2026:PHHC:104236

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRA-S-711-SB-2005 (O&M)
Reserved on: 01.05.2026
Pronounced On: 29.07.2026

Pritam Singh

...Appellant

V/S

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE SUBHAS MEHLA

Argued By: Mr. Rajesh Sethi, Advocate, with
Mr. Parveen Gaur, Advocate
Mr. Arun Biriwal, Advocate and
Mr. Anshuman Sethi, Advocate for the appellant.

Mr. Satbir Singh Goripuria, DAG, Haryana.

SUBHAS MEHLA, J.

1. The present appeal has been filed assailing the judgement of conviction dated 19.03.2005 and the order of sentence of even date passed by the learned Special Judge (under the Prevention of Corruption Act, 1988), Kurukshetra, in FIR No.18 dated 16.05.2003 registered at Police Station State Vigilance Bureau, Ambala, whereby the appellant was convicted for the offences punishable under Sections 7 and 13(2) of the Prevention of Corruption Act, 1988 (for short, 'the PC Act') and sentenced as under:-

<table>
<tr><th>Offence under Section</th><th>Imprisonment</th><th>Fine</th><th>In Default of Payment of Fine</th></tr>
<tr><td>Section 7 of PC Act</td><td>Rigorous Imprisonment for 1 year</td><td>Rs.2,000/-</td><td rowspan="2">In default of payment of the total amount of fine i.e. Rs.7,000 a further rigorous imprisonment for a period of nine months</td></tr>
<tr><td>Section 13(2) of PC Act</td><td>Rigorous Imprisonment for 2 years</td><td>Rs.5,000</td></tr>
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Both the substantive sentences were ordered to run concurrently.

BRIEF FACTS

2. Briefly stated, the prosecution case is that on 16.05.2003, complainant Balwant Singh submitted an application before the State Vigilance Bureau, Kurukshetra (hereinafter 'SVB') alleging that on the night of 14.05.2003, the appellant, who was working as a Foreman in the Electricity Department, along with a Junior Engineer, visited his residence and accused the complainant of committing theft of electricity. It was alleged that the appellant demanded an amount of Rs.10,000/- for not initiating proceedings against him and received Rs.9,000/- on the spot. It is further alleged that the appellant later continued insisting upon payment of the remaining amount of Rs.1,000/- when finally, the SVB was approached. Acting upon the complaint, a trap was arranged by the Vigilance Bureau wherein DRO Pirthi Singh was joined as part of the raiding party being a gazetted officer. The complainant allegedly paid the remaining amount of Rs.1,000/- to the appellant during the trap proceedings, whereafter the appellant was apprehended and the tainted currency notes were allegedly recovered from his possession. Upon completion of investigation and obtaining sanction for prosecution, the final report was presented before the Court.

3. Finding a *prima facie* case, the trial Court framed charges against the appellant for the offences punishable under Sections 7 and 13(2) of the PC Act, to which he pleaded not guilty and claimed trial.

4. In support of its case, the prosecution examined twelve witnesses and tendered documentary evidence on record. After completion of prosecution evidence, the statement of the appellant under Section 313 of the Code of Criminal Procedure, 1973 was recorded, wherein all incriminating

circumstances were denied and false implication was pleaded. Upon appreciation of the evidence, learned Special Judge convicted and sentenced the appellant in the manner mentioned hereinabove. Hence, the present appeal.

CONTENTIONS ON BEHALF OF APPELLANT

5. Learned counsel for the appellant assailed the impugned judgement primarily on the ground that the prosecution has failed to establish the essential ingredients constituting the offences punishable under Sections 7 and 13(2) of the PC Act. It was argued that the complainant - Balwant Singh (PW-9) and the shadow witness (and also son of the complainant) - Joginder Singh (PW-10), did not support the prosecution case during trial and categorically denied that the appellant had demanded or accepted any illegal gratification. Learned counsel submitted that both the said witnesses attributed the demand of money to certain other officials of the Electricity Department and specifically exonerated the appellant. It was further argued that although the prosecution case itself referred to the involvement of a Junior Engineer, however, no proceedings were initiated against him thereby rendering the prosecution version doubtful.

