



CRA-S-1476-SB-2011 (O&M)

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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRA-S-1476-SB-2011 (O&M)

Reserved on : 30.09.2025

Date of Pronouncement : 13.10.2025

Harvinder Singh

... Appellant

Versus

State of Punjab

... Respondent

CORAM : HON'BLE MR. JUSTICE H.S. GREWAL

Present:- Mr. Ramdeep Partap Singh, Advocate for the appellant.

Mr. Rishabh Singla, AAG, Punjab.

H.S. Grewal, J.

1. This appeal has been preferred by the appellant against the judgment of conviction and order of sentence dated 10.05.2011 & 11.05.2011 respectively passed by the learned Special Judge (Sessions Judge), Faridkot in FIR No.15 dated 16.12.2008, registered under Sections 13(2) read with Section 7 of the Prevention of Corruption Act, 1988 (hereinafter referred as 'PC Act'), at Police Station Vigilance Bureau, Bathinda, Range Bathinda, whereby the appellant had been convicted and sentenced to undergo imprisonment along with fine as under:-

Section(s)	Sentenced to	Fine	In default of payment of fine
7 of PC Act	03 years RI	Rs.10,000/-	06 months RI
13(2) of PC Act	04 years RI	Rs.10,000/-	06 months RI

It was ordered that both the sentences shall run concurrently.



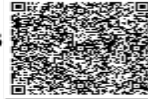
2. The case of the prosecution is that the complainant-Lakhinder Singh, who was working as a Clerk in Government High School Mohalla Surgapuri Kotkapura, was responsible for preparation and drawing of salary of 42 employees of this School as well as of its two branches i.e. Government Middle School Kothe Waring and Government Middle School Gandhi Basti, Kotkapura. A sum of Rs.68,98,000/- was allotted by way of Budget for the month of November, 2008 in order to pay salaries of the employees. However, a sum of Rs.38,351/- was found short of the total requirement, on account of which a letter bearing No. 676 dated 16.12.2008 (Ex.P1) was written by Smt. Veena Rani, the then Principal of the School. The said letter was taken by the complainant to the office of District Education Officer (Secondary), Faridkot, where he met the concerned Clerk Harvinder Singh(appellant). The complainant had handed over the said letter to the appellant who remarked as to why they do not seek the grant in a single go and why they were harassing him time and again. The complainant made repeated requests upon which the appellant demanded a sum of Rs.1,500/- as illegal gratification for processing allotment of the Budget. When the complainant explained that it was a Government work and he was unable to pay such an amount as bribe, then, a deal for a sum of Rs.1,000/- with the appellant was struck and the appellant told the complainant that he should bring Rs.1,000/- in the second half of the day so that he could get the work done. The complainant did not want to pay bribe but after making a false promise, he left the office. While he was going to Kotkapura, he met his friend Vikas Bansal at Kotwali Chowk, Faridkot. The complainant told this fact to his friend who told him that giving or taking a



bribe is an offence and he should make a complaint to the Vigilance Bureau, Faridkot so that the culprit be arrested.

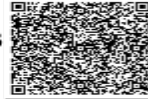
3. After agreeing to this suggestion, the complainant along with Vikas Bansal, went to the office of DSP, Vigilance, Faridkot and produced two currency notes of the denomination of Rs.500/- each before the DSP, totalling Rs.1,000/- and requested initiation of action. The Deputy Superintendent of Police, Vigilance recorded the statement of the complainant (Ex.P10), which was read over to him. After admitting its correctness, the then DSP signed it and after making his endorsement (Ex.P10/A), he sent a ruqa through Constable Kulwant Singh on the basis of which a formal FIR (Ex.P10/B) was recorded by Sub Inspector Partap Singh.

4. Thereafter, the Investigating Officer made a formal request (Ex.P18) to the Deputy Commissioner, Faridkot for appointment of two official witnesses, upon which Pritam Singh, General Manager, Industries, Faridkot and Santokh Singh, Junior Assistant, O/o G.M., Industries, Faridkot were deputed as official witnesses. They reached the office of DSP, Vigilance, Faridkot, where the complainant and the official witnesses were introduced. In their presence, the Investigating Officer explained the scheme of trap. The complainant handed over two currency notes each of the denomination of Rs.500/- (Ex.P7 and Ex.P8) to the Investigating Officer, who after recording their numbers and applying phenolphthalein powder again handed over the said currency notes to the complainant, vide memo Ex.P2. He directed the complainant to give the currency notes to the appellant on his demand and further instructed him not to shake hands with the appellant before or after



handing over the notes. Thereafter, the Investigating Officer prepared experiment solution of Sodium Carbonate in water and demonstrated to these witnesses how a solution of Sodium Carbonate in water turns pink when it comes into contact with phenolphthalein powder. Thereafter, the liquid was discarded and memo Ex.P2 was prepared.

