



* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Judgment Reserved on: 06.04.2026

Judgment pronounced on: 16.04.2026

+ **CRL.A. 789/2003**

HARI PRASAD PANDEY

.....Appellant

Through: Mr. Anurag Andley, Mr. Aditya
Antlay and Mr. Sahil Nagar,
Advocates.

Versus

THE STATE THRU. C.B.I

.....Respondent

Through: Mr. Vikrant Pachnanda and
Mr. Mukul Katyal, Advocates.

CORAM:

HON'BLE MS. JUSTICE CHANDRASEKHARAN SUDHA

JUDGMENT

CHANDRASEKHARAN SUDHA, J.

1. In this appeal filed under Section 374 of the Code of Criminal Procedure, 1973, (the Cr.PC) the sole accused, in C.C. No. 80/1998 on the file of the Special Judge, Delhi, assails the judgment dated 19.11.2003 and order on sentence dated 24.11.2003 as per which he has been convicted and sentenced for the offences punishable under Section 7 and Section 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act, 1988 (the PC Act).



2. The prosecution case is that the accused, while employed and posted as Section Officer in the Freedom Fighters Division, Ministry of Home Affairs, Government of India, Lok Nayak Bhavan, New Delhi, on 08.07.1991 and 10.07.1991 demanded and received illegal gratification of ₹2000/- from the complainant, late Devesh Singh, as a motive or reward for sanctioning Freedom Fighter Pension to his father, thereby obtained pecuniary advantage by abusing his official position. Hence, as per the chargesheet/ final report, the accused was alleged to have committed the offences punishable under Section 7 and Section 13(1)(d) read with Section 13(2) of the PC Act.

3. Crime no. RC 42(A)/91-DLI dated 11.07.1991 was registered based on Ext. PW2/A complaint of late Devesh Singh. After completion of investigation, a charge-sheet/final report was filed against the accused alleging commission of offences punishable under Sections 7 and 13(1)(d) read with Section 13(2) of the PC Act.



4. After obtaining sanction for prosecution, the respondent/CBI filed a charge-sheet which was registered as C.C.No. 310/1994. The trial court after taking cognizance, summoned the accused and a Charge under Sections 7 & 13(1)(d) of the PC Act was framed. The accused pleaded not guilty. The trial commenced and the sanctioning authority as well as the shadow witness were examined as PW1 and PW2 respectively. The accused then moved an application for discharge on the ground of non-application of mind in granting sanction, which plea was accepted by the learned Special Judge *vide* order dated 25.02.1997, and liberty was granted to the respondent/CBI to file a fresh charge-sheet after obtaining proper sanction.

5. Thereafter, fresh Sanction for prosecution was given by the competent authority i.e. the President of India, through PW1 (Under Secretary, Ministry of Home Affairs), *vide* sanction order dated 10.07.1997, i.e. Ext. PW1/A.

6. When the accused was produced before the trial court, all the copies of the prosecution records were furnished to him as



contemplated under Section 207 Cr.PC. After hearing both sides, the trial court *vide* order dated 24.11.2003, framed a Charge under Section 7 and Section 13(2) read with Section 13(1)(d) of the PC Act, which was read over and explained to the accused, to which he pleaded not guilty.

7. On behalf of the prosecution, PWs. 1 to 11 were examined and Exhibits PW1/A-B, PW1/DA, PW1/DB, PW1/DC, PW2/A-G, PW3/A, PW4/A, PW5/A, PW5/A1-A3, PW7/A, PW9/A-C and PW10/A-C were marked in support of the case.

8. After the close of the prosecution evidence, the accused was questioned under Section 313(1)(b) Cr.PC regarding the incriminating circumstances appearing against him in the evidence of the prosecution. The accused denied all those circumstances and maintained his innocence. He submitted that the prosecution witnesses had falsely deposed under fear of departmental enquiry and under the influence of the officials of the CBI. According to him, the case was false and had been initiated because the complainant wanted his file to be cleared on the basis of forged



documents, which he refused. He had never dealt with the said file at all. He further submitted that he never demanded or accepted any bribe and there was neither any occasion nor opportunity for the same, and that nothing had been recovered from his possession. The sanction for pension to the father of the complainant was given at the instance of the officials of the CBI. Subsequently, it was found that the documents submitted along with the request for sanction of pension were forged documents. He also claimed that the case had been instituted at the instance of PW6, his colleague who had a grudge against him.

