IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL APPEAL NO. 669 of 2012

FOR APPROVAL AND SIGNATURE:

HONOURABLE MS. JUSTICE S.V. PINTO Sd/-

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Approved for Reporting	Yes	No
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STATE OF GUJARAT
Versus
VAKHATSINH SABURJI CHAUHAN

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Appearance:
MR ADITYA JADEJA, APP for the Appellant(s) No. 1
MR HARDIK H DAVE(6295) for the Opponent(s)/Respondent(s) No. 1
MR. SAHIL M SHAH(6318) for the Opponent(s)/Respondent(s) No. 1

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CORAM:**HONOURABLE MS. JUSTICE S.V. PINTO**

Date : 22/12/2025

ORAL JUDGMENT

1. This appeal has been filed by the appellant – State under Section 378(1)(3) of the Code of Criminal Procedure, 1973 against the judgment and the order of acquittal passed by the learned Special Judge and 5th Additional Sessions Judge, Nadiad (hereinafter referred to as 'the learned Trial Court') in Special ACB Case No.6 of 2007 on 25.01.2012, whereby, the learned Trial Court has acquitted the respondent – accused from

the offences punishable under Sections 13(1)(c)(d) and 13(2) of the Prevention of Corruption Act, 1988 (hereinafter referred to as 'the P.C.Act').

1.1. The respondent is hereinafter referred to as 'the accused' as he stood in the original case, for the sake of convenience, clarity and brevity.

2. The relevant facts leading to filing of the present appeal are as under:

2.1. The accused was serving as a Forest Guard for the past four years and was a Public Servant. During this period, the Forest Guard of Devkaran na Muvada Beat was sent for Departmental Training and by an office order the additional charge of Devkaran na Muvada Beat was entrusted to the present accused. The accused did not accept the said charge, and despite not holding charge of Devkaran na Muvada Beat, was patrolling the Devkaran na Muvada Beat. During patrolling, it was found that the residents of Pathavat village, Taluka Kathlal (i) Rameshji Bhulaji Solanki, (2) Mangaji Fulaji Solanki, (3) Kataji Jivraji Solanki and (4) Amraji Chanduji Solanki committed an

offence of cutting trees in the 'Apruji Forest' situated within Devkaran na Muvada Beat. Upon admitting the said offence by the four persons, though the accused had no authority to collect any amount, he demanded and collected an amount of Rs. 2,500/- for settling the offence through one Udaji Ataji Solanki, in the presence of (1) Babuji Jivaji Solanki, (2) Bhikhaji Nathaji Solanki and (3) Prahladji Ajaji Parmar. The accused did not issue any receipt and did not deposit the amount in the Government treasury and kept the amount for his personal use and thus misappropriated Government money. Hence, the complainant Bharatkumar Rameshchandra Solanki, Range Forest Officer, lodged the complaint under Section 409 of the IPC, which was registered at Kathlal Police Station C.R.No.1-124 of 2006.

2.2. The Investigating Officer recorded the further statement of the complainant and connected witness and the panchnama was drawn. The investigation was handed over to Head Constable Ramsingh Madhavsingh, Buckle No.1344 and he recorded the statements of the connected witnesses and while the investigation was going on, the accused filed an application for anticipatory bail before the Fast Track Court, Kheda at

Nadiad and during the hearing of the anticipatory bail application, the learned Court instructed the Investigating Officer that the offence under Sections 13(1)(c)(d) and 13(2) of the P.C.Act were made out, and hence, the investigation was handed over to a Police Sub Inspector, and thereafter to Circle Police Inspector Rajabhai Govabhai Desai, who filed a report before the learned Trial Court that the offence under Sections 13(1)(c)(d) and 13(2) of the P.C.Act are made out. After the sections were added in the FIR and Section 409 of the IPC was deleted, the statements of the connected witnesses were recorded and other documents including the service record and the sanction for prosecution were received and a charge sheet came to be filed before the Sessions Court, Kheda at Nadiad, which came to be registered as Special (ACB) Case No. 6 of 2007.

2.3. The accused was duly served with the summons and the accused appeared before the learned Trial Court and after the due procedure under Section 207 of the Code of Criminal Procedure was completed, a charge was framed against the accused at Exh.35 and the statement of the accused was

recorded at Exh.36, wherein, the accused denied the allegations made in the charge and the evidence of the prosecution was taken on record. The prosecution examined 23 witnesses and produced 20 documentary evidences. Learned APP filed a closing pursis at Exh.112 and the further statement of the accused under Section 313 of the Code was recorded, wherein, the accused denied all the evidence against him. The accused refused to step into the witness box or lead evidence and stated that a false case has been filed against him.