5. As per the scheme of trap proceedings, the complainant-Lakhinder Singh accompanied by Vikas Bansal (shadow witness) reached the office of the appellant. On the demand of the appellant, the complainant had handed over the tainted currency notes to the appellant. Upon receiving the signal from the shadow witness, the Investigating Officer, along with other officials, apprehended the appellant after introducing himself and the purpose of raid. The Investigating Officer then prepared a solution of Sodium Carbonate in water and directed the official witnesses to dip their both hands one by one and the colour of the solution did not change. Thereafter, the DSP made Harvinder Singh (appellant) to dip his hands in the said solution, which turned pink. The solution was then poured into a nip (Ex.P9), sealed with the seal bearing impressions 'GS' and taken into police possession through memo (Ex.P3). The appellant on the direction of the Investigating Officer took out the tainted currency notes from beneath his table cloth and their numbers were tallied with the numbers mentioned in the memo Ex.P2 which were found to be identical and taken into police possession through memo Ex.P5. On personal search of the appellant, one purse containing Rs.3,210/-, one identity card and two pens were recovered which were taken into police possession through memo (Ex.P4). Thereafter, the Investigating Officer took into police possession



concerned office record (Ex.P1) from the custody of the appellant through memo Ex.P6 and prepared rough site plan of the place of occurrence (Ex.P19) and recorded the statements of the witnesses. He had handed over the articles which were got deposited with the MHC and on receipt of the report of Forensic Science Laboratory Ex.P20 and after the sanction Ex.P11 for the prosecution of the appellant was obtained along with his posting and transfer orders and service book i.e. Ex.P14, Ex.P15 and Ex.P16 respectively and upon completion of investigation, challan was presented against the appellant upon which charges under Section 13 (2) read with Section 7 of the PC Act were framed against him, to which he pleaded not guilty and claimed trial.

6. In order to substantiate the charges against the appellant, the prosecution had examined PW1 Lakhinder Singh (complainant), who reiterated the allegations against the appellant as per the complaint. In his cross examination, he deposed that an enquiry was conducted against him on an application submitted by the appellant regarding misbehavior committed by him on 12.12.2008 in the office. He also deposed that he had been issued a chargesheet by the Director (Administration), Education Department. An enquiry was also conducted by the SDM, Faridkot regarding the present incident which was entrusted by the Deputy Commissioner. However, in that enquiry, Veena Rani, Principal had not appeared.

7. PW2 Vikas Bansal, who was the shadow witness and directed to closely observe the demand and acceptance of bribe, had corroborated the version as mentioned by PW1 Lakhinder Singh. In his cross-examination, he had deposed that he was standing at a distance of about 7-8 feet near the gate



from the table of the appellant. He also deposed that the complainant Lakhinder Singh talked to the appellant and the appellant may have demanded the money and Lakhinder Singh handed over the notes to him who kept the same under the table cloth. He also deposed that he and the complainant were on visiting terms and used to visit the house of each other. In his cross-examination, he had also deposed that Lakhinder Singh had not handed over the currency notes to the appellant within his view.

8. PW3 Pritam Singh, General Manager, District Industries Centre, Faridkot, one of the official witnesses, made half-hearted attempt to bring forth the case of the prosecution and these witnesses in the process proved the documents namely Budget letter (Ex.P1), memo (Ex.P2) regarding handing over of the currency notes to the complainant, memo (Ex.P3) whereby the nip was taken into police possession, personal search memo (Ex.P4), memo (Ex.P5) vide which the tainted currency notes were taken into police possession, memo (Ex.P6) whereby letter (Ex.P1) was taken into police possession, tainted currency notes (Ex.P7 and Ex.P8), nip (Ex.P9) and the statement of the complainant recorded u/s 161 Cr. P.C (Ex.P10). In his cross-examination, he deposed that his statement was recorded on 30.12.2008 by the SSP, Vigilance Bureau Bathinda, regarding this case. He further deposed that the appellant repeatedly stated before the police that he had not taken any illegal gratification. In terms of his statement Ex.D2, the complainant after lifting the table cover told that the tainted money was lying there. Other employees also protested before the DSP that the appellant was being forcibly



implicated. He also deposed that the hands of the appellant were got washed in the solution repeatedly and then its colour changed to the colour of the earth.