9. On behalf of the accused, DW1 was examined. No documentary evidence was adduced.

10. On consideration of the oral and documentary evidence on record and after hearing both sides, the trial court, *vide* the impugned judgment dated 19.11.2003, held the accused guilty of the offences punishable under Section 7 and Section 13(2) read with Section 13(1)(d) of the PC Act. *Vide* order on sentence dated 24.11.2003, the appellant has been sentenced to undergo rigorous



imprisonment for a period of one year each along with fine of ₹4,000/- for each, and in default of payment of fine, to undergo rigorous imprisonment for three months each for the offences punishable under Sections 7 and 13(1)(d) read with section 13(2) of the PC Act respectively. The substantive sentences in respect of both the convictions have been directed to run concurrently, while sentence in case of non-payment of fine has been directed to run consecutively. Aggrieved, the accused has preferred this appeal.

11. The learned counsel for the appellant/accused submitted that the impugned judgment suffers from a fundamental error inasmuch as there is no independent finding with regard to proof of demand of illegal gratification, which is a *sine qua non* for conviction under Sections 7 and 13(1)(d) of the PC Act. It was contended that the learned Special Judge has erroneously treated the recovery of the alleged bribe amount as sufficient to raise presumption under Section 20 of the PC Act, without there being proof of demand beyond reasonable doubt. Reliance placed by the trial court on **Mohd. Iqbal Ahmed v. State of Andhra Pradesh**,



AIR 1979 SC 677, was stated to be misplaced, as the said position of law no longer holds the field in view of the later judgments of the Apex Court in **P. Satyanarayana Murthy v. District Inspector of Police, State of Andhra Pradesh, (2015) 10 SCC 152** and the Constitution Bench decision in **Neeraj Dutta v. State (NCT of Delhi), (2023) 4 SCC 731**, wherein it has been categorically held that presumption under Section 20 of the PC Act can arise only upon proof of demand. It was thus submitted that in the absence of such proof, the entire foundation of conviction collapses.

11.1. It was further submitted that in the present case, there is no independent proof of demand, particularly in view of the fact that the complainant, late Devesh Singh, had expired prior to recording of evidence and, therefore, could not be examined. As a consequence, the demands alleged to have been made on 08.07.1991 and 10.07.1991 remained unproved, and even the alleged demand on 11.07.1991 rests on shaky evidence. It was argued that the prosecution case hinges upon the testimony of



PW2, the shadow witness, and PW6, a colleague of the accused, both of whom do not support the case of demand. It was pointed out that PW2, in his cross-examination, clearly stated that he neither heard any conversation between the appellant and the complainant nor had witnessed any transaction of money, despite being present at the spot. Further, PW6, who was admittedly seated in close proximity to the appellant, also did not hear any such conversation or see any transaction, and his testimony to that effect has in fact been accepted by the trial court.

11.2. The learned counsel further submitted that even otherwise, the testimony of PW2 is unreliable. It was argued that PW2 was not standing in close proximity to the appellant and the complainant, and was at some distance, thereby making it improbable for him to have witnessed the alleged demand or acceptance. It was also pointed out that the alleged incident took place in a hall where other staff members and members of the public were present, further casting doubt on the prosecution version. Additionally, PW2 was stated to be a stock witness,



having been associated with other CBI cases, thereby affecting his credibility.

11.3. The learned counsel also contended that the entire case of the prosecution is rendered doubtful in view of the fact that the file relating to the complainant's father was itself based on forged documents. It was submitted that neither the father of the complainant was examined nor was he made part of the investigation, and the evidence on record shows that the documents were forged and the pension was subsequently suspended. In this regard, reliance was placed on **Sat Paul v. Delhi Administration, (1976) 1 SCC 727**, to submit that where the very substratum of the prosecution case is doubtful, the benefit must go to the accused. It was further argued that the appellant had consistently taken the stand in his statement under Section 313 Cr.PC. that the complainant had falsely implicated him as he refused to process the file based on forged documents.

11.4. It was next submitted that the conduct of the CBI itself raises serious doubts regarding the fairness of the investigation. It



was argued that CBI officials were actively pursuing the file of the complainant's father with the department, which is wholly unwarranted and indicative of bias and proximity with the complainant. The learned counsel further submitted that the FIR and trap proceedings were initiated without any prior verification of the alleged demand, which is contrary to settled practice. It was contended that the complaint was made on 11.07.1991 and on the very same day directions were issued to register the case and lay a trap, without any attempt to verify the allegations. Reliance was placed on the judgments of the Apex Court in **Mir Mustafa Ali Hasmi v. State of A.P., (2024) 10 SCC 489** and of this Court in **Gobind Swaroop Parwani v. State (NCT of Delhi), 2026 SCC OnLine Del 524**, to contend that such verification is a necessary safeguard in trap cases, and failure to do so casts serious doubt on the prosecution case.

