit P-15), it appears that the witnesses, who reached before or along with Inspector N. K. Agrawal, could not see the handing over of tainted money or overhear the conversation between the complainant and the accused, yet N. K. Agrawal, who was standing at a farther place, claimed to have witnessed and overheard it. Thus, the inconsistent and doubtful testimony of N. K. Agrawal cannot be deployed to corroborate the evidence of complainant Halke.

42. Bunt @ Alok (PW-11), the owner of the *paan* shop, deposed that Tawal Singh was speaking to someone when four or five persons approached him and a scuffle ensued. Panch witnesses Rajendra Prasad (PW-4) and Prakash Mudaliyar (PW-6) stated that the accused protested that he was being falsely implicated and argued with the Lokayukta officials. The contemporaneous conduct corroborates the defence version.

43. The trial court in paragraph 62 discarded the evidence of Inspector C. L. Patel (PW-9) concluding that C. R. Patel had demanded bribe money through



his subordinate constable Tawal Singh. Therefore, he prepared the documents supporting the Tawal Singh. The trial court ignored the fact that Inspector C. R. Patel was not prosecuted for demanding or obtaining illegal gratification or abetting the demand and obtainment of illegal gratification by the accused Tawal Singh.

44. Thus, the prosecution failed to prove beyond reasonable doubt that the accused voluntarily accepted or dishonestly obtained illegal gratification. Thus, point B is answered in the affirmative and in favour of the appellant.

Point for determination (C)-

The statutory presumption under Section 20 of the Act, 1988-

45. The statutory presumption under Section 20 of the Act, 1988 operates only after the foundational facts of “demand and acceptance” are proved beyond doubt by the prosecution. It cannot be used to fill in evidentiary gap on demand itself. 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 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. (*State of Punjab v. Madan Mohan Lal Verma*, (2013) 14 SCC 153; *Rajesh Gupta v. State*, (2022) 20 SCC 793; *Madan Lal v. State of Rajasthan*, (2025) 4 SCC 624 relied.)

46. The foregoing discussion reveals that the tainted currency notes were recovered from the ground and not from the person or exclusive possession of the accused. The evidence indicates that the accused was made to pick up



some of the notes before his hands were dipped in the sodium carbonate solution which provides a plausible explanation for the presence of phenolphthalein on his hands. The testimony of complainant Halke cannot safely be relied upon without corroboration because he gave inconsistent versions regarding the person, who made the demand and the manner in which the alleged transaction occurred. Further, the complaint was lodged after an unexplained delay of six days. The complainant admitted that he was annoyed with the Bargi police over the apprehension of Bedilal. Neither the handing over of the tainted currency notes nor their voluntary acceptance was witnessed by any reliable independent witness.

47. Thus, this Court is of considered opinion that the circumstances relied upon by the prosecution do not form a complete and unbroken chain in view of above inconsistencies. These circumstances do not exclude the reasonable possibility in favour the defence version and unerringly indicate the guilt of the accused. Therefore, the prosecution has failed to establish chain of circumstances so complete as to exclude every hypothesis consistent with the innocence of the accused. Consequently, the prosecution failed to prove beyond reasonable doubt that the accused voluntarily accepted or dishonestly obtained illegal gratification. (*State by Lokayuktha Police v. C.B. Nagaraj, 2025 INSC 736; Madan Lal v. State of Rajasthan , 2025 INSC 340*; relied).

48. The trial court does not appear to have adequately considered the material inconsistencies in the testimony of complainant, the unexplained delay in lodging the complaint and the complainant's admitted grudge and anger against the Bargi police. The trial Court also appears to have failed to appreciate the circumstances reflected from evidence on record that the



accused was made to pick up the tainted currency notes that provides a plausible explanation for the positive phenolphthalein test. The notes were recovered from the ground and not from his person or exclusive possession. The non-examination of material witnesses further left a material gap in the prosecution case. These evidentiary aspects have a material bearing on the findings of trial Court regarding demand and acceptance of illegal gratification. In the circumstances, the findings recorded by the trial court are not sustainable and are liable to be set aside.

49. Consequently, the appeal is allowed. The impugned judgment of conviction and order of sentence dated 12.01.2005, passed by the First Additional Sessions Judge and Special Judge (Lokayukta), Jabalpur, in Special Case No. 14/2002, are set aside. The appellant is acquitted of the offences punishable under Sections 7 and 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988. His personal bond and surety bond are discharged. The fine deposited by him shall be refunded in accordance with law. He shall be set at liberty forthwith. The order of trial Court about disposal of property is affirmed.

50. The record of trial Court be remitted with a copy of this Judgement, after necessary compliances.

(SANJEEV S KALGAONKAR)
JUDGE

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