2.4. After the arguments of the learned APP and learned advocate for the accused were heard, the learned Trial Court acquitted the accused from all the offences by the impugned judgement and the order.

3. Being aggrieved and dissatisfied with the impugned judgment and order of acquittal, the appellant-State has filed the present appeal mainly contending that the order of acquittal is contrary to law and evidence on record and the learned Trial Court has failed to appreciate the oral evidence of the witnesses examined by the prosecution and documentary evidences

produced in support of the case. The documentary evidences available on record of the case fully support the case of the prosecution, but the learned Trial Court has committed a grave error apparent on record of the case by not properly appreciating the material available on record of the case. The learned Trial Court has failed to appreciate that the sanction was legal and was given by a Competent Authority and the prosecution has proved that the accused was not in charge of the Devkaran na Muvada beat, but he was patrolling in the said area and had accepted the amount of Rs.2500/- in the presence of witnesses. The Range Forest Officer at Atarsumba went with the complainant for recording the statements of the witnesses and the statements of the witnesses on oath are on record, which show that the amount was taken by the accused and was not deposited in the Government Treasury, but was used for his personal benefit. The learned Trial Court has erred in discarding the positive evidence available on record of the case and the complainant Bharatkumar Rameshchandra Solanki, Range Forest Officer, Atarsumba has fully supported the case of the prosecution, but the learned Trial Court has given undue

importance to some minor omissions and contradictions and has concluded that the prosecution has failed to prove the offence beyond reasonable doubts. The impugned order is contrary to law and evidence on record and illegal, invalid and improper and deserves to be quashed and set aside.

4. Heard learned Additional Public Prosecutor Mr. Aditya Jadeja for the appellant – State and learned advocate Mr.Hardik H. Dave for the accused. Perused the impugned judgment and the order of acquittal and re-appreciated the entire evidence of the prosecution on record of the case.

5. Learned APP Mr.Aditya Jadeja for the appellant – State has taken this Court through the entire evidence of the prosecution on record and has vehemently argued that the prosecution has proved that the accused was a Government Servant at the time of the offence and in the presence of witnesses, he had accepted the amount of Rs.2500/- and had not deposited the same in the Government Treasury, even though, he had no authority to collect any amount from any person. It is on record that the accused was given the charge of Devkaran na

Muvada beat, but he did not accept the same and without any authority, he was patrolling the beat, and at that time, has collected the amount from the witnesses. No receipts were also given to the person, from whom, the amount was collected and the entire offence is proved by the prosecution from oral and documentary evidence, but the learned Trial Court has not appreciated the entire evidence in true and perspective and learned APP has urged this Court to set aside the impugned judgment and order of acquittal and allow the appeal.

6. Learned advocate Mr.Hardik A. Dave for the accused has submitted that the learned Trial Court has appreciated all the evidence in true spirit and has not at all committed any error in acquitting the accused and therefore, no interference of this Court is required in the impugned judgement and the order of acquittal passed by the learned Trial Court and has urged this Court to reject the appeal.

7. At the outset, before discussing the facts of the present case, it would be appropriate to refer to the observations of the Apex Court in para 11 and 12 with regard to

the powers of the Appellate Court while dealing with acquittal appeals in the case of **P. Somaraju Vs. State of Andhra Pradesh** reported in **2025 LawSuit (SC) 1423:**

> **"11.** Before proceeding, it would be appropriate to recapitulate the well-settled principles governing interference with an order of acquittal by an Appellate Court, which were also discussed by the High Court in the impugned judgment. At the outset, we rely upon the seminal case of Chandrappa & Ors. vs. State of Karnataka 2007 (4) SCC 415 wherein this Court had laid down the five-point canonical test as follows:
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> "42. From the above decisions, in our considered view, the following general principles regarding powers of the appellate court while dealing with an appeal against an order of acquittal emerge:
>
> (1) An appellate court has full power to review, reappreciate and reconsider the evidence upon which the order of acquittal is founded.
>
> (2) The Code of Criminal Procedure, 1973 puts no limitation, restriction or condition on exercise of such power and an appellate court on the evidence before it may reach its own conclusion, both on questions of fