* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of reserving Judgment: 21st May, 2026

Date of Decision: 22nd September, 2026

IN THE MATTER OF:

\+ CRL.A. 578/2010

BEER SINGH .....Appellant

Through: Mr. Anshu Mahajan, Mr. Rajesh Kaushik and Ms. Anjali Sharma, Advs.

versus

CBI .....Respondent

Through: Mr. Rajesh Kumar, SPP-CBI with Mr. Changez Khan and Ms. Mishika Pandita, Advs.

CORAM:
HON'BLE MR. JUSTICE VIMAL KUMAR YADAV

JUDGMENT

VIMAL KUMAR YADAV, J.

1. The present appeal in hand has been filed against the judgment (hereinafter referred to as the impugned judgment) dated 20.04.2010 and the order (hereinafter referred to as the impugned order) on sentence dated 24.04.2010 passed by the learned Special Judge, CBI, Patiala House Courts, New Delhi, whereby the Appellant, Beer Singh, was held guilty for offences punishable under Sections 7 and 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act, 1988 (hereinafter referred to as “the PC Act”). Vide the impugned order, the Appellant herein was sentenced to undergo Rigorous Imprisonment (“RI”) for a period of 02 years with fine of ₹5,000/- in default of which to undergo RI for a period of 06 months under Section 7

of the PC Act and RI for a period of two years with fine of ₹5,000/- in default of which to undergo RI for a period of 06 months under Section 13(2) read with Section 13(1)(d) of the PC Act, both the substantive sentences having been directed to run concurrently.

2. The prosecution's case is that during the Appellant's tenure of service as an Assistant Sub Inspector (Ministerial) in the Sports Cell, CISF Headquarters, New Delhi, the Complainant Inspector Ajay Kumar Vats (PW-10), had represented the Indian Junior Judo Team as Coach in the 5th Asian Junior Judo Championship held at Doha, Qatar in the year 2004, and was entitled to receive kit allowance amounting to ₹10,000/-. According to the prosecution, the Appellant, while dealing with the processing of the said allowance, demanded illegal gratification of ₹5,000/- from the complainant for release of the cheque. Subsequently, a written complaint was lodged by the complainant with the Central Bureau of Investigation ("CBI"), A trap consequently, was organised on 28.10.2004, during which the Appellant was apprehended while accepting ₹3,000/- from the complainant. The tainted currency notes were recovered from his possession, the hand wash and pocket wash allegedly tested positive for phenolphthalein. After the completion of investigation and grant of sanction for prosecution, the Appellant was sent to face trial as a chargesheet was filed by CBI.

3. The learned Trial Court, pursuant to framing of formal charge under Sections 7 and 13 (2) PC Act and upon appreciation of the oral and documentary evidence led by the prosecution, held that the prosecution had successfully established the essential ingredients of a case under Sections 7 and 13 of the PC Act i.e. demand, acceptance and recovery of illegal gratification and that the statutory presumption under Section 20 of the PC

Act stood attracted. The main line of defence put forth by the Appellant that the recovered amount represented repayment of a friendly loan was rejected as improbable and unsupported by evidence. Consequently, the Appellant came to be convicted and sentenced in the manner noticed above. Aggrieved thereby, the present appeal has been preferred.

4. Before adverting to the rival submissions advanced on behalf of the parties, it would be appropriate to briefly notice the factual matrix giving rise to the present proceedings.

5. In the case in hand, complainant Inspector Ajay Kumar Vats (PW-10), was nominated as Coach of the Indian Junior Judo Team for participation in the 5th Asian Junior Judo Championship held at Doha, Qatar. As per the departmental policy, a sportsman or in this case, the complainant, became entitled to receive kit allowance amounting to ₹10,000/- once the recommendation received from the Judo Federation of India was processed in the Sports Cell of the CISF Headquarters. Thereafter, approval of the competent authority was obtained and a bearer cheque bearing No. 921765 dated 27.10.2004 for a sum of ₹10,000/- came to be prepared in favour of the complainant.

6. According to the prosecution, on 26.10.2004, when the complainant visited the Sports Cell to enquire regarding release of the kit allowance, he was informed that the Appellant was dealing with the relevant file and it was during this inquiry/ visit that the Appellant demanded an illegal gratification of ₹5,000/- and further stated that unless the said amount was paid, the complainant would not receive the kit allowance. It is the further case of the prosecution during the evening of 27.10.2004, the Appellant himself visited the residence of the complainant carrying the cheque for the kit allowance.

Simultaneously, according to the prosecution, the Appellant once again reiterated his demand of ₹5,000/- and instructed the complainant to bring the amount on the following day at the place specified by him. The complainant accepted the cheque but, instead of complying with the alleged demand, approached the CBI on the next morning and submitted a written complaint Ex. PW-10/B.