11.5. It was also argued that the recovery itself is doubtful, as the complainant had not signed the recovery memo, and even the carbon copy supplied to the appellant did not bear his signature,



thereby raising serious questions regarding the genuineness of the alleged recovery. Further, it was submitted that when the handwash samples were produced before the Court, their colour was found to be white instead of pink, which is inconsistent with the prosecution case. Reliance was placed on **C. Sukumaran v. State of Kerala, (2015) 11 SCC 314**, wherein the Apex Court had disbelieved recovery in similar circumstances.

12. *Per contra*, the learned Special Public Prosecutor supported the impugned judgment and submitted that the prosecution has proved beyond reasonable doubt the demand and acceptance of illegal gratification by the appellant on the basis of consistent, cogent and corroborated evidence on record. It was submitted that the testimony of PW2, an eye witness to the transaction, clearly establishes the demand and acceptance of bribe stands duly corroborated by the testimony of PW3, PW6, and PW10, the trap laying officer (TLO), coupled with the recovery of the tainted currency notes from the right side pant pocket of the appellant. It was further submitted that the hand wash and pocket



wash of the appellant turning pink, coupled with the CFSL report confirming the presence of phenolphthalein and sodium carbonate, conclusively establish that the appellant had handled and accepted the tainted money.

12.1. It was further submitted that the recovery of tainted currency notes along with positive phenolphthalein test is a strong incriminating circumstance against the appellant. Reliance was placed on **Sarup Chand v. State of Punjab, (1987) 2 SCC 486**, to contend that once the recovery is proved and the phenolphthalein test is positive, it establishes acceptance of bribe money by the accused.

12.2. It was further submitted that the contention of the appellant regarding the change in colour of the wash solution is wholly misconceived. Reliance was placed on **Ram Naresh Pandey v. State, 2013 SCC OnLine Del 2751**, to contend that fading or disappearance of pink colour over a period of time is a natural phenomenon and does not in any manner discredit the prosecution case. It was submitted that phenolphthalein, being an



acid-base indicator, turns pink only in an alkaline medium when the pH value exceeds 8, and may subsequently become colourless if the pH level falls below 8 due to passage of time or change in chemical composition of the solution. It was thus contended that the mere absence of pink colour at a later stage does not negate the fact that the solution had turned pink at the time of trap, particularly when contemporaneous evidence and the CFSL report clearly establish the same.

12.3. It was also submitted that the prosecution has duly proved voluntary and conscious acceptance of illegal gratification by the appellant and once such acceptance is established, demand can be inferred from the surrounding circumstances. In this regard, reliance was placed on **B. Noha v. State of Kerala and Ors., (2006) 12 SCC 277**, to submit that once acceptance of money is proved, the burden shifts on the accused and there is no further requirement for the prosecution to prove demand by direct evidence in every case.



12.4. It was further submitted that even if there are minor inconsistencies or partial hostility on the part of independent witnesses, the prosecution case cannot be discarded when the core evidence of demand, acceptance and recovery stands proved through reliable witnesses and scientific evidence. It was thus contended that the defence raised by the appellant is not borne out from the record and fails to rebut the statutory presumption arising under the PC Act.

13. Heard both sides and perused records.

14. The only point that arises for consideration in the present appeal is whether there is any infirmity in the impugned judgement calling for an interference by this court.

15. I shall first refer to the evidence on record relied on by the prosecution in support of the case. The demand in this case is alleged to have taken place on 8.07.1991 and 10.07.1991, and the trap was laid on 11.07.1991. The complainant, late Devesh Singh, submitted a written complaint dated 11.07.1991, i.e., Ext. PW2/A in the office of the CBI, wherein he stated thus:- He is the son of a



freedom fighter, whose case for “*Samman Pension*” had earlier been rejected by the Bihar Government on 29.5.1985 due to lack of documents, but upon submission of the required documents, the Bihar State Advisory Committee recommended the case on 16.2.1991 and forwarded it to the Ministry of Home Affairs, Freedom Fighters Division, Lok Nayak Bhavan, New Delhi, *vide* letter dated 06.04.1991. On 08.07.1991, when he visited the said office to inquire about the status of his father’s case, he came to know that the file was being dealt with by the accused, who, upon being requested to expedite the matter, demanded illegal gratification of ₹15,000/- to ₹20,000/- for processing the file. On 10.07.1991 at about 6:00 PM, when he again met the accused and requested for expeditious disposal of the case, the accused reiterated that nothing would be done for less than ₹10,000/-, and upon his expressing inability to pay such amount, the accused agreed to accept ₹2,000/- as an initial payment and directed him to bring the said amount on 11.07.1991 at about 01:00 PM at the car parking area below his office, with a warning that in case he met



him without money, his father's file would be misplaced and would never be traceable. He further stated that he did not wish to pay the bribe demanded by the accused and therefore approached the CBI seeking appropriate legal action against him.