9. PW4 Veena Rani, Retired Principal, Senior Secondary School Hari Nau had proved on record the fact of having sent letter Ex.P1 for allocation of additional Budget.

10. PW5 Narinder Singh, Senior Assistant of the Office of DPI (Secondary), Faridkot proved the sanction Ex.P11 accorded by Shri Darshan Singh Bhathal, the then Director Administration, DPI (Secondary), Punjab Chandigarh for the prosecution of the appellant.

11. PW6 Head Constable Sukhdev Singh and PW7 Head Constable Javinder Singh had tendered their affidavits Ex.P12 and Ex.P13 respectively.

12. PW8 Balwinder Singh, Science Teacher, Officiating Head Master Government High School, Jiwan Wala, proved the posting and transfer orders Ex.P14 and Ex.P15 and service record Ex.P16.

13. PW9 Head Constable Rachhpal Singh tendered into evidence his affidavit Ex.P17.

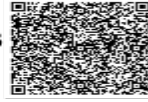
14. PW10 Joginder Singh DSP, who had partly investigated the case, detailed his investigations.

15. PW11 DSP Gurmej Singh, who investigated the case from the very inception detailed his investigations and proved the documents, statement of the complainant Lakhinder Singh Ex.P10, request made to the Deputy Commissioner for deputing official witnesses Ex.P18, orders of the Deputy Commissioner Ex.P18/A, memo of handing over of the currency notes and



demonstration of experiment solution Ex.P02, endorsement made on the statement of the complainant Ex.PW10/A, FIR (Ex.P10/B), memo of washing of the hands of the accused (Ex.P3), memo (Ex.P5) vide which the tainted currency notes were taken into police possession, personal search memo (Ex.P4), memo (Ex.P6) whereby letter (Ex.P1) was taken into police possession, rough site plan (Ex.P19), report of the Laboratory (Ex.P20), tainted currency notes (Ex.P7 and Ex.P8) and nip (Ex.P9). He also deposed that on his asking the appellant took out the tainted currency notes from beneath the table cloth of his table which were then handed over to PW3 Pritam Singh. In his cross-examination, he had deposed that it was at his personal discretion that he did not appoint the official witnesses as shadow witnesses. He admitted that PW2 Vikas Bansal had been brought by the complainant on his own.

16. After closing the prosecution evidence, the statement of the appellant under Section 313 Cr.P.C. was recorded, wherein he had denied all the allegations and pleaded innocence. He pleaded that on 12.12.2008, he was sitting in the office of the District Education Officer (Secondary), Faridkot where the complainant Lakhinder Singh was also present. During an altercation with him, the complainant slapped and abused the appellant, Consequently, he filed a written complaint against the complainant Lakhinder Singh, upon which an enquiry was conducted and the Enquiry Officer found the complainant guilty. He also submitted that he had filed an application before the learned Deputy Commissioner, Faridkot seeking cancellation of the present case where upon an enquiry was marked to the learned SDM, Faridkot who in his findings held that the appellant had been falsely implicated in this case. In his defence,



he tendered various documents including the enquiry report of Principal Govt. Senior Secondary School, Ferozepur as Ex.D3 and the enquiry report conducted by SDM Faridkot as Ex.D4.

17. The Learned Special Judge, Faridkot, based on the evidence and material on record, found the appellant guilty, convicted and sentenced him to undergo imprisonment as enumerated above.

18. Learned counsel for the appellant submitted that the trial Court had erred in convicting the appellant primarily on the ground that the demand of illegal gratification, which is *sine qua non* for conviction under Sections 7 and 13(2) of PC Act, has not been proved in the present case. He further submitted that the entire prosecution case rests solely on the testimony of the complainant (PW1 Lakhinder Singh), who is an interested witness because he has allegedly falsely implicated the appellant due to previous enmity and ill will against him. The documents (Ex.D2 to Ex.D4) reflect pending enquiries against the complainant, which show his tainted character and provide motive for false implication. Moreover, PW3 Pritam Singh (official witness) did not support the prosecution version regarding demand/acceptance of the alleged bribe. There are material contradictions in the testimony of PW1 (complainant) and PW2 (shadow witness). PW2 at one stage resiled from his earlier version by stating that the handing over of money was not within in his direct view. Learned counsel also submits that the alleged tainted currency notes were recovered from beneath the table cloth and not from the person of the appellant. Such recovery does not conclusively establish that the appellant had voluntarily



accepted the bribe. Furthermore, the appellant, being only a Clerk, had no authority to sanction or release the budget. Hence, there was no occasion for him to demand illegal gratification for work beyond his official domain. Therefore, he prays for allowing the appeal, setting aside the impugned judgment and order of sentence qua the appellant and acquitting him of all the charges.