7. On receipt of the complaint, Inspector C.B. Ojha (PW-14) constituted a trap team and associated two independent witnesses, namely Manoj Kumar Devnath (PW-7) and Peeru Lal (PW-8), both officials from the Sales Tax Department. The complaint was first subjected to verification. During the verification proceedings, a telephonic conversation between the complainant and the Appellant was recorded. As the complainant expressed his inability to arrange the entire demanded amount of ₹5,000/-, it was decided to proceed with ₹3,000/-. Thirty currency notes of ₹100/- denomination were treated with phenolphthalein powder, their particulars were recorded in the Handing-Over Memo. The complainant was instructed to hand over the tainted currency to the Appellant only upon a specific demand. Manoj Kumar Devnath was directed to act as the shadow witness and observe the transaction. It was on appreciation of the transcript of the pre-raid verification that the Trial Court had given its comment that the accused was overly fixated primarily on two things, firstly the amount and secondly regarding the date/ time or the urgency with which he required the money. Relevant portion of PW-10's examination-in-chief is reproduced as hereunder:

> *"Court Comment- The accused is speaking with great emphasis on the words "aaj wo paise dene hi dene hai"*

8. Pursuant to the alleged instructions received from the Appellant, the trap party proceeded towards the CISF Headquarters. According to the prosecution, after a brief conversation between the complainant and the Appellant, the latter reiterated his demand, whereupon the complainant handed over the tainted currency notes to him. The Appellant allegedly accepted the same and kept the amount in the pocket of his trousers. Immediately thereafter, the pre-determined signal was given by the shadow witness, whereupon members of the trap team apprehended the Appellant. The tainted currency notes were recovered from the Appellant which tested positive for phenolphthalein test. The serial numbers which were previously noted down during the pre-raid proceedings were also tallied and matched with those recorded in the handing-over memo and the hand washes as well as the relevant pocket wash which turned pink when treated with sodium carbonate solution. The solutions were preserved, sealed and subsequently forwarded to the Central Forensic Science Laboratory for examination (Ex. PW-9/A).

9. During investigation, the Investigating Officer seized the departmental records relating to the processing of the kit allowance, including the note sheets, cheque register, attendance register and other connected documents. The recorded conversations were transcribed, specimen voice samples of the Appellant were obtained and forwarded for forensic examination. The voice expert opined that the questioned voice matched the specimen voice of the Appellant. The chemical examiner reported presence of phenolphthalein and sodium carbonate in the wash samples. Upon obtaining sanction for prosecution from the competent authority, a charge-sheet came to be filed against the Appellant for offences

punishable under Sections 7 and 13(2) read with Section 13(1)(d) of the PC Act.

10. In order to substantiate its case, the prosecution examined fifteen witnesses. The evidence comprised the testimony of the complainant, the independent witnesses associated with the trap proceedings, departmental officials from CISF, scientific experts from the Central Forensic Science Laboratory, the sanctioning authority, the Trap Laying Officer and the Investigating Officer. Various documentary exhibits including the complaint, pre-trap proceedings, recovery memos, departmental records, sanction order, forensic reports and voice transcripts were also proved during the course of trial.

11. In his statement under Section 313 Cr.P.C., the Appellant has denied the allegations in toto and has vehemently asserted that he had been falsely implicated and in furtherance of the same, he has taken a consistent stand that the recovered amount was not a part of any illegal gratification, rather it was repayment of a friendly loan earlier advanced by him to the complainant. According to the Appellant, the complainant and he were known to each other much prior to the alleged incident, had cordial personal relations and frequently visited each other's residences. The Appellant asserted that the complainant had borrowed money from him during financial difficulty and had agreed to repay the same after receiving the kit allowance. The Appellant further stated that the cheque had already been delivered to the complainant prior to the alleged trap, which was in turn confirmed by the complainant in his examination-in-chief, thereby leaving him with no official leverage to demand any illegal gratification.

12. The learned Trial Court, after examining the evidence on record had concluded that the complainant had consistently deposed regarding repeated demands of illegal gratification made by the Appellant and that his testimony stood substantially corroborated by the shadow witness, the recovery witness, the recorded conversations, the scientific evidence and the testimony of the Raid Officer. The learned Trial Court held that the defence of repayment of a friendly loan had remained unsubstantiated and was insufficient to rebut the statutory presumption under Section 20 of the PC Act. Consequently, the Appellant was convicted and sentenced in the manner already noticed.

13. Against the backdrop of aforesaid facts and circumstances, learned counsel for the Appellant has relied on the following judgments in support of his argument that the prosecution has failed to prove the essential ingredients of demand, acceptance and recovery in the case in hand:

a) ***G.V. Nanjundiah v. State***, 1987 Supp SCC 266;
b) ***State of Punjab v. Sohan Singh***, (2009) 6 SCC 444;
c) ***C.M. Girish Babu v. CBI***, (2009) 3 SCC 779.

14. At the outset, the learned counsel for the Appellant has assailed the impugned judgment by contending that the learned Trial Court had failed to appreciate the evidence in its proper perspective and had returned findings contrary to the material available on record. It was submitted that the foundational facts necessary for attracting Sections 7 and 13 of the PC Act, namely demand and voluntary acceptance of illegal gratification, had not been proved beyond reasonable doubt. According to the Appellant, the learned Trial Court attached undue significance to the recovery of tainted

currency while overlooking serious infirmities affecting the prosecution case.