6. Learned counsel further contended that trial Court erred in placing reliance upon the testimony of the official witnesses despite the complainant and shadow witness having disowned the prosecution story. It was argued that the alleged recovery of tainted currency notes, by itself, is insufficient to sustain conviction in the absence of proof of demand and acceptance of illegal gratification. Learned counsel thus submitted that the prosecution has failed to prove the foundational facts necessary for invoking the presumption under

Section 20 of the PC Act. Learned counsel for the appellant placed reliance on ***Neeraj Dutta v. State (Govt. of N.C.T. of Delhi) (SC) (Constitution Bench), 2023 (4) SCC 731; State of Kerala v. C.P. Rao, 2011 (96) SCC 450; Madan Lal v. State of Rajasthan, 2025 (4) SCC 624; Rajesh Gupta v. State Through Central Bureau of Investigation, 2022 INSC 359; State of U.P. v. Ram Balak, 2008(4) RCR(Criminal) 845; Jagtar Singh v. State of Punjab, 2023(2) RCR(Criminal) 499; N. Sunkanna v. State of Andhra Pradesh, 2015(4) RCR(Criminal) 797; Selvaraj v. State of Karnataka, 2015(4) RCR(Criminal)*** and thus, prayed that the impugned judgement of conviction be set aside, and the appellant be acquitted.

<u>CONTENTIONS ON BEHALF OF RESPONDENT-STATE</u>

7. *Per contra*, learned State counsel supported the impugned judgement and submitted that the prosecution has successfully established the guilt of the appellant through the testimony of the official witnesses and the documentary evidence brought on record. It was argued that the appellant was posted as Assistant Foreman in the area concerned and the prosecution had duly proved the demand and acceptance of illegal gratification. Learned State counsel submitted that the tainted currency notes were recovered from the possession of the appellant during the trap proceedings and the hand wash and pocket wash of the appellant tested positive. Reliance was placed upon the testimony of PW-11 Pirthi Singh (District Revenue Officer) and PW-12 Inspector Gurdwaya Ram, both of whom fully supported the prosecution case regarding the trap proceedings and recovery. It was accordingly submitted that

trial Court had rightly returned a finding of guilt and no interference is warranted in appeal.

OBSERVATIONS & ANALYSIS

8. Heard and record perused.

9. The principal question that arises for consideration is whether the prosecution has succeeded in proving beyond the shadow of reasonable doubt that the appellant demanded and accepted illegal gratification from the complainant so as to attract the offences punishable under Sections 7 and 13(2) of the PC Act.

10. Balwant Singh, the complainant, appeared as PW-9. In his deposition before the Court, he did not support the prosecution case. He categorically stated that certain officials of the Electricity Department had visited his house and demanded money from him, but **specifically deposed that the appellant was not one of those persons.** He further stated that **the appellant had nothing to do with the occurrence.** Though he admitted his signatures on **certain documents relied upon by the prosecution, he denied the contents thereof** and asserted that his **signatures had been obtained on blank papers.** More importantly, he **denied that the appellant had ever demanded any amount** from him **or that any payment had been made to the appellant.**

11. Equally significant is the testimony of Joginder Singh (PW-10) i.e. the shadow witness and son of the complainant. He too failed to support the prosecution case. **He specifically denied that the appellant had ever demanded any money from him or from his father. He also denied the**

prosecution version regarding payment of tainted currency notes, acceptance thereof by the appellant and the alleged recovery proceedings.

12. What assumes significance is that the shadow witness (PW-10) did not merely fail to support the prosecution version. Rather, he proceeded to narrate a version which substantially supports the defence plea. According to him, **the grievance of the complainant was against a Junior Engineer and another official of the Electricity Department**. He further stated that the **amount in question was intended to be paid to the concerned Junior Engineer** and **when he went** to the place where the payment was to be made, the said **Junior Engineer was not present**. Thus, **the testimony of PW-10, far from advancing the prosecution case, lends support to the defence version** that the appellant was not the person who had originally demanded the alleged gratification.

13. The prosecution has failed to prove its case as required in a criminal trial i.e. beyond the shadow of reasonable doubt for the reasons hereinafter elaborated.

a) Demand of Illegal Gratification

14. In the present case, the prosecution primarily relied upon the testimony of the complainant and the shadow witness to establish the demand of illegal gratification. However, both PW-9 and PW-10 failed to support the prosecution case on the crucial aspect of demand. The prosecution is thus left without any direct evidence regarding demand, necessitating an examination as to whether the remaining evidence on record is sufficient to establish the said ingredient by way of circumstances.

15. In ***B. Jayaraj v. State of Andhra Pradesh, (2014) 13 SCC 55***, the facts were similar to those of the present case. A trap was laid and tainted money was recovered from the pocket of the accused; the complainant turned hostile, and consequently, the Hon'ble Apex Court set aside the judgement of conviction by the trial Courts. The Hon'ble Supreme Court held that proof of demand of illegal gratification is a *sine qua non* for constituting an offence under Section 7 of the PC Act and that mere possession or recovery of currency notes from an accused, without proof of demand, would not establish the offence. The same principle was reiterated in ***P. Satyanarayana Murthy v. District Inspector of Police, State of Andhra Pradesh, (2015) 10 SCC 152***, wherein it was held that proof of demand is the gravamen of the offence and in the absence thereof, the charge under Sections 7 and 13 of the PC Act cannot be sustained.