15.1. The complainant died before he could be examined before the trial court.

16. PW2 deposed that on 11.07.1991, he was working as Accountant in NBCC Ltd. at Lodhi Road, New Delhi, and that PW3, his colleague, was working in the PR Division. Both he and PW3 were directed by their senior officer to proceed to the office of the CBI, where they met PW9, who introduced them to the complainant. They were shown the complaint regarding bribe demanded by the accused in relation to the pension of the complainant's father, a freedom fighter. The complainant admitted his signature in the complaint. The complainant produced ₹2000/- (in denomination of four notes of ₹100/- and thirty-two notes of ₹50/-), the numbers of which were recorded in Ext. PW2/B the Annexure to Ext. PW2/B handing over memo. PW2 further



deposed in detail about the pre-trap proceedings. According to PW2, the trap party left the Office of the CBI by around 12:30 PM for Lok Nayak Bhawan. Upon reaching the spot, he and the complainant separated from the rest of the trap party and by around 01:00 or 01:30 PM, the accused approached the complainant. PW2 further deposed that he followed both the accused and the complainant into an office where the accused enquired whether the money had been brought and in turn, the complainant also enquired to the accused, whether his file would be traced (*“Hamari file nikaljayegi”*). The accused asked the complainant as to how much money he had brought to which the complainant replied that he had brought ₹2000/- only and the rest would be arranged by him after returning from Bihar in 10 to 15 days. The accused responded *“lao do hazaar, jo aap lao ho”*. When the accused asked for the money, the complainant handed over ₹2000/-, which the accused placed in his right-side pant pocket. PW3 then gave the pre-arranged signal, prompting the raiding party to enter and apprehend the accused. When the



Inspector disclosed his identity, the accused kept mum and did not say anything. He further deposed that PW3 recovered the currency notes from the accused's pocket, and the number on the currency notes tallied with those recorded in the pre-raid report. PW6, a colleague of the accused, also counted the notes at the inspector's request. PW2 further deposed that a hand wash of the accused was conducted in a solution which turned pink, and this solution was later sealed in two bottles. Similarly, the accused's pant pocket was washed in a solution which also turned pink and was sealed in bottles (Ext. P38 to P40).

16.1. PW2, in his cross-examination, admitted that the labels in Exts. P39 to P40 bottles does not bear his signature. He also admitted that the colour of the solution in the bottles when shown to him during trial was white. Regarding Ext. PW2/B pre-raid report; Ext. PW2/D recovery memo, and Ext. PW2/A complaint, he deposed that he could only identify his signature and was unable to identify the signature of others seen on those exhibits. PW2 further deposed that he was at a distance of about 5 to 6 feet



from the complainant during the transaction. He denied the suggestion that he had not heard the conversation between the accused and the complainant. When the money was offered, the accused was seated, the complainant sat opposite to the former, and he was at a distance of about 1 or 2 yards away from the complainant. The post-trap proceedings, including the preparation of the recovery memo and the recording of statements, were completed on the spot over approximately one and a half hours. PW2 denied the suggestion that the complainant after leaving the money, had run away from the spot. According to him, he had signed the recovery memo on the spot. But he was unable to recollect whether the signature of the complainant had been obtained in the personal search memo and the recovery memo.

17. PW3, the recovery witness, deposed that on 11.07.1991, he went to the office of the CBI accompanied by PW2 on the direction of the Executive Director (Vigilance). At the CBI office, he met PW9 TLO, and was introduced to the complainant. After reviewing the complaint, he questioned the complainant to



satisfy himself regarding its genuineness. The complainant produced ₹2000/- consisting of four currency notes of ₹100/- denomination and thirty-two notes of ₹50/- denomination. The number of the currency notes was noted, and the notes were treated with a powder. The treated notes were returned to the complainant, who placed them in his left-side shirt pocket, with instructions to pass the money only upon a specific demand. PW2 was directed to act as the shadow witness to observe the transaction and signal once the money was passed. These pre-raid proceedings recorded in Ext. PW2/B handing-over memo which bears his signature. PW3 further deposed that the team left the office of the CBI at approximately 12:30 PM and reached Lok Nayak Bhavan at 12:40 PM. Upon arrival, the complainant and PW2 were sent ahead. At 01:00 PM, the accused came downstairs to the ground floor parking area and spoke to the complainant. Following this, the accused, the complainant, and PW2 proceeded upstairs toward the office of the accused, which was located on the second floor. After a while, PW2 gave the signal, and the raid team entered the hall