15. Elaborating on his preliminary submissions, the learned counsel for the Appellant argued that the Appellant neither possessed the authority to sanction the kit allowance nor was it within his official capacity to issue the cheque for the kit allowance in favour of the complainant. It was submitted that the cheque had already been prepared, duly approved by the competent authority and, more importantly, had actually been delivered to the complainant on 27.10.2004 itself i.e. a day prior to the alleged trap. Concluding on this line of argument, the learned counsel for the Appellant submitted that once the complainant had already been granted or had already received the very benefit for which the alleged bribe was demanded, then in that case there remained no reason for the complainant to be compelled or obligated to move forward with meeting the demand of alleged bribe by the Appellant, and in turn the Appellant himself would not have any leverage in demanding any form of bribe or illegal remuneration against the complainant to even attempt to demand any bribe, thereby rendering the prosecution version inherently improbable.

16. Secondly, it was further submitted by the learned counsel for the Appellant that the complainant had deliberately suppressed his prior acquaintance with the Appellant. Attention was invited to admissions made during cross-examination to the effect that the Appellant had earlier visited the complainant's residence, the complainant had also visited the residence of the Appellant and there had been prior personal dealings between them, including an admitted petrol card transaction. According to the Appellant, these admissions add to the strength of the defence version that the parties

shared cordial relations, despite the disparity in rank between the Appellant and the complainant and that the money recovered during the trap represented repayment of a friendly loan rather than illegal gratification.

17. Learned counsel for the Appellant further contended that the Appellant had consistently maintained from the inception that the recovered amount was in fact, repayment of a loan that he had earlier lent to the complainant and nothing else. In support of this contention, the learned counsel for the Appellant has primarily placed reliance on the Appellant's immediate explanation at the time of apprehension during the raid in saying "*mein loan leh raha hu".* The learned counsel for the Appellant, in furtherance of this submission further argued that the very fact that the Appellant, on being suddenly challenged as to why he was taking money from the complainant by the raid officer at the time and place of the raid, was able to declare without hesitation or pause, that he was taking back a loan amount from the complainant, further adds to the defence version that the money that was accepted did not represent any bribe amount but it was, in fact, the loan amount being returned by the complainant to the Appellant.

18. The learned counsel for the Appellant further submitted that the Appellant and the complainant were familiar to each other and knew each other long before the circumstances of the current case came into existence, and to this effect the statement of the complainant Ajay Kumar (PW-10) was also read in corroboration towards this fact as he had, in his cross examination stated that 27.10.2004 was not the first time the Appellant had come to his house and that he himself had gone to visit the Appellant at his house once or twice in the past. Learned counsel for the Appellant has gone a step further and has submitted that the Appellant and the complainant were

in fact, friends with the sort of familiarity and closeness that despite their disparity in rank, they would often address each other and converse using casual language. The apparent casual nature of the recorded conversations, the informal manner in which both parties conversed with each other and various surrounding circumstances, all of which, according to the Appellant, were wholly inconsistent with the prosecution's version of a demand for illegal gratification.

19. It was next argued that the prosecution evidence suffers from several material contradictions. Learned counsel referred to inconsistencies regarding the attire worn by the Appellant, the manner in which he arrived at the spot, the pocket from which the tainted currency was recovered, the precise words allegedly spoken by the Appellant after his apprehension and other discrepancies emerging from the depositions of the prosecution witnesses. It was submitted that these were not isolated inconsistencies but cumulative circumstances creating a reasonable doubt regarding the truthfulness of the prosecution version.

20. Learned counsel for the Appellant in conclusion submitted that the prosecution had not been successful in proving beyond reasonable doubt the vital ingredients to sustain a conviction under sections 7 and 13 of the PC Act, i.e. demand, acceptance and recovery and that the statutory presumption under Section 20 of the PC could not have been invoked unless the prosecution first discharged its burden of proving demand and voluntary acceptance beyond reasonable doubt.

21. Per contra, learned SPP for CBI stood by the impugned judgment and submitted that the findings recorded by the learned Trial Court are based upon a proper appreciation of both oral and documentary evidence. It was

contended that the complainant has remained consistent on material aspects such as the repeated demands, first on 26.10.2004 and then on 27.10.2004 when the Appellant had himself come to the house of the complainant as well as the pre and post trap proceedings, coupled with the corroboration of the panch witness, Raid officer, the pre raid verification (Ex. PW- 7 E-H) and the official complaint (Ex. PW-10/B). It was further submitted that acceptance of the tainted currency by the Appellant stands proved beyond doubt through recovery of the tainted notes from his possession, the positive hand wash and pocket wash reports and the forensic evidence. Learned Special Public Prosecutor contended that the voice identification report, call detail records and other contemporaneous documentary evidence lend further assurance to the prosecution case.