19. On the other hand, learned State counsel submitted that the trial Court had rightly convicted the appellant on the basis of cogent, reliable and trustworthy evidence, which fully established the case of the prosecution. He further submitted that the complainant had consistently supported the prosecution version in its entirety which supports both the demand and subsequent acceptance of the alleged bribe money by the appellant. The testimony of the complainant stood corroborated by the evidence of the shadow witness, who fully supported the prosecution in relation to the recovery of the tainted currency notes and the positive phenolphthalein hand-wash test. PW3 Pritam Singh (official witness) and PW4 Veena Rani(Retired Principal) corroborated material aspects, including the existence of the budget deficiency and the delivery of the request letter to the appellant. Learned State counsel further submits that the fact that the money was recovered from beneath the table cloth in the appellant's office does not dilute the prosecution case, as it was the appellant who placed the money at the alleged place after acceptance and the allegations of false implication are not substantiated. The so-called enquiries against the complainant are irrelevant to the trap proceedings against



the appellant and cannot prevail over direct evidence of demand and acceptance. Learned counsel for the respondent had also put emphasis on the facts that once the prosecution had proved the demand, acceptance and recovery of the tainted money, the legal presumption under Section 20 of the PC Act squarely applied and the onus shifted upon the appellant to rebut the same. The appellant had miserably failed to discharge this burden. He, therefore, submitted that the appeal be dismissed as the conviction of the appellant was fully justified and the judgment of the trial Court convicting the appellant be upheld.

20. I have taken into account the submissions of the learned counsel for the parties and perused the material available on record.

21. Before examining the evidence, it is appropriate to set out Sections 7 and 13 of the PC Act under which the appellant had been convicted in the aforesaid FIR, which are as follows:-

“Section 7 Public servant taking gratification other than legal remuneration in respect of an official act.—

Whoever, being, or expecting to be a public servant, accepts or obtains or agrees to accept or attempts to obtain from any person, for himself or for any other person, any gratification whatever, other than legal remuneration, as a motive or reward for doing or forbearing to do any official act or for showing or forbearing to show, in the exercise of his official functions, favour or disfavour to any person or for rendering or attempting to render any service or disservice to any person, with the Central Government or any State Government or Parliament or the Legislature of any State or with any local authority, corporation or Government company referred to in clause (c) of section 2, or with any



public servant, whether named or otherwise, shall be punishable with imprisonment which shall be not less than six months but which may extend to five years and shall also be liable to fine.

(Explanations) –

(a) “Expecting to be a public servant”. If a person not expecting to be in office obtains a gratification by deceiving others into a belief that he is about to be in office, and that he will then serve them, he may be guilty of cheating, but he is not guilty of the offence defined in this section.

(b) “Gratification”. The word “gratification” is not restricted to pecuniary gratifications or to gratifications estimable in money.

(c) “Legal remuneration”. The words “legal remuneration” are not restricted to remuneration which a public servant can lawfully demand, but include all remuneration which he is permitted by the Government or the organisation, which he serves, to accept.

(d) “A motive or reward for doing”. A person who receives a gratification as a motive or reward for doing what he does not intend or is not in a position to do, or has not done, comes within this expression.

(e) Where a public servant induces a person erroneously to believe that his influence with the Government has obtained a title for that person and thus induces that person to give the public servant, money or any other gratification as a reward for this service, the public servant has committed an offence under this section.”

13. Criminal misconduct by a public servant.—

(1) A public servant is said to commit the offence of criminal misconduct,—

(a) to (c) xxxx xxxx xxxx

(d) if he, - (i) by corrupt or illegal means, obtains for himself or for any other person any valuable thing or pecuniary advantage; or

(ii) by abusing his position as a public servant, obtains for himself or for any other person any valuable thing or pecuniary advantage; or

(iii) while holding office as a public servant, obtains for any person any valuable thing or pecuniary advantage without any public interest;

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(2) Any public servant who commits criminal misconduct shall be punishable with imprisonment for a term which shall be not less than one year but which may extend to three years and shall also be liable to fine.”