16. The Constitution Bench of the Hon'ble Supreme Court in ***Neeraj Dutta v. State (Government of NCT of Delhi), 2023 SCC OnLine SC 280,*** while comprehensively considering the law on the subject, observed that where the prosecution seeks to establish the demand of gratification on the basis of circumstantial evidence, every circumstance relied upon must be firmly established and the chain of circumstances must be such as to lead only to one conclusion, namely, the accused had made the demand in question. Thus, where direct evidence of demand is unavailable or found to be unreliable, the Court must carefully examine whether the circumstances proved on record unerringly point towards the guilt of the accused and are inconsistent with any other hypothesis. It is in the aforesaid backdrop that the evidence led by the prosecution in the present case is required to be examined.

17. In the facts of the present case, the prosecution has failed to establish the demand of illegal gratification through its most material witnesses, i.e. the complainant and the shadow witness. Once the demand itself remains unproved, the alleged recovery of tainted currency notes from the appellant loses much of its evidentiary significance. Mere recovery, howsoever proved, cannot by itself sustain a conviction under Sections 7 and 13(2) of the PC Act in the absence of proof of demand and voluntary acceptance.

18. The statutory presumption under Section 20 of the PC Act also cannot come to the aid of the prosecution in the facts of the present case. The presumption is not intended to relieve the prosecution of its obligation to establish the foundational facts. Since the prosecution has failed to prove the demand of illegal gratification, the presumption under Section 20 cannot be invoked to sustain the conviction.

b) Acceptance of Illegal Gratification

19. The prosecution case on 'acceptance' also suffers from serious doubt. The complainant PW-9 and the shadow witness PW-10 have not supported the prosecution version regarding the payment of the alleged bribe amount. Rather, PW-10 shadow witness has narrated a different sequence of events, which lends support to the defence plea and runs contrary to the prosecution version. Further, the evidentiary value of the allegations against the appellant/accused is substantially weakened by the complainant's deposition that his signatures were obtained on blank papers and that he did not make the statements attributed to him.

In these circumstances, the evidence on record does not inspire confidence that the amount was consciously and voluntarily accepted by the appellant as illegal gratification pursuant to a demand made by him. Consequently, the recovery of tainted currency notes from the appellant, by itself, cannot be treated as conclusive proof of acceptance of illegal gratification.

c) Recovery Proceedings and Testimony of Official Witnesses

20. Learned State counsel has rightly pointed out that PW-11 Pirthi Singh, District Revenue Officer, and PW-12 Inspector Gurdwaya Ram have supported the prosecution case regarding the trap proceedings. Their testimony establishes that tainted currency notes were prepared, trap proceedings were conducted and the tainted currency notes were recovered from the possession of the appellant. The hand wash and pocket wash of the appellant also tested positive.

21. However, even if the testimony of PW-11 and PW-12 is accepted in its entirety, the circumstances emerging therefrom do not establish beyond the shadow of reasonable doubt that any demand for illegal gratification was made by the appellant. The evidence of the said witnesses may establish the recovery proceedings, but it does not establish the foundational fact that the demand for illegal gratification emanated from the appellant or that he consciously and voluntarily accepted the illegal gratification to attract the operation of Section 7 of the PC Act. On the contrary, the only direct witnesses on the aspect of demand, namely PW-9 and PW-10, have expressly denied the prosecution version. Therefore, the circumstances relied upon by the prosecution do not form a complete chain leading only to the hypothesis of guilt of the appellant.

d) Analysis of the Impugned Trial Court Judgement

22. At this stage, it would be apposite to examine the reasoning adopted by trial Court while dealing with the issues of demand, acceptance and the presumption under Section 20 of the PC Act. The relevant observations contained in Para 23 of the impugned judgment read as under:-