22. Learned SPP further submitted on the point of defence that the money exchanged was representing a friendly loan that had earlier been lent by the Appellant to the complainant is a wholly unsupported plea. It was argued that neither any documentary material nor any independent witness has been produced to establish the alleged loan transaction. It was further argued by the prosecution that the Appellant, on being challenged, did not specifically say that he was "taking back" the amount that was loaned to the complainant, rather he stated that he was "taking a loan", further it was submitted that if in fact this was simply a lapse or slip of the tongue in the heat of the moment then the Appellant could have easily taken the time to clarify on that aspect. Therefore, the explanation furnished by the Appellant, according to the prosecution, was rightly rejected by the learned Trial Court as being incapable of rebutting the statutory presumption arising under Section 20 of the PC Act.

23. It was lastly submitted that the contradictions highlighted by the Appellant pertain only to non-material aspects which, in totality, do not undermine the consistent evidence regarding demand, acceptance and recovery of illegal gratification and therefore, the appeal deserves to be dismissed and the judgment of conviction and the order on sentence are required to be affirmed.

24. Before proceeding to appreciate the evidence on the aforesaid aspects, it would be apposite to first notice the legal position governing the offences with which the Appellant has been charged. The law with regard to the necessity of proving demand and acceptance of illegal gratification for sustaining a conviction under Sections 7 and 13(1)(d) of the PC Act is no longer res integra. The Constitution Bench of the Hon'ble Supreme Court in ***Neeraj Dutta v. State (Govt. of NCT of Delhi),*** (2023) 4 SCC 731, while considering the earlier pronouncements including ***B. Jayaraj v. State of Andhra Pradesh,*** (2014) 13 SCC 55, has reiterated that proof of demand and acceptance of illegal gratification by the public servant is a sine qua non for establishing guilt under the aforesaid provisions. The prosecution is required to prove these facts in issue either by direct evidence, which may be oral or documentary, or by circumstantial evidence. Mere recovery or receipt of money, without proof of the circumstances in which it was received, cannot by itself complete the offence. The relevant portions of ***Neeraj Dutta*** (Supra) have been reproduced 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."

25. The legal position which emerges from ***Neeraj Dutta*** (supra) is that, in a case under Section 7 of the Prevention of Corruption Act, proof of demand of illegal gratification and its acceptance is indispensable. Mere recovery of the tainted amount, by itself, cannot sustain a conviction where the foundational fact of demand has not been established. The presumption

under Section 20 of the Act also does not arise in a vacuum and can be invoked only after the foundational facts relating to acceptance of gratification have been proved by the prosecution. The same principle would govern the allegation under Section 13(1)(d) of the Act, insofar as the prosecution alleges that the accused obtained a pecuniary advantage for himself by abusing or employing his position as a public servant. In the present case, therefore, the question is not merely whether a sum of ₹3,000/- was recovered from the Appellant. This Court is required to examine whether the evidence, viewed cumulatively, establishes that the said amount was accepted pursuant to a demand for illegal gratification and whether such demand was connected with the official work of the complainant. The contentions of the defence relating to the status of the Appellant, the delivery of the cheque, the prior acquaintance between the parties and the explanation of the Appellant that he was taking a loan are, therefore, required to be considered in this context.

26. It is not in dispute that the Appellant was working as an ASI (Clerk) in the Sports Cell of CISF Headquarters. Dalel Singh (PW-2), Assistant Commandant, has deposed regarding the duties performed by the Appellant in the Sports Section and has identified his signatures on the relevant file and documents. J.S. Payal (PW-3) has deposed regarding the preparation and issuance of the cheque and has stated that the cheque in question was prepared in his handwriting and signed by the competent authority. Thus, the evidence does establish that the Appellant was not the final sanctioning authority in respect of the kit allowance and that the cheque was not signed by him.

27. The aforesaid circumstance, however, cannot be considered in isolation. The prosecution case is not that the Appellant himself sanctioned the kit allowance or that he had the authority to draw the cheque. The evidence is that he was the dealing hand in the Sports Cell and was associated with the processing of such matters. PW-3 has further stated that the Appellant had taken the cheque from the almirah and that the cheque was ultimately handed over to the complainant by the Appellant himself. The fact that the Appellant was not the ultimate sanctioning authority, therefore, does not by itself exclude the possibility of his demanding an illegal gratification in connection with the official work with which he was dealing.

28. At the same time, the circumstance which requires particular consideration is that the cheque for ₹10,000/- had already been handed over to the complainant before the trap. This is a significant circumstance and cannot be dismissed merely by observing that a subsequent demand was legally possible. The prosecution itself alleges that the Appellant demanded ₹5,000/- as a reward in connection with the handing over of the cheque. Once the cheque had actually been delivered to the complainant, the alleged reason or cause for the Appellant's initial demand was no longer as straightforward as it would have been had the cheque continued to remain with the Appellant.