where the accused was present. The accused was apprehended by his wrist by a CBI officer. PW9 TLO disclosed his identity and challenged the accused, who initially kept mum but, subsequently stammered and said "*Sahab Isne Dey Diye*". PW3 further deposed that, at the instance of the Inspector, CBI, he recovered the tainted money from the right-side pant pocket of the accused. He along with PW2 compared the number on the recovered notes with the memo and found them to tally. PW6 also witnessed the recovery and compared the currency note numbers. Subsequently, a solution was prepared, and the right-hand wash of the accused was taken, which turned pink. PW3 further deposed that all post-trap proceedings were recorded in Ext. PW2/C recovery memo, bearing his signature on all four pages.

17.1. PW3, in his cross-examination, admitted that the labels on Exts. P38 and P39 bottles do not bear his signature and admitted that the colour of the solution in both bottles was white. He admitted that the complaint had not been written in his presence and that when he saw it, the same had already been typed.



PW3 further deposed that he was standing at a distance of approximately 10 meters during the events. He claimed no knowledge of the conversation between the accused and the complainant. PW3 further deposed that he can neither admit nor deny as he could not recall whether the accused was made to count the tainted currency notes before the latter's hand wash was taken. He also deposed that when challenged, the accused objected to his arrest and questioned what fault he had committed.

18. PW6, Section Officer, CZ-1 Section, Ministry of Home Affairs, Lok Nayak Bhavan, New Delhi, deposed that he knows the accused, who was Section Officer in CZ-2. On 11.07.91 at about 02:00PM, while he was in his office, the CBI officials apprehended the accused. PW9 disclosed his identity and challenged the accused for having accepted money, to which the accused initially remained silent before uttering, "*Sahab Inhone De Diye*". PW6 further deposed that PW3 recovered the tainted currency notes, consisting of four notes of ₹100/- and 32 notes of ₹50/- each. According to PW6, he thereafter joined the CBI



officials as a witness and that he and the others had counted and tallied the currency notes. Subsequently, the right hand, left hand, and right side pant pocket wash of the accused were taken in separate solutions of sodium carbonate; each solution turned pink and was transferred into three separate bottles labelled as RHW, LHW, and RSPW, which were then sealed. PW6 confirmed seeing Ext. PW2/D recovery memo; Ext. PW2/F search-cum-seizure memo and Ext. PW2/D personal search-cum-seizure memo. PW6 also identified the material objects in the case. He also identified the seal used by the TLO for sealing the material objects seized.

18.1. PW6, in his cross examination, admitted that the labels on Exts. P38, P39, and P40 bottles do not bear his signature. PW6 further deposed that he had informed the CBI Inspector that he had neither seen anyone giving money to the accused nor heard any conversation. He denied that the complainant had previously threatened the accused. PW6 denied the suggestion that the accused had been made to count the currency notes before the



latter's hand wash had been taken or that no memo had been prepared in his presence.

19. PW9, the TLO, deposed that on 11.07.1991, he was posted in the Anti-Corruption Branch of the CBI, Delhi. By around 09:50 AM, he was called by the S.P., CBI to the latter's chamber, where he was introduced to the complainant, who had come to lodge a complaint regarding a demand for bribe of ₹2000/- by the accused. PW9 deposed that he had seen the complaint, i.e., Ext. PW2/A, which bore the signature of the complainant. The complaint was marked to him by R.K. Datta, S.P., for the purpose of laying a trap, *vide* Ext.PW9/A endorsement on the basis of which the crime was registered. By around 10:10AM, he constituted a trap team and sent Inspector S.K. Arora to the NBCC office to secure independent witnesses, who subsequently brought PW2 and PW3 to his cabin. Both the independent witnesses were introduced to the complainant, who satisfied themselves regarding the genuineness of the complaint. PW9 deposed in detail regarding the pre-trap proceedings taken.