> *"23. Learned defence counsel also contended that mere recovery of money from the accused is not sufficient to convict the accused when the substantial evidence in the case is not reliable. He contended that in the absence of demand and acceptance, mere recovery of money from the accused cannot be made basis to presume that the money was received and demanded as bribe amount. I find no force in the said submission of the learned defence counsel, because it is not always necessary that the passing of money should be proved by direct evidence. It may also be proved by circumstantial evidence. Acceptance of money by the accused and its recovery in the manner, as alleged by the prosecution, stands duly proved on the file. Once this fact is proved by the prosecution, then a legal presumption can well be drawn under section 20 of the Act that such gratification was accepted as a reward for doing the public duty, unless contrary is proved by the accused. Accused in this case although tried to prove the contrary by alleging that he had received the amount to pay the same to J.E. Mr. S.P. Dhiman, to whom the person who paid him the money, wanted to pay the same, but as soon as he received the money, he was apprehended by the police party and was taken to S.V.B. unit Kurukshetra, resulting into registration of the present case, but he has miserably failed to prove this fact. Jawahar Lal DW2, examined to prove this defence, cannot be believed, because he is a neighbour of the son of accused in the vicinity where they both run shops. He stated that he had heard a noise which attracted him and a few shopkeepers to the shop of the son of accused, where the*

accused alongwith three-four police officials were present. They had some exchange of words with regard to currency notes and accused was then lifted physically by them and taken in a jeep. In his cross-examination, he stated that he had not made any complaint to the S.P. or D.C. about forcible lifting of accused. He also stated that he does not know what had transpired earlier to his reaching the shop of son of accused. Thus, he is silent about the defence version given by the accused that some persons had come to his shop and wanted to pay certain money to J.E. whom they were enquiring and he accepted the said money to further pass the same to said J.E. and was thereafter lifted by the police party. There is no other evidence on behalf of the accused to make his defence version probable and thus has failed to prove the contrary, as required under section 20 of the Act. It was held in AIR 1992 S.C. 1201 B.Hanmantha Rao vs. State of Andhra Pradesh that once the amount is found in the possession of the accused, the burden shifts to him to explain the circumstances to prove his innocence as contemplated under section 20 of the Act. Reliance can also be placed on the authority relied upon by the learned Public Prosecutor 2001(1) R.C.R. (Criminal) 95 (Supra). The facts and circumstances of the authorities, 2004(1) R.C.R. (Criminal) 369 and 1979 Crl. .L J. 1087 (Supra) relied upon by the learned defence counsel, are not identical to the facts and circumstances of the present case, and therefore, no benefit whatsoever can be given to the accused of the same."

23. A perusal of the aforesaid observations in the impugned judgment shows that the trial Court primarily proceeded on the basis of the recovery of tainted currency notes and the testimony of the official witnesses associated with the trap proceedings. However, while recording the finding of guilt, the trial Court failed to adequately appreciate the evidentiary impact of the

testimonies of PW-9 and PW-10, who were the most material witnesses on the aspects of demand and acceptance. Once both the complainant and the shadow witness failed to support the prosecution version, and in fact, attributed the demand to officials other than the appellant, the question whether the foundational facts stood established required closer scrutiny.

24. Further, the trial Court placed considerable emphasis upon the statutory presumption under Section 20 of the PC Act. In this regard, reference may be made to the testimony of PW-8 Rajesh Mehla, who produced the official record pertaining to the checking conducted at the premises of the complainant and deposed as under:-

> "*That from 14.3.2003 Sh.Pritam Singh FM was on duty in the area of Chakarwarti Mohalla, City Thanesar. I identify the signatures of Sh. J.K. Arora, SDO Operation Divn. no.1 on Ex. PG. the meter number of Balwant Singh is KK20-1300 and it falls in the Chakarwarti Mohalla.*
> *XXX by Sh. S.C.Sharma, Adv., Counsel for accused.*
>
> *I do not know Balwant Singh. I had not gone to his house at any point of time. I had brought a record dated 14.5.2003 vide which the checking of the house of Balwant Singh Mohalla Chakarwarti bearing account no.KK20-1300 was done by Sh.S.P.Dhiman, J.E. and line-man Ram Janam on 14.3.2003. The charge of account no. KK20-1300 of Balwant Singh Mohalla Chakarwarti was with Sh.S.P.Dhiman, J.E. and Ram Janam Line-man. As per my record the number of meter of Balwant Singh is 107253001and the meter was showing the reading as 01344 on 14.5.2003. According to this record seals were found intact. The connected load was noted to be 3.200 kilo-wat. As per this record consumer had refused to sign the LL-1 checking report. The time*

of visit of S.P. Dhiman and Ram Janam is 7.44 P.M. according to my record"

The aforesaid testimony reflects that witness PW-8 categorically deposed that the checking in question was carried out by Junior Engineer S.P. Dhiman and Lineman Ram Janam and the complainant's account was under their charge. Significantly, the official record brought on record through PW-8 does not indicate any role of the appellant in the checking proceedings or in any official matter concerning the complainant. The prosecution has also not led any evidence to establish that any official act relating to the complainant was pending with the appellant or fell within his domain of duties. This circumstance assumes importance when viewed alongside the testimonies of complainant PW-9 and shadow witness PW-10, both of whom attributed the demand of money to officials other than the appellant. In such circumstances, the very nexus between the alleged gratification and any public duty to be performed by the appellant remains inadequately established.