29. The said circumstance, however, has to be considered in the light of what the complainant (PW-10) himself has stated regarding the events of 27.10.2004. According to him, when the Appellant came to his residence in the evening, he again demanded ₹5,000/-, showed him the cheque of ₹10,000/- and asked him to pay the demanded amount. PW-10 stated that he

did not have the money. The Appellant obtained his signatures on the receipt and handed over the cheque to him. PW-10 thereafter told the Appellant that he would give him the money on the following morning. The complaint was then lodged by PW-10 on 28.10.2004. The relevant portion of PW-10's examination in chief is reproduced hereunder for reference:

> "*In the evening at about 6 pm to 7 pm I received a telephonic call on my mobile phone No. 9810772522 from ASI Beer Singh. I asked him as to what happened to my case and he asked me to give my address and he would talk to me. After about half an hour he came in a rickshaw at my residence at Trinagar. He again asked me for money. he also told me that the money which he was getting me would not have gotten by me at all but for him. I told him that I was a sportsman and why should he ask for money from me. He showed me a cheque of Rs. 10,000/- and a receipt. He asked me to sign the receipt in token of receipt of the cheque which he had already given to me and he also told me that he would me some money on the spot itself and some money would be given on the next day by him. I told him that I would neither accept any money nor would give any money and I told him that I would meet him in the morning and would give him any money after withdrawing the same from the bank. The receipt (D-22) is now (Ex. PW 10/A) and bears my signatures at point A. I have also seen cheque (Ex. PW 1/3) and it is the same cheque which was given by accused to me.*"

30. Thus, the prosecution's own case does not proceed on the basis that the cheque remained withheld until the trap. Rather, the prosecution's case can be squarely summarized by saying that the Appellant continued to insist upon payment even after handing over the cheque. The fact of delivery of the cheque, therefore, does not by itself contradict the prosecution's case, while it may require a much more careful analysis to see whether it successfully meets the requirement or crosses the threshold of being proved beyond reasonable doubt. Consequently a clear and concise determination requires to be made as to whether that subsequent demand is independently established by reliable evidence and whether it bears the character of illegal gratification.

31. The answer to the aforesaid question is found not merely in the testimony of PW-10, but in the circumstances preceding and accompanying the trap. PW-10 had initially approached the Appellant regarding his kit allowance on 26.10.2004 and has deposed that the Appellant demanded ₹5,000/-. He again met the Appellant on 27.10.2004 and stated that the demand was repeated. Thereafter, the Appellant contacted him telephonically, obtained his residential address and went to his residence, where, according to PW-10, the demand was again made. The subsequent complaint was thus not founded upon an isolated recovery of money, it followed a sequence of alleged demands spread over 26.10.2004 and 27.10.2004. More importantly, the pre-raid verification proceedings conducted on 28.10.2004 provide contemporaneous evidence which cannot be disregarded. The prosecution relies upon the transcript as corroborative evidence of the demand and the recorded conversation contains repeated references to money and also reflects the Appellant speaking about his financial circumstances and the urgency attached to the payment. However, it must be clarified that the significance of the recorded conversation itself is not that every individual sentence therein, taken separately, constitutes an express demand for a bribe. The conversation has to be read as a whole and in the factual setting in which it took place. The relevance of the recording lies in the fact that it captures a conversation between the Appellant and the complainant concerning the payment of money, following the earlier allegations of demand. The voice expert PW-5 has also identified the questioned voice with the specimen voice of the Appellant. The defence has questioned the methodology and has suggested the theoretical possibility of similarity or manipulation, however, no material has been brought on record

sufficient to displace the evidentiary value of the scientific opinion when considered with the other evidence.

32. The testimony of Manoj Kumar Devnath (PW-7) and Peeru Lal (PW-8) further assumes significance in relation to the trap itself. PW-7 accompanied the complainant and deposed regarding the meeting with the Appellant, the conversation concerning the money and the subsequent apprehension of the Appellant. PW-8 also deposed regarding the recovery of the currency notes from the Appellant. Inspector C.B. Ojha, the Trap Laying Officer (PW-14), corroborated the broad sequence of the pre-trap and trap proceedings, including the apprehension of the Appellant and recovery of the tainted currency.

33. It is true that the independent witnesses do not furnish a completely identical account of every peripheral or minute detail. There are variations regarding the motorcycle, the person who was driving it, the precise pocket in which the currency was kept and certain details concerning the Appellant's clothing. PW-7, for instance, described the currency as having initially been kept in one pocket and subsequently referred to another pocket, while PW-8 spoke of recovery from the left side pant pocket. Similarly, there is variation regarding whether the Appellant himself was driving the motorcycle or was sitting as a pillion rider.

34. These discrepancies undoubtedly require consideration, but they do not touch the central question of whether the Appellant accepted the currency from PW-10. Human testimony concerning a rapidly unfolding trap cannot reasonably be expected to reproduce every peripheral detail with mathematical precision. The material circumstance is that the witnesses consistently place the Appellant with the complainant at the relevant time,

speak of the transaction involving the currency and depose regarding the immediate apprehension and recovery. The discrepancies therefore do not, by themselves, render the core version unacceptable. The non-examination of the person who was allegedly driving the motorcycle also does not, in the facts of the present case, destroy the prosecution case. The identity of that person is not itself an ingredient of either offence with which the Appellant stands charged.