19.1. PW9 further deposed that PW2, the shadow witness was instructed to remain close to the complainant and signal the completion of the transaction by scratching his head with his left hand. The trap party, carrying an investigation bag with empty glass bottles, tumblers, CBI seal, sodium carbonate powder and a sum of ₹200 for meeting the incidental expenses, left the office at 12:30 PM and arrived at Lok Nayak Bhawan at 12:50 PM. The complainant was asked to proceed and PW2, the shadow witness was asked to accompany the former. By around 01:40 PM, the complainant was seen talking to the accused and after sometime, both of them climbed up the stairs to the B-Wing, Lok Nayak Bhawan. PW2 accompanied them and the other members of the trap party followed them. PW2 gave the pre-appointed signal at 02:00 PM. The trap party rushed to the accused's table, where Inspectors S.K. Arora and S.K. Sinha apprehended him by the wrists. When PW9 challenged the accused, he initially kept mum but subsequently stammered "*Sahab Isne Dey Diye*". Thereafter, PW3, the independent witness was asked to recover the bribe



money from the accused, which was recovered from the accused's right-hand pant pocket.

19.2. PW9 further deposed regarding the post trap proceedings. Both the witnesses were asked to tally the number of the currency notes recovered from the accused with those recorded in the Annexure to the handing over memo dated 11.07.1991. The number of the tainted currency notes recovered from the accused tallied with the number mentioned in the memo. Upon dipping the accused's right-hand fingers into a fresh sodium carbonate solution, it turned pink (marked RHW); a similar test on his left hand turned the solution slightly pink (marked LHW). The inner lining of the right-hand pant pocket was also washed in the solution, which turned pink (marked RSPW). All three bottles and the recovered notes were sealed. During the proceedings, another Section Officer, PW6, joined as an eyewitness, who desired to count the recovered money, which request was allowed. PW9 further deposed that a site plan *vide* Ext. PW2/F was prepared and various documents, including the recovery memo *vide* Ext. PW2/C



and search-cum-seizure memos *vide* Ext. PW2/E and Ext. PW2/D, were prepared. PW9 also deposed that the file relating to the pension of the complainant's father, Brham Dev Singh, was seized from PW7 *vide* seizure memo Ext. PW3/D. Thereafter he recorded the statements of the complainant and witnesses. PW9 further deposed that the proceedings concluded by about 03:15PM and that the trap team along with the accused reached the office of the CBI at around 03:30PM.

19.3 PW9, when cross examined, stood by his version in the examination-in-chief. He denied the suggestion that the accused had never accepted any money from the complainant and that the accused had been falsely implicated in this case at the instance of PW6. PW9 also denied the suggestion that as soon as he had apprehended the accused, the complainant ran away from the hall saying that it was all false. He also denied the suggestion that the signature of the complainant had not been obtained on the recovery memo as the latter ran away before the trap was completed and



that his signature had been obtained much later in the office of the CBI after much persuasion.

20. PW7, Assistant, Freedom Fighter Division, CZ Section, Lok Nayak Bhawan, New Delhi, deposed that he was the Assistant dealing with the files relating to the Freedom Fighters Samman Pension Scheme. PW7 deposed that on 11.07.1991, he was working under the accused. According to him, the letter marked 'A' is Bihar Government's recommendation for the sanction of Samman Pension for Brham Dev. PW7 admitted that while the pension for Brham Dev Singh was initially sanctioned, it was subsequently discovered that the documents submitted by him, were forged, leading to the suspension of the pension.

21. PW8, Under Secretary, MHA Freedom Fighter Division, New Delhi deposed that *Samman* Pension is sanctioned only if only if an applicant is able to satisfy specific conditions, namely, that there should be a recommendation by the State Government and that the applicant should be able to produce documentary evidence in support of his claim. PW8, in his cross-examination,



admitted that PW6 and the accused did not share good relations and were always at loggerheads. PW8 further deposed that the CBI had recommended the case of Brham Dev Singh for grant of sanction.

22. PW4, the then CFSL officer, deposed that the solution in the bottles marked Exts. RHW, LHW and RSPW on being examined by him tested positive for the presence of phenolphthalein and sodium carbonate. Ext. PW4/A is the report of his examination. PW4 identified his signature at point A in Ext. PW4/A.

23. On behalf of the accused, DW1, Under Secretary, C.Z. Branch was examined. He produced the pension file of Brham Dev Singh, the father of the complainant. According to DW1, the CBI had written a letter to his department seeking consideration of the pension of Brahm Dev Singh. But the pension was sanctioned based on the recommendation of the State Government and not on the recommendation of the CBI. However, the documents supporting the request for pension were subsequently discovered to



be forged and fake, leading to the cancellation of the sanction. DW1 further deposed that he had no personal knowledge of the case and that he was deposing based on the contents of the file.