22. Admittedly, Section 7 of the PC Act imposes a stringent requirement on the prosecution to unambiguously prove beyond any shadow of doubt, demand of bribe by the accused. Without proving this foundational fact, mere acceptance of money would be insufficient to convict an accused. It is settled principle of criminal jurisprudence that the guilt of an accused cannot rest on presumptions or conjectures but must be firmly rooted in cogent evidence, whether direct or circumstantial. Therefore, in cases under the PC Act, the demand for a bribe must be substantiated through unquestionable evidence.

23. Primarily, this Court does not find any merit in the submissions made by the learned State counsel that the recovery of bribe/tainted money from appellant proves both demand and acceptance of illegal gratification, thereby invoking presumption under Section 20 of the PC Act and consequently, the burden falling on the appellant to explain how the bribe/tainted money came into his possession.

24. It is settled principle of law that merely because tainted money was found in the possession of an accused would not suffice as a proof of demand nor would it trigger presumption under Section 20 of the PC Act. For presumption under Section 20 of the PC Act to arise, the prosecution must, at the first instance, establish the demand and acceptance of bribe beyond reasonable doubt.



25. The Hon'ble Supreme Court in the case of *State of Punjab versus Madan Mohan Lal Verma, 2013 (14) SCC 153*, has explained the correct approach for applying Section 20 of the PC Act and observed that the statutory presumption does not arise automatically upon recovery of tainted money. Firstly, the prosecution must establish the foundational facts i.e. **there was a demand of illegal gratification by the accused and such gratification was accepted by him.** The presumption under Section 20 comes into operation only after the prosecution has successfully established these essential facts. At that stage, the burden shifts to the accused/appellant to explain how the tainted money came into his possession. Importantly, the law does not require the accused/appellant to prove his defence beyond a reasonable doubt but the explanation put forth by the accused/appellant has to be evaluated on the standard of preponderance of probability and considered in light of whether it seems reasonably plausible in the circumstances of the case. The demand of illegal gratification is *sine qua non* for constituting an offence under the PC Act and mere recovery is insufficient to prove demand and acceptance. The relevant extract of the judgment is reproduced hereunder:-

“6. It is a settled legal proposition that in exceptional circumstances, the appellate court for compelling reasons should not hesitate to reverse a judgment of acquittal passed by the court below, if the findings so recorded by the court below are found to be perverse, i.e. if the conclusions arrived at by the court below are contrary to the evidence on record; or if the court's entire approach with respect to dealing with the evidence is found to be patently illegal, leading to the miscarriage of justice; or if its judgment is unreasonable and is based on an erroneous understanding of the law and of the facts of the case.



While doing so, the appellate court must bear in mind the presumption of innocence in favour of the accused, and also that an acquittal by the court below bolsters such presumption of innocence.

7. *The law on the issue is well settled that demand of illegal gratification is sine qua non for constituting an offence under the Act 1988. Mere recovery of tainted money is not sufficient to convict the accused when substantive evidence in the case is not reliable, unless there is evidence to prove payment of bribe or to show that the money was taken voluntarily as a bribe. Mere receipt of the amount by the accused is not sufficient to fasten guilt, in the absence of any evidence with regard to demand and acceptance of the amount as illegal gratification. Hence, the burden rests on the accused to displace the statutory presumption raised under [Section 20](#) of the Act 1988, by bringing on record evidence, either direct or circumstantial, to establish with reasonable probability, that the money was accepted by him, other than as a motive or reward as referred to in [Section 7](#) of the Act 1988. While invoking the provisions of [Section 20](#) of the Act, the court is required to consider the explanation offered by the accused, if any, only on the touchstone of preponderance of probability and not on the touchstone of proof beyond all reasonable doubt. However, before the accused is called upon to explain how the amount in question was found in his possession, the foundational facts must be established by the prosecution. The complainant is an interested and partisan witness concerned with the success of the trap and his evidence must be tested in the same way as that of any other interested witness. In a proper case, the court may look for independent corroboration before convicting the accused person.”*