35. The learned counsel for the Appellant has placed considerable emphasis and reliance upon the statement attributed to the Appellant immediately upon his apprehension, namely, "*Main loan le rahahoon*." It is submitted that the statement furnishes the Appellant's immediate but abrupt explanation that the money was being received as a loan and not as illegal gratification. The statement in itself cannot be ignored but at the same time, its evidentiary value has to be assessed in its proper setting. The words, if literally understood, convey that the Appellant was "taking" a loan. They do not themselves establish from whom, on what occasion, under what prior arrangement or for what consideration such loan was allegedly being taken. There is no independent documentary evidence of a loan placed on record. Nor can the statement be treated as conclusive merely because it was made immediately upon apprehension and in the spur of the moment. Therefore the surrounding circumstances and evidence require examination in this context in order to determine as to whether they lend independent support to the explanation presented by the Appellant.

36. In this connection, the prior acquaintance between the Appellant and PW-10 is also relevant. The evidence and the recorded conversation indicate that the parties were not complete strangers. The complainant (PW-10)

accepted in cross-examination that he had visited the Appellant's residence and that the Appellant had also previously visited his residence. The recorded conversation between the Appellant and the Complainant contains informal expressions and references such as *"Beeru"* and *"Bhai"*. The Complainant also acknowledged the existence of a prior transaction concerning a petrol card. However, the existence of prior familiarity, by itself, does not prove the defence that the exchange was regarding a loan. Equally, however, it cannot be blindly treated as proof of a bribe. Its relevance is narrower, specifically that it provides the factual setting in which the Appellant's explanation of a personal monetary transaction has to be tested. The question that is presented at this juncture is whether that explanation is reasonably capable of displacing the prosecution's otherwise corroborated account of a demand for illegal gratification.

37. The answer, in the present case, must be in the negative. The reason being, that the alleged loan explanation is not supported by any particulars of the alleged loan transaction. More importantly, it has to be considered against the recorded conversation, the actual trap proceedings and the recovery of the currency from the Appellant. The mere use of the expression "*Main loan leh raha hoon"* immediately after apprehension cannot, in these circumstances, neutralize the evidentiary chain which had already developed against him.

38. The fact that the complainant (PW-10) lodged the complaint after receiving the cheque also deserves separate consideration. Learned counsel for the Appellant has vehemently argued that once the complainant had obtained the ₹10,000/- cheque, there was no reason for him to initiate a CBI proceeding. The question is, therefore, not whether such conduct was

theoretically possible, but whether the prosecution has furnished a credible explanation for it. The explanation furnished by PW-10 is that receipt of the cheque did not bring the alleged demand to an end. His evidence is that the Appellant continued to insist upon payment and that PW-10 told him that he would arrange the money on the following morning. The learned Trial Court also considered this precise circumstance and found that the complaint was lodged because of the Appellant's persistence in demanding money despite the delivery of the cheque.

39. This explanation is not inherently inconsistent with the sequence proved on record. It is entirely possible, as a matter of fact, for a public servant to demand gratification even after an official document has been handed over, particularly where the demand is alleged to be a reward for an act already performed. The more important consideration is whether the evidence establishes that such a demand was actually made. In the present case, the testimony of PW-10 regarding the continuing demand is supported by the contemporaneous verification conversation and the subsequent trap proceedings.

40. In this regard the observations by the Hon'ble Apex Court in ***Sita Soren v. Union of India***, (2024) 5 SCC 629, can be relied upon as reproduced hereunder:

> *"IV. **Delivery of results is irrelevant to the offence of bribery***
> *119. Another aspect that arises for consideration is the stage at which the offence of bribery crystallises. It has been urged by the Solicitor General that the offence is complete outside the legislature and is "independent" of the speech or the vote. Therefore, the question of privilege does not arise in the first place and the question is answered by the provisions of the Prevention of Corruption Act, 1988. Similarly, Mr Gopal Sankarnarayanan, learned Senior Counsel has submitted that*

the offence of bribery is complete on receipt of the bribe well before the vote is given or speech made in Parliament. It has been urged that the performance of the promise is irrelevant to the offence being made out, and hence, the distinction made in P.V. Narasimha Rao [P.V. Narasimha Rao v. CBI, (1998) 4 SCC 626 : 1998 SCC (Cri) 1108] is entirely artificial.
This extract is taken from Sita Soren v. Union of India, (2024) 5 SCC 629 : 2024 SCC OnLine SC 229 at page 709

120. Interestingly, the judgment of the majority in P.V. Narasimha Rao [P.V. Narasimha Rao v. CBI, (1998) 4 SCC 626: 1998 SCC (Cri) 1108] did not consider this question at all. The minority judgment, on the other hand, discusses this aspect and notes that the offence is complete with the acceptance of the money or on the agreement to accept the money being concluded and is not dependent on the performance of the illegal promise by the receiver. Agarwal, J. observed : (P.V. Narasimha Rao case [P.V. Narasimha Rao v. CBI, (1998) 4 SCC 626 : 1998 SCC (Cri) 1108], SCC pp. 675-76, para 50)