24. The primary contention advanced on behalf of the appellant/accused is that the prosecution has failed to establish the essential ingredient of demand of illegal gratification, which is a *sine qua non* for sustaining a conviction under Sections 7 and 13(1)(d) of the PC Act. It was further urged that the trial court has erroneously invoked the presumption under Section 20 of the Act solely on the basis of recovery of tainted money, in the absence of proof of demand. The appellant has also sought to draw support from the death of the complainant prior to trial; alleged inconsistencies in the testimony of PW2; absence of prior verification of the complaint; and the discrepancy regarding the colour of the wash solutions to contend that the prosecution case is doubtful. This Court is unable to accept the submission that the death of the complainant is fatal to the prosecution. A Constitution Bench of the Apex Court in **Neeraj Dutta v. State (NCT of**



Delhi), (2023) 18 SCC 251 has held that even in the absence of the complainant, the prosecution can establish demand and acceptance of illegal gratification on the basis of other evidence, including circumstantial evidence. It has been further clarified that the trial does not abate on account of the death of the complainant and that the Court is required to examine whether the foundational facts stand proved from the materials available on record. Thus, the argument of the appellant premised on the non-examination of the complainant does not merit acceptance.

25. In the present case, the prosecution has led cogent and reliable evidence through PW2, the shadow witness, PW3, the independent recovery witness, and PW9, the Trap Laying Officer, which, when read conjointly, establish the demand and acceptance of illegal gratification by the appellant. Their testimony is further corroborated by the testimony of PW6. It was submitted by the learned counsel for the appellant/accused that PW6 can never be believed because he himself admitted that he was not in good terms with the accused. It is true that PW6 has admitted that he



was not in good terms with the accused. The sour relationship between PW6 and the accused is spoken to by PW8 also. But that alone cannot be made a ground to reject his testimony because though PW6 was admittedly sitting in a seat adjacent to the seat of the accused he denied having heard the conversation between the accused and the complainant regarding the demand and payment of money. PW6 also did not claim to have seen the complainant paying the money to the accused. PW6's only case is that he saw the accused being apprehended by the officials of the CBI. On enquiry, he came to know of the facts and hence he volunteered to be a witness, pursuant to which he saw the money being recovered. He also claimed that he, as instructed by the Inspector, had counted the currency notes that had been seized from the accused. These aspects of his testimony are supported by the version of PW9, the TLO as well as by PW2. If PW6 had volunteered to be a witness, only due to his enmity with the accused, he could have even claimed to have heard the demand as well as witnessed the acceptance of money. However, he never claimed so. On going



through his testimony, I do not find any reason(s) to disbelieve him, though I find his enthusiasm and eagerness to join the proceedings voluntarily quite unusual, as normally people avoid to the extent possible from associating themselves with proceedings of such nature. Now, even assuming for argument sake, that the testimony of PW6 is liable to be ignored, there are still other materials on record in support of the prosecution case. The narration of events by PW2, to which I have referred to in detail, clearly establishes both the demand and conscious acceptance of the bribe amount. The aforesaid version stands duly corroborated by PW3, who has deposed that the tainted currency notes were recovered from the right-side pant pocket of the accused and that upon being challenged, the accused initially remained silent and thereafter stated that the money had been given to him by the complainant. PW3 has further supported the prosecution case with regard to the post-trap proceedings and recovery.

26. The attempt on the part of the appellant to discredit PW2 on the basis of certain answers elicited in cross-examination does



not persuade this Court to discard his testimony. It is well settled that the evidence of a witness has to be appreciated as a whole, and not by isolating stray answers. [See **Mustak v. State of Gujarat, (2020) 7 SCC 237**]. Though PW2, in his cross-examination, stated that he did not hear certain parts of the conversation, the same does not demolish his categorical version in examination-in-chief regarding the demand and acceptance, particularly when read in conjunction with the surrounding circumstances and corroborative evidence. A careful reading of the deposition of PW2 shows that the core of his testimony regarding the demand and acceptance of illegal gratification remains intact. The minor variations with respect to distance, presence of other persons in the room, or the sequence of movements do not go to the root of the prosecution case. On the contrary, his presence at the spot, his role as a shadow witness, and his consistent account of the transaction inspire confidence and lend credibility to the prosecution version. The testimony of PW2 stands duly corroborated by PW9 TLO who has



given a detailed account of the pre-trap and post-trap proceedings to which also I have referred to.