26. Similarly, in the case of ***Neeraj Dutta Vs. State (Govt. of N.C.T. of Delhi)*** ***2023 SCC OnLine SC 280***, the Hon'ble Supreme Court has emphasized that proof of demand and acceptance of illegal gratification by a



public servant must be established through evidence that leaves no room for reasonable doubt. The relevant extract of the said judgment is as follows:-

“The presumption under Section 20 can be invoked only when the two basic facts required to be proved under Section 7, are proved. The said two basic facts are ‘demand’ and ‘acceptance’ of gratification. The presumption under Section 20 is that unless the contrary is proved, the acceptance of gratification shall be presumed to be for a motive or reward, as contemplated by Section 7. It means that once the basic facts of the demand of illegal gratification and acceptance thereof are proved, unless the contrary are proved, the Court will have to presume that the gratification was demanded and accepted as a motive or reward as contemplated by Section 7. However, this presumption is rebuttable. Even on the basis of the preponderance of probability, the accused can rebut the presumption.

12. *In the case of N. Vijayakumar, 2021(3) SCC 687, another bench of three Hon’ble Judges dealt with the issue of presumption under Section 20 and the degree of proof required to establish the offences punishable under Section 7 and clauses (i) and (ii) Section 13(1)(d) read with Section 13(2) of PC Act. In paragraph 26, the bench held thus:*

“26. It is equally well settled that mere recovery by itself cannot prove the charge of the prosecution against the accused. Reference can be made to the judgments of this Court in C.M. Girish Babu v. CBI [C.M. Girish Babu v. CBI, (2009) 3 SCC 779 : (2009) 2 SCC (Cri) 1] and in B. Jayaraj v. State of A.P. [B. Jayaraj v. State of A.P., (2014) 13 SCC 55 : (2014) 5 SCC (Cri) 543] In the aforesaid judgments of this Court while considering the case under Sections 7, 13(1)(d)(i) and (ii) of the Prevention of Corruption Act, 1988 it is reiterated that to prove the charge, it has to be proved beyond reasonable doubt that the accused voluntarily accepted money knowing it to be bribe. Absence of proof of demand for illegal gratification and mere possession or recovery of currency notes is not sufficient to

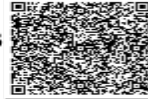


constitute such offence. In the said judgments it is also held that even the presumption under Section 20 of the Act can be drawn only after demand for and acceptance of illegal gratification is proved. It is also fairly well settled that initial presumption of innocence in the criminal jurisprudence gets doubled by acquittal recorded by the trial court.”

(emphasis added)

Thus, the demand for gratification and its acceptance must be proved beyond a reasonable doubt.

13. *Section 7, as existed prior to 26 th July 2018, was different from the present Section 7. The unamended Section 7 which is applicable in the present case, specifically refers to “any gratification”. The substituted Section 7 does not use the word “gratification”, but it uses a wider term “undue advantage”. When the allegation is of demand of gratification and acceptance thereof by the accused, it must be as a motive or reward for doing or forbearing to do any official act. The fact that the demand and acceptance of gratification were for motive or reward as provided in Section 7 can be proved by invoking the presumption under Section 20 provided the basic allegations of the demand and acceptance are proved. In this case, we are also concerned with the offence punishable under clauses (i) and (ii) Section 13(1)(d) which is punishable under Section 13(2) of the PC Act. Clause (d) of subsection (1) of Section 13, which existed on the statute book prior to the amendment of 26th July 2018, has been quoted earlier. On a plain reading of clauses (i) and (ii) of Section 13(1)(d), it is apparent that proof of acceptance of illegal gratification will be necessary to prove the offences under clauses (i) and (ii) of Section 13(1)(d). In view of what is laid down by the Constitution Bench, in a given case, the demand and acceptance of illegal gratification by a public servant can be proved by circumstantial evidence in the absence of direct oral or documentary evidence. While answering the referred question, the Constitution Bench has observed that it is permissible to draw an inferential deduction of culpability and/or guilt of the public servant for the offences punishable under Sections 7 and 13(1)(d) read with Section*



13(2) of the PC Act. The conclusion is that in absence of direct evidence, the demand and/or acceptance can always be proved by other evidence such as circumstantial evidence. 14. The allegation of demand of gratification and acceptance made by a public servant has to be established beyond a reasonable doubt. The decision of the Constitution Bench does not dilute this elementary requirement of proof beyond a reasonable doubt. The Constitution Bench was dealing with the issue of the modes by which the demand can be proved. The Constitution Bench has laid down that the proof need not be only by direct oral or documentary evidence.”