25. This aspect assumes added significance while examining the reasoning adopted by the trial Court. A perusal of the record reflects that in the complaint forming the basis of the present FIR, the allegations were not confined exclusively to the appellant and reference was also made to the involvement of other officials of the Electricity Department. However, the prosecution proceeded only against the appellant and no satisfactory explanation emerges from the record for excluding the said officials from the purview of investigation. This circumstance assumes particular relevance in view of the testimony of PW-8, which indicates that the checking of the complainant's premises was carried out by Junior Engineer S.P. Dhiman and

Lineman Ram Janam, as well as the testimonies of PW-9 and PW-10, both of whom attributed the demand of money to officials other than the appellant. In these circumstances, the matter warranted closer scrutiny before the presumption under Section 20 of the PC Act was invoked against the appellant.

26. Further, a perusal of the impugned judgment reflects that despite the categorical deposition of DW-2 J.K. Arora, S.D.O., to the effect that the appellant was deputed for maintenance of 11 K.V. lines and L.D. systems such as transformers, etc., as reflected in duty roster Ex.DX, the trial Court observed that there was insufficient evidence to establish the nature of the appellant's duties. Consequently, the defence evidence on the said aspect was not accorded due weight. This Court finds it difficult to concur with the aforesaid approach. The testimony of a defence witness cannot be discarded merely on the ground that it has been led by the defence. It is well settled that the evidence of defence witnesses is entitled to the same consideration as that of prosecution witnesses and must be evaluated on its own merits. The material produced by DW-2 was directly relevant to the issue whether the appellant was in a position to perform, influence or facilitate any official act concerning the complainant, and consequently, whether the statutory presumption under Section 20 of the PC Act could at all be attracted. The trial Court failed to examine this aspect in its proper perspective.

27. The trial Court appears to have proceeded on the premise that once recovery stood established, the burden shifted upon the appellant under Section 20 of the PC Act. However, before the statutory presumption could be invoked, it was incumbent upon the prosecution to establish the foundational facts regarding demand and acceptance of illegal gratification as a motive or reward

for performing, or causing the performance of, a public duty. For the reasons already discussed hereinabove, those foundational facts have not been proved beyond the shadow of reasonable doubt. Consequently, the presumption under Section 20 could not have been invoked in the manner adopted by the trial Court.

28. Thus, apart from the failure of the prosecution to establish the demand and voluntary acceptance of illegal gratification, the material available on record also does not satisfactorily establish the necessary nexus between the alleged gratification and any public duty to be performed by the appellant. The very foundation on which the presumption under Section 20 of the PC Act was invoked by the trial Court, therefore, becomes doubtful.

29. In the considered view of this Court, the evidence on record did not justify the conclusion that the demand and voluntary acceptance of illegal gratification by the appellant stood proved beyond the shadow of reasonable doubt. Therefore, the approach adopted by the trial Court in treating the recovery as sufficient to convict the appellant cannot be sustained.

CONCLUSION

30. Examining the evidence on record, and in the light of the aforesaid discussion, this Court finds that the prosecution has failed to establish beyond the shadow of reasonable doubt the foundational elements necessary for sustaining the conviction of the appellant for the offences punishable under Sections 7 and 13(2) of the PC Act, and the trial Court has erred in convicting the appellant. The testimonies of PW-9 and PW-10 create a serious dent in the prosecution case and render doubtful the allegation that the appellant either demanded or accepted illegal gratification. Consequently, the prosecution has

failed to prove the guilt of the appellant beyond the shadow of reasonable doubt. The appellant is, therefore, entitled to the benefit of doubt.

31. Consequently, the present appeal is **allowed**. The judgement of conviction dated 19.03.2005 and the order of sentence of even date passed by learned Special Judge (under the Prevention of Corruption Act, 1988), Kurukshetra are hereby set aside. The appellant is acquitted of the charges framed against him.

32. The bail bonds and surety bonds furnished by the appellant shall stand discharged. If the appellant has deposited the amount of fine, the same shall be refunded to him in accordance with law.

33. Pending miscellaneous application(s), if any, shall also stand disposed of.

(SUBHAS MEHLA)
JUDGE

29.07.2026
Manisha

Whether Speaking/Reasoned: YES/NO
Whether Reportable: YES/NO