27. The scientific evidence also lends corroboration to the prosecution version. PW2, PW3, PW6 and PW9 have deposed that upon dipping the fingers of the accused in the sodium carbonate solution, the same turned pink, and similar results were obtained with respect to the wash of the pant pocket. Ext. PW4/A FSL report has not been challenged or discredited. The positive phenolphthalein test establishes that the accused had handled the tainted currency notes. The contention of the appellant regarding the colour of the wash solution appearing white at the time of trial does not discredit the prosecution case. The evidence on record clearly establishes that at the time of the trap proceedings, the solutions had turned pink. The subsequent fading of colour is a well-recognised chemical phenomenon, as phenolphthalein acts as an indicator which may lose its colour over time depending upon the pH level of the solution. The prosecution has rightly relied upon the decision in **Ram Naresh Pandey** (*supra*), wherein it has



been held that such fading of colour does not negate the positive result obtained during the trap proceedings when contemporaneous evidence establishes the same.

28. Significantly, PW9 has further deposed that when the accused was challenged, he initially kept silent and thereafter stammered, "*Sahab isne de diye*". This version is supported by PW3 and PW6 also. PW2 deposed that the accused when challenged remained silent. The said conduct of the accused, immediately upon apprehension, constitutes a relevant incriminating circumstance clearly indicative of the acceptance of the tainted money. The recovery of tainted currency notes from the possession of the accused is a circumstance of considerable significance. It is well settled that when tainted currency notes are recovered from the possession of the accused and no plausible explanation is offered for their presence, such recovery constitutes a strong incriminating circumstance supporting the prosecution case regarding demand and acceptance of illegal gratification. In this regard, reference may be made to the decision of the Apex



Court in **M. Narsinga Rao v. State of A.P., 2001 SCC (Cri) 258.**

In the present case, the appellant has failed to furnish any plausible explanation as to how the tainted money came to be found in his possession.

29. The submission regarding absence of prior verification of the complaint also does not persuade this Court to discard the prosecution case. While prior verification may be desirable as a matter of prudence, its absence is not fatal where the prosecution has otherwise been able to establish its case through reliable evidence. In the present case, the complaint was promptly acted upon, independent witnesses were associated, pre-trap proceedings were duly conducted, and the trap was executed in a systematic and fair manner. No material has been brought on record to show that the investigation was tainted or biased. The argument that the sanction for pension to the father of the complainant being cancelled on the ground that the claim was based on forged documents is wholly irrelevant to the determination of the guilt of the accused in the case on hand. Even if the said claim was false,



the same cannot justify or legitimise the demand or acceptance of illegal gratification by a public servant. The culpability of the accused has to be assessed independently on the basis of evidence relating to the offence under the PC Act. The accused when questioned under Section 313(1)(b) Cr.PC put forward a case that he has been falsely implicated at the instance of PW6. Such a suggestion was put to PW9 also, but quite strangely PW6 was never asked about the same while the latter was in the box. Not even a suggestion is seen put to PW6 that he had a role in implicating the accused.

30. It is true that since the complainant died before he could be examined and so the demands that were alleged to have been made by the accused on 08.07.1991 and 10.07.1991 could not be proved. Ext. PW2/A is the information given by the complainant under Section 154 Cr.PC which led to the registration of the crime. The said information or the FIS/FIR can be used to corroborate or contradict the maker only, that is, the complainant. But here, the complainant died before the trial. The same cannot be used to



corroborate or contradict the other prosecution witnesses. But the fact that the complainant had approached the officials concerned and had given a complaint regarding demand of bribe by the accused is spoken to by PW9, whose version is corroborated by the testimony of PW2 and PW3. The said witnesses also deposed that they had seen the complaint and after interacting with the complainant, they were convinced of the genuineness of the complaint.

31. Hence, applying the principles laid down by the Constitution Bench in **Neeraj Dutta** (*supra*), this Court finds that the prosecution has succeeded in proving the foundational facts of demand and acceptance of illegal gratification through reliable oral evidence and corroborative circumstances. Once these foundational facts are established, the presumption under Section 20 of the PC Act necessarily arises that the gratification was received as a motive or reward for performing an official act. The appellant has failed to rebut the statutory presumption even on the standard of preponderance of probability. No material has been



brought on record to probabalise the defence version or to explain the recovery of the tainted amount. The presumption under Section 20, therefore, operates against the appellant with full force.

32. In view of the aforesaid discussion, this Court is of the considered opinion that the trial Court has correctly appreciated the evidence on record and has rightly recorded the conviction of the appellant. The findings do not suffer from any perversity or illegality warranting interference in appellate jurisdiction.

33. In the result, the appeal, *sans* merit, is dismissed.

34. Applications, if any, pending, shall stand closed.

**CHANDRASEKHARAN SUDHA
(JUDGE)**

APRIL 16, 2026
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