> *"50. The construction placed by us on the expression "in respect of" in Article 105(2) raises the question: Is the liability to be prosecuted arising from acceptance of bribe by a Member of Parliament for the purpose of speaking or giving his vote in Parliament in a particular manner on a matter pending consideration before the House an independent liability which cannot be said to arise out of anything said or any vote given by the Member in Parliament? In our opinion, this question must be answered in the affirmative. The offence of bribery is made out against the receiver if he takes or agrees to take money for promise to act in a certain way. The offence is complete with the acceptance of the money or on the agreement to accept the money being concluded and is not dependent on the performance of the illegal promise by the receiver. The receiver of the money will be treated to have committed the offence even when he defaults in the illegal bargain. For proving the offence of bribery all that is required to be established is that the offender has received or agreed to receive money for a promise to act in a certain way and it is not necessary to go further and prove that he actually acted in that way."*
>
> *(emphasis supplied)*

41. The delivery of the cheque therefore does little to assist the case of the Appellant as it fails to establish that there was no demand for illegal gratification. It certainly demonstrates that the Appellant was no longer withholding the physical possession of the cheque, but it does not erase the preceding demands attributed to him, nor does it render the subsequent demand inherently impossible. The prosecution's case is that the Appellant had already performed the act of handing over the cheque but nevertheless persisted in seeking ₹5,000/- from the complainant. The evidence of PW-10 on this aspect is specific and forms part of the very chronology which culminated in the complaint and trap. The learned counsel for the Appellant has also not furnished any explanation, nor can one be found even by inference based on the material on record, that the complainant's decision to approach the CBI must necessarily have been motivated by an intention to falsely implicate the Appellant.

42. The defence has further relied upon the fact that the Appellant was subordinate in rank to the complainant and was not the ultimate authority competent to sanction the kit allowance. This circumstance, while having some relevance in establishing the relationship between the Appellant and the Complaint, is not decisive in the overall picture of the case, the reason being that a demand for illegal gratification clearly does not become impossible merely because the public servant is not the final or competent authority for completing a task. What has to be examined is whether the accused was, in fact, making a demand for illegal gratification in connection to an official task which would have affected the complainant, regardless of whether the Appellant himself was officially competent to be able to perform or deliver on such an action or task.

43. Learned counsel for the Appellant has also pointed to the fact that the amount demanded was ₹5,000/- whereas the amount ultimately produced and recovered in the trap was ₹3,000/-. This variation is not sufficient, in the circumstances of the present case, to discredit the prosecution version. PW-10's evidence is that the demand was for ₹5,000/- and that he was unable to arrange that amount. The trap was consequently conducted with ₹3,000/-. The amount ultimately accepted need not necessarily be identical to the amount initially demanded.

44. This Court is conscious that the complainant (PW-10) is not to be treated as an infallible witness merely because he was the bribe giver. His testimony has, therefore, been examined with reference to the other evidence in order to check both its veracity and whether it is corroborated by other evidence on record. His account concerning the demand finds corroboration in the recorded conversation, the evidence relating to the trap, the recovery of the currency and the scientific evidence concerning the washes and voice. The case is consequently not one in which the conviction rests upon the uncorroborated word of PW-10. The discrepancies pointed out by the learned counsel for the Appellant, when viewed individually and cumulatively regarding their ultimate effect and importance to material aspects of the case, do not warrant attention. Variations concerning the motorcycle, the precise pocket in which the currency was placed, the clothing of the Appellant or the precise timing of particular post-trap proceedings do not directly negate the repeated demand proved through PW-10 and the contemporaneous recording, nor do they explain away the recovery of the tainted currency from the Appellant.

45. Learned counsel for the Appellant has sought to derive considerable support for his arguments from the informality of the recorded conversation despite the disparity in ranks between the complainant and the Appellant. It is true that the conversation contains familiar expressions and does not resemble a formally worded negotiation or a typical conversation between a higher ranked officer with a lower ranked officer. But an illegal demand is not required to be made in any particular formula. Public servants and private persons involved in an illicit transaction may, as a matter of fact, communicate in indirect or informal language. What is material for the matter of this case is the actual substance or the crux of the conversations and not the manner or type of speech in which it was made.

46. In the case in hand, the conversation contains repeated references to arranging money and also contains statements attributed to the Appellant reflecting urgency regarding the payment. The statement that the money was to be given that day, coupled with the surrounding conversation, assumes significance when read alongside with the complaint, the verification proceedings and the subsequent trap. The conversation cannot therefore be isolated from the events immediately preceding and following it.