27. In somewhat similar circumstances, the Coordinate Bench of this Court in the case of ***‘Gurpreet Singh versus Central Bureau of Investigation’***, bearing CRA-S-2987-SB-2011, decided on 20.02.2024, has observed as under:-

*“Merely because the accused was found in possession of the currency notes would not dispense with the proof of demand and even the presumption under section 20 of the PC act would not be attracted in the circumstances. The Supreme Court in **State of Punjab Versus Madan Mohan Lal Verma (2013) 14 SCC 153**, held that while invoking the provisions of Section 20 of the P.C. Act, the Court is required to consider the explanation offered by the accused, if any, only on the touchstone of preponderance of probability, and not on the touchstone of proof beyond reasonable doubt. However, before the accused is called upon to explain how the amount in question was found in his possession, the foundational facts must be established by the prosecution. Hon’ble the Supreme Court further observed that a complainant is an interested and partisan witness, concerned with the success of the trap, and thus his evidence must be tested in the same manner as that of any other interested witness. In a proper case, the court may look for independent corroboration before convicting the accused person. Therefore, in the absence of any other witness or evidence to corroborate and substantiate the version of the complainant regarding demand of bribe by the accused, it cannot be said that the*



demand in the present case was proved beyond reasonable doubt, and even presumption under Section 20 of the P.C. Act would not be attracted.”

28. In the present case, the prosecution case mainly relies on the testimony of the complainant PW-1 Lakhinder Singh, who alleged that the appellant initially demanded ₹1,500/- which was later settled at ₹1,000/-. However, during cross-examination, material contradictions have surfaced creating doubt regarding the very demand. In his cross examination, he admitted that an enquiry had been conducted against him on the basis of an application submitted by the appellant regarding misbehavior committed by him on 12.12.2008 in the office. He also admitted that he had been issued a chargesheet by the Director (Administration), Education Department. An enquiry was also stated to be conducted by the SDM, Faridkot regarding the present incident wherein the then Principal Veena Rani, had not joined.

29. The shadow witness (PW-2 Vikas Bansal), who was expected to corroborate the complainant in entirety, partially resiled and admitted that the actual handing over of money was not within his view. He also admitted that he had friendly relations with the complainant, which raises the possibility that due to this friendship, he may have falsely implicated the appellant.

30. Moreover, the official/independent witness (PW-3 Pritam Singh) did not support the prosecution version at all with respect to the demand and acceptance. He admitted in his statement (Ex.D2) that the complainant after lifting the table cover told that the tainted money was lying there. Other employees also protested before the DSP that the appellant was being forcibly



implicated. He specifically deposed that the hands of the appellant were got washed in the solution repeatedly and its colour changed to that of the earth not to 'Pink colour'. Thus, the prosecution's case rests almost entirely on the solitary testimony of the complainant, whose previous record and admitted animosity with the appellant cannot be ignored.

31. Furthermore, the recovery of tainted notes from beneath the table cloth and not from the person of the appellant, further weakens the prosecution's story. The possibility that the notes were planted in the office cannot be ruled out, particularly when no independent witness has given cogent evidence of acceptance by the appellant.

32. The defence plea that the appellant had no authority to sanction the budget allocation also carries weight. Being only a Clerk, he could not have influenced the allotment of funds in the manner alleged. This circumstance renders the demand itself improbable.

33. Since the prosecution has failed to establish the foundational facts of demand and acceptance, no presumption under Section 20 of the PC Act can be invoked. The entire case rests on the sole testimony of the complainant, which stands uncorroborated and contradicted by the shadow witness as well as the independent witness.

34. In view of the above, this Court is of the considered opinion that the prosecution has failed to bring home the guilt of the appellant beyond reasonable doubt. The demand and acceptance of bribe, which are the core



ingredients of the offences under Sections 7 and 13(2) of the PC Act, have not been proved.

35. Consequently, the appeal is allowed. The judgment of conviction dated 10.05.2011 and order of sentence dated 11.05.2011 passed by the learned Special Judge, Faridkot, are hereby set aside and the appellant is acquitted of the charges framed against him under Sections 7 and 13(2) read with Section 13(1)(d) of the PC Act.

36. Pending application(s), if any, shall stand disposed of accordingly.

13.10.2025
A.Kaundal

(H.S.GREWAL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No