



2026:DHC:763



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

% *Judgment Reserved on: 22.01.2026*
Judgment pronounced on: 29.01.2026

+ CRL.A. 582/2003

BHOOP SINGHAppellant

Through: Mr. Yudhishtar Kahol, Mr. Kunal Kahol and Mr. Birender Singh, Advocates.

versus

STATE C.B.I.Respondent

Through: Mr. Atul Guleria, SPP for CBI with Mr. Aryan Rakesh and Ms. Atreyi C., Advs for CBI.

CORAM:

HON'BLE MS. JUSTICE CHANDRASEKHARAN SUDHA

JUDGMENT

CHANDRASEKHARAN SUDHA, J.

1. This appeal under Section 374(2) of the Code of Criminal Procedure, 1973 (the Cr.P.C.) has been filed by the accused in C.C.No.130/2001 on the file of the Court of Special Judge, Tiz Hazari Court challenging the conviction entered and sentence passed against him for the offences punishable under Sections 7



and 13(2) r/w Section 13(1)(d) of the Prevention of Corruption Act, 1988 (the PC Act).

2. The prosecution case is that on 22.04.1996, the accused, while working as Sub Inspector, Delhi Police and posted at Ashok Vihar Police Station, demanded illegal gratification of ₹2,000/- from PW4, for favouring him in Crime No. 204/96, which crime was being investigated by the accused.

3. On 22.04.1996, PW4 lodged a complaint, that is, Ext. PW10/A with the Anti-Corruption Branch, CBI, Delhi, based on which crime, RC No. 37(A)/96-DLI, that is, Ext. PW10/B FIR was registered alleging commission of offences punishable under Sections 7 and 13(2) r/w Section 13(1)(d) of the PC Act.

4. PW11 conducted investigation into the crime and on completion of the same, submitted the charge-sheet/ final report alleging commission of offences punishable under the aforementioned sections.



5. Ext. PW2/A sanction order for prosecuting the accused was accorded by PW2, the then Deputy Commissioner of police, North-West District, Delhi.

6. When the accused on receipt of summons appeared before the trial court, the Court on 15.09.1997, framed a charge against the accused for the offences punishable under Sections 7 and 13(2) read with Section 13(1)(d) of the PC Act to which he pleaded not guilty.

7. On behalf of the prosecution, PW1 to PW11 were examined and Ex. PW-1/A, Ex. PW-2/A, Ex. PW-3/A, Ex. PW-4/A-D, Ex. PW-4/X, Ex. PW-5/A, Ex. PW-5/B, Ex. PW-5/X, Ex. PW-9/A, Ex. PW-10A-E, Ex. PW-10/G, Ex. PW-10/H, Mark '2A', Mark 'X' were marked in support of the case.

8. After the closure of the prosecution evidence, the accused was questioned under Section 313 of the Cr.P.C. regarding the incriminating circumstances appearing against him in the evidence



of the prosecution. The accused denied all those circumstances and maintained his innocence.

9. After questioning the accused under Section. 313 Cr.P.C., compliance of Section 232 Cr.P.C. was mandatory. In the case on hand, no hearing as contemplated under Section 232 Cr.P.C. is seen done by the trial court. However, non-compliance of the said provision does not, *ipso facto* vitiate the proceedings, unless omission to comply with the same is shown to have resulted in serious and substantial prejudice to the accused (See **Moidu K. vs. State of Kerala, 2009 (3) KHC 89 : 2009 SCC OnLine Ker 2888**). Here, the accused has no case that non-compliance of Section 232 Cr.P.C. has caused any prejudice to him.

10. No oral or documentary evidence was adduced by the accused.

11. On consideration of the oral and documentary evidence on record and after hearing both sides, the trial court, vide the impugned judgment dated 21.08.2003, held the accused guilty of



commission of offences punishable under Sections 7 and 13(2) read with Section 13(1)(d) of the PC Act and accordingly, sentenced him to undergo simple imprisonment for a period of six months and to fine of ₹2,000/- and in default of payment of fine, to simple imprisonment for one month and to simple imprisonment for one year and fine of ₹3,000/- and in default of payment of fine, to undergo simple imprisonment for two months for the aforesaid offences. The substantive sentences of imprisonment have been directed to run concurrently. Aggrieved, the accused has preferred the present appeal.

12. The sole appellant/ accused died on 02.10.2022. The death certificate has been produced and the death verified by the CBI. Normally, the substantive sentence of imprisonment will stand abated on the death of the accused (Section 394(2) Cr.P.C.). However, if fine is also imposed by the trial court, the sentence regarding fine will not abate (Section 394(2) Cr.P.C.). In this case, the appeal does not abate under Section 394(2) Cr.P.C. as the legal



representatives of the appellant have come on record as per order dated 17.03.2025 in CRL.M.A. 23000/2022 by virtue of the proviso to Section 394(2) Cr.P.C. Hence, I proceed to consider the appeal on merits.

13. The learned counsel for the appellant/ accused submitted that PW4 is a stock witness and that he has initiated about 10 cases, including 5 cases under the PC Act. PW4 is also an accused in several criminal cases. He is a habitual litigant, thereby casting serious doubt on his credibility. Placing reliance on the dictum in **Kedar Singh v. State (NCT of Delhi), 2017 SCC OnLine Del 11875**, it was submitted that it was highly improbable/ impossible for the accused to have thrown the money out of the window when he is alleged to have been caught red handed receiving the money from PW4, as according to the prosecution, both his hands had been held by the Inspector concerned. It was further submitted that despite the trap proceedings having been laid and executed within the police station where the accused was performing his official



duties, no entries were made in the Roznamcha, no information was given to the higher officials and no police personnel present was examined to prove the prosecution case. Hence, in such circumstances, the prosecution has failed to prove recovery of the tainted money from the person of the accused and consequently, the statutory presumption contemplated under Section 20 of the PC Act is not attracted, goes the argument.

14. *Per contra*, it was submitted by the learned Special Public Prosecutor (SPP) for the CBI that the appellant/ accused, in defence, had also not examined any police personnel present in police station. It was further submitted that the testimony of PW5 categorically establishes that one of the officers, namely, P. K. Sharma, holding the hands of the accused, lost his grip, whereupon the accused managed to throw away the money in his hands. Regarding the allegation that PW4 is a stock witness, the learned SPP, placing reliance on the dictum of the Apex Court in **State of U.P. v. Zakaullah, (1998) 1 SCC 557**, contended that a witness



does not lose the status of an independent witness merely due to prior acquaintance with the police or participation in other cases, unless it is shown otherwise. It was also contended that the investigation conducted by an unauthorised officer would not vitiate the proceedings in the absence of any miscarriage of justice or serious prejudice, as held in **Union of India v. T. Nathamuni, (2014) 16 SCC 285.**

15. Heard both sides and perused the records.

16. The only point that arises for consideration in the present appeal is whether there is any infirmity in the impugned judgment calling for an interference by this Court.

17. I shall first briefly refer to the evidence on record relied on by the prosecution in support of the case. The initial demand in this case is alleged to have taken place on 20.04.1996 and the trap laid on 23.04.1996. In Exhibit PW10/A complaint dated 22.04.1996, PW4 has stated thus: -“... FIR No. 204/96 alleging offences under Sections 323, 325, 34 IPC has been registered against me in Ashok



2026:DHC:763



Vihar Police Station, Delhi on 18.04.1996 and the names of my father, Raj Kumar Gupta; my elder brother, Jagdish Gupta; and my uncle, Kishan Kumar, have also been included. On 20.04.1996, S.I. Bhoop Singh, Ashok Vihar Police Station took my father Raj Kumar and elder brother Jagdish from our home to the police station. After questioning, they were released. At that time, S.I. Bhoop Singh asked my father to send his son Anil (PW4) to the police station by the evening of 22.04.1996 with ₹2,000/-. Today, Bhoop Singh called me again on telephone number 7213780. He told me that just as he had instructed my father on 20.04.1996, I should go to the police station in the evening with the money; if not, he would lock up my family members in the jail. I do not wish to pay any money as bribe. Therefore, I request you to take appropriate legal action against S.I. Bhoop Singh, Ashok Vihar Police Station."

17.1. PW4, when examined before the trial court, deposed that, he was running a provision shop and that a criminal case had earlier



been registered at his instance against certain persons at Ashok Vihar police station. The investigation in the said case was being conducted by accused. Thereafter, a counter case was registered against him and his family members, that is, Crime No. 204/96 alleging commission of offences punishable under Sections 323, 325 read with Section 34 IPC. Two days later, on 20.04.1996, the accused came to his residence and took his father and brother to Ashok Vihar police station. They were interrogated by the accused and released on the condition that they sent him a bribe of ₹2,000/- through PW4 by 22.04.1996. On 22.04.1996, the accused telephoned him at his residence to demand the money and threatened to put the entire family behind bars if the demand was not acceded to by evening. Pursuant to the same, he lodged a written complaint on 22.04.1996.

17.2. As directed by the officials of the CBI, he spoke to the accused from telephone no. 7120938. The accused directed him to bring the amount of ₹2,000/- to the police station on



23.04.1996 by around 1 PM. PW4 was also instructed to take his uncle and a surety for the purpose of bail. The conversation between him and the accused over telephone was recorded at the office of the CBI. On 23.04.1996, he reached the office of CBI as instructed, where the pre-trap proceedings were completed by the officials concerned. The currency notes amounting to ₹2,000/- were treated with phenolphthalein powder and kept in the left pocket of his shirt. He was instructed to hand over the money to the accused only when a specific demand was made. PW5 along with Inspector PK Sharma were deputed to accompany him and observe the transaction.

17.3. PW 4 further deposed that thereafter he went to police station and met the accused in his office. When the accused questioned the identity of the accompanying individuals by asking, “*YEH KAUN HAIN*”, he responded by identifying PW5 as the surety and PK Sharma as a resident of his house. Then the accused



completed the bail formalities. The accused asked him to send PW5 and PK Sharma out of the room. Before they left the room, the accused had asked whether he had brought the money and so PW4 requested the former to reduce the amount. As directed by the accused, PW5 and PK Sharma went outside the room and stood at the door which was open. The accused again demanded the money and so he took the money and passed it to the accused with his right hand. The accused accepted the money with his right hand and kept it in the right pocket of his pant. Immediately, Inspector PK Sharma came inside the room, identified himself and caught hold of the left wrist of the accused. PW5 gave the predetermined signal to the trap party. The accused attempted to free himself but could not succeed. He then took out the money from the right pocket of his pant and threw the same out of the window of his office. PW4 further deposed that by this time, the other members of the trap team came into the room. PW5 informed them that the



accused had thrown the money outside. Hence, S.K. Peshin (PW10), DSP, directed Inspector S.R. Singh and PW5 to go downstairs and fetch the money. Shortly, thereafter, they returned with a boy named Iqbal (PW3) who was in possession of the currency notes. Iqbal (PW3) said that he had come as surety to the police station and was waiting outside the police station and that he had picked up the currency notes when he saw them falling out of the window. PW 4 further deposed that the right hand wash of the accused as well as the wash of the right side pant pocket of the accused turned pink. He also stated that the hand wash of Iqbal Ahmed (PW3) similarly turned pink. The relevant washes were sealed and seized and signed by the panch witnesses and the formalities completed. The audio cassette in which the telephonic conversation between PW4 and the accused recorded in the office of the CBI, was played during trial. The voice was identified as that of the accused and the same was marked as Ext. PW4/X.



17.4. In the cross examination, PW4 admitted that there were criminal cases pending against him. He admitted that he was part of multiple criminal and civil disputes including complaints against public servants under the PC Act. PW4 denied all suggestions of false implication and stood by his version regarding demand, acceptance and recovery.

17.5. PW5, a shadow witness in his examination before the trial court, supported the prosecution case. PW5 deposed that on 23.04.1996, on the directions of his senior officer, he had gone to the office of the CBI at about 10:45 AM where PW4 was present. After completing the pre-trap formalities, they proceeded to the police station along with PW4; Inspector PK Sharma and the remaining members of the trap party. On reaching the police station, he along with PW4 and Inspector PK Sharma went into the office of the accused and met the latter. PW5 deposed that after completion of the bail bond related formalities, the accused demanded money by asking:-



“*PAISA LAYE HO*” and upon being told that ₹2,000/- had been brought, accepted the currency with his right hand and kept it inside the right pocket of his pant. According to PW5, he then gave the pre-determined signal, whereupon Inspector PK Sharma apprehended the accused and that during the process, the accused attempted to free himself and managed to take out the currency notes from his pant pocket and throw it out of the window. PW5 further deposed that the currency notes were recovered from one Iqbal (PW3) who had picked up the notes on seeing them falling from the window upstairs. During the course of the chief examination by the prosecutor, permission was sought to put a leading question to PW5 as to whether Inspector PK Sharma had caught the accused by his left or right hand which permission was granted. The question then put reads:- “*Are you sure that Inspector PK Sharma caught hold the accused from his right wrist and not from his left wrist?*”

Ans:- I am definite that Inspector PK Sharma caught hold of



the accused from his right wrist.” At this juncture, the prosecutor is seen to have sought the permission of the Court “to cross-examine” the witness on the ground that he was resiling from his earlier statement and suppressing the truth. The request is seen allowed. On further questioning by the prosecutor, PW5 deposed that he cannot admit or deny and then added that it would be incorrect to suggest that Inspector PK Sharma had caught hold of the accused by his left wrist after disclosing his identity. He further deposed that the accused could not manage to get his right wrist free from the hold of Inspector PK Sharma. Only the grip of PK Sharma became loose at which moment, the accused managed to take out the tainted money from the right pocket of his pant and throw it out of the window. He also deposed that during the said process, the wrist of the accused was in the grip of Inspector PK Sharma. He also deposed that when DSP, S.K. Peshin (PW10)



challenged the accused, the latter kept mum and did not offer any explanation.

17.6. PW5 during cross-examination deposed that he does not remember the exact number of members of the trap party. He admitted that when they reached the police station, there were number of police officials as well as members of the public present in the station. However, none of them were asked to join as witness in the trap team.

18. PW3 Iqbal Ahmed when examined deposed that on 23.04.1996, at about 2.10 p.m., he along with his mother had gone to Ashok Vihar Police Station, Delhi, in connection with the bail of his father. While he was standing downstairs, he noticed four currency notes of ₹500/- falling down from upstairs. He picked up the said notes from the ground and proceeded towards the stairs with the intention of returning the money to the person concerned. In the meantime, the CBI officials came downstairs and apprehended him, after which he



was taken to the second floor. One of the officials of the CBI took the notes from his hand. PW3 further deposed that thereafter a chemical powder was dissolved in a glass of water to prepare a colourless solution and he was asked to dip the fingers of his right hand in the said solution, which turned pink. PW3 deposed that his right hand wash was transferred into a clean empty bottle, which was sealed with the seal of the CBI after covering the mouth of the bottle with a piece of cloth and an identification labelled fixed thereon. He further deposed that Ext. PW3, recovery memo, had been prepared at the spot, which was signed by him and by other witnesses.

19. PW8 another member of the trap team duly supported the prosecution case in the chief examination. In the cross-examination, he deposed that there was no tinge of pink colour or any marking on the right side pocket of the pant of the accused. The right hand wash of accused was colourless. He further deposed that he did not see the transaction and he was



told about the same by the shadow witness. PW8 also deposed that his statement had been recorded by the Trap Laying Officer (TLO) on his own accord. However, the TLO had narrated the same to him thereafter. PW8 also deposed that he had been directed that the TLO to depose in Court in tune with his statement under Section 161 Cr.P.C.

20. PW9, Senior Scientific Officer, CFSL, New Delhi deposed that on 13.05.1996, he had received two sealed parcels with the seals intact. The parcels contained two audio cassettes. One audio cassette with the recorded conversation which was marked as 'Q' and the other cassette containing the specimen voice of the accused, marked 'S'. The voice recorded in the cassettes were compared by selecting the common words and taking the spectrography with the help of voice spectrograph. The result of the analysis was that the voice sample marked 'Q' and the specimen sample marked 'S' are probable voices of the same speaker. The report of PW9 has been marked as Ext.



PW9/A. In the cross-examination, PW-9 deposed that he had only compared two sentences in the questioned as well as specimen recording, which were found common. He has also mentioned the reasons for his opinion in Ex. PW9/A.

21. PW10, S.K. Peshin, DSP, CBI/ACB/DLI during the year 1996 supported the prosecution case. PW10 deposed that when the accused took the money from his right hand pocket and threw it outside the window, S.R. Singh was directed to secure the right hand of the accused by catching hold of his wrist. Then two members of the trap team were sent downstairs to collect the notes which had been thrown by the accused out of the window. Thereafter, both of them came upstairs accompanied by Iqbal Ahmed (PW3) who was holding the currency notes in his left hand palm. Iqbal Ahmed informed them that he had picked up notes from the ground as he had seen them falling down from upstairs. PW10 also deposed that the hand wash of the accused as well as PW3 turned pink. The inner lining of the



pant of the accused also turned pink when it was dipped into the sodium carbonate solution. In his cross-examination, PW10 deposed that he had heard the telephonic conversation between PW4 and the accused after the same had been recorded in the audio cassette. However, he cannot say whether the accused had demanded the money in that conversation or not. According to PW10, the same is a matter of record. To a question with reference to the transcript of the conversation that took place between the accused and PW4 and when he was asked whether there was any specific demand for money by the accused, he replied that there was a reference to the amount by PW4 and not by the accused. However, the reference to the same has been made a number of times by PW4 and at only one stage, the accused had replied "*Han*". Otherwise, there was no specific demand made by the accused in the said telephonic conversation. PW10 also deposed that it was PW4 who had given the signal from the window of the room of the accused.



22. PW1, Senior Scientific Officer, Grade-I-cum-Assistant Chemical Examiner, CFSL, deposed that on 01.05.1996, he had received 3 sealed bottles containing pink colour liquid with sediments, marked RHW Bhoop Singh; RHW Iqbal and RPPW. The bottles were received in the office with the seals intact. The seals tallied with the specimen seal provided. He further deposed that the contents of the sealed bottles were analyzed by his Assistant under his supervision and the test for phenolphthalein and sodium carbonate was positive. His report has been marked as Ex.PW1/A.

23. Finally, PW11, the Investigating Officer deposed regarding the various steps that he had taken during the course of investigation and on completion of the same, had submitted the charge-sheet/ final report before the Court.

24. The main thrust of the argument by the learned counsel for the appellant/ accused was that, when the wrist of the accused had been caught by the Inspector concerned, it was just



impossible for him to have thrown the money out of the window. Further, referring to the judgment dated 16.11.2017 of this Court in **Kedar Singh v. State NCT of Delhi, CRL.A. 172/2011**, it was submitted that the prosecution has failed to prove the demand and payment of bribe.

25. I have already referred to the testimony of the material prosecution witnesses in detail. It is true that there are slight discrepancies in their testimonies. But a whole reading of the materials on record shows that the discrepancies or inconsistencies are not quite material, nor has it affected the prosecution case. Nothing has brought out to discredit or disbelieve the testimony of the prosecution witnesses. An important aspect that needs to be noted is that the prosecution case is not only supported by the official witnesses, but also by the testimony of PW3, an independent witness. The appellant/accused has not shown any reason(s) as to why PW3 should also depose falsehood. PW3 has clearly deposed that he had



seen the currency notes falling down from upstairs and that he had picked up the same. PW3 also deposed that the hand wash of the accused had also turned pink when the same was dipped in the sodium carbonate solution. In such circumstances, I do not find any materials to doubt or discard the prosecution case.

26. It is true that materials have come on record to show that several other complaints have been filed by PW4 against other persons including under the PC Act. As held by the Apex Court in **Zakaullah** (supra) that alone is no ground to disbelieve his witness. PW4 was able to withstand the cross-examination and nothing was brought out to disbelieve his testimony regarding the prosecution case.

27. Further, in the light of the dictum in **T. Nathamuni** (supra), even if the investigation has been done by an unauthorized officer, the same alone does not vitiate the entire proceedings unless it results in miscarriage of justice or has caused prejudice to the accused. No such miscarriage or prejudice has been



2026:DHC:763



shown to have been caused by the alleged defective investigation.

28. In the light of the materials on record, I find no scope for interference into the impugned judgment.
29. In the result, the appeal *sans* merit is dismissed.
30. Applications, if any, pending shall stand closed.

CHANDRASEKHARAN SUDHA
(JUDGE)

JANUARY 29, 2026
kd/AB