47. It is equally significant that the Appellant's conduct at the time of apprehension was not that of a person who, according to the prosecution's evidence, had no monetary transaction with the complainant whatsoever. He immediately furnished an explanation that he was taking a loan. That explanation may be considered in his favour as a circumstance requiring examination, but once examined, it does not satisfactorily account for the sequence of repeated demands, the recorded conversation and the trap recovery. The cumulative effect of the evidence is, therefore, materially

different from a case where a public servant is merely found in possession of currency and the prosecution seeks to infer demand solely from recovery. Here, the prosecution has led evidence of prior demands, a subsequent demand after the cheque had been handed over, a contemporaneous recorded conversation, the trap transaction, recovery of the currency and scientific corroboration. The fact that the cheque had already been delivered is an important circumstance, but it operates principally upon the explanation and context of the subsequent demand, it does not, in the presence of the other evidence, render that demand unbelievable.

48. Accordingly, the foundational facts relating to demand and acceptance have been established by the prosecution through evidence independent of the mere fact of recovery. The demand is supported by the testimony of PW-10 and the contemporaneous recorded conversation, while acceptance is supported by the evidence of the trap witnesses, the recovery of the tainted currency and the positive chemical examination. Once these foundational facts stand established, the statutory presumption under Section 20 of the Prevention of Corruption Act is attracted in respect of the offence under Section 7, subject to the accused's right to rebut the same. The Appellant's explanation that the money represented a loan has been considered. However, the explanation, in the absence of supporting particulars or evidence and when tested against the prosecution evidence as a whole, does not rebut the statutory inference arising from the proved acceptance of gratification.

49. The Court is mindful that the burden upon the accused to rebut the statutory presumption is not equivalent to the initial burden upon the prosecution. The prosecution must first establish the foundational facts, and

only thereafter does the statutory presumption operate. In the present case, for the reasons already discussed, that threshold stands crossed. The same evidence also establishes the requisite connection between the Appellant's conduct and his official position for the purposes of Section 13(1)(d) of the Act, as applicable to the occurrence in question. The Appellant was a public servant associated with the processing and handling of the relevant official matter; he had access to and ultimately delivered the cheque and he is proved to have obtained money from the complainant in the circumstances established by the prosecution. The evidence, therefore, cannot be reduced to a purely private monetary transaction merely because the defence has suggested the possibility of a loan.

50. The most peculiar circumstance in the case in hand is regarding the cheque which had already been delivered by the Appellant on 27.10.2004 i.e. the evening before the raid was conducted. This issue was likewise placed squarely before the learned Trial Court and was expressly considered. The reasoning of the learned Trial Court in that, the complainant's possession of the cheque did not prevent the Appellant from continuing to demand money and that the persistence of the demand explained why the complainant approached the CBI rather than simply proceeding to put an end to the entire issue. On an independent re-examination of the evidence, this conclusion does not warrant interference. There appears no sufficient reason to disbelieve the complainant (PW-10) merely because certain aspects of his testimony contain variations. His evidence, when coupled with all the other circumstances that has come to light, create an almost tangible chain of events. His initial approach to the Appellant, demand of ₹5,000/-, repetition of the demand, meeting at his residence, handing over of the

cheque, continuing insistence for money, subsequent complaint and participation in the trap, remains materially consistent.

51. The recorded conversation vis-à-vis the pre-raid verification when read in the context of the prior meetings, the alleged demand and the subsequent trap, the conversation supplies contemporaneous corroboration of the monetary demand and the Appellant's insistence upon payment. The submission of the learned counsel for the Appellant that the conversation was merely between acquaintances discussing a private financial transaction does not satisfactorily explain the entire sequence of events proved on record. The Appellant's immediate statement that he was taking or taking back a loan has also been considered, but it does not create a reasonable doubt sufficient to displace the prosecution's case. There is no independent evidence demonstrating the existence of such a loan, whereas the prosecution's evidence presents a connected sequence commencing with the alleged demand and culminating in acceptance and recovery of the tainted currency during the trap. The statement is consequently insufficient to rebut the inference arising from the proved circumstances.

52. Upon an overall assessment, therefore, the evidence does not leave a reasonable doubt as to the essential fact that the Appellant demanded and accepted money from the complainant (PW-10) as illegal gratification. The delivery of the cheque before the complaint, though a circumstance requiring careful scrutiny, does not destroy the prosecution's case because PW-10 specifically attributes a continuing demand to the Appellant after delivery of the cheque, and that assertion is supported by the contemporaneous verification proceedings and the subsequent trap.

53. The conviction of the Appellant under Section 7 of the Prevention of Corruption Act, 1988, is accordingly upheld. The conviction under Section 13(2) read with Section 13(1)(d) of the Act also does not call for interference.

54. The appeal is, accordingly, dismissed. The Appellant shall surrender forthwith to undergo the sentence awarded and shall be entitled to the benefit of set off under Section 428 Cr.P.C., as already granted by the learned Trial Court.

55. Appeal along with pending application(s), if any, stand disposed of accordingly.

56. Copy of the judgment be transmitted to the Trial Court and Prison Authorities for information and requisite compliance.

VIMAL KUMAR YADAV, J.

SEPTEMBER 22, 2026/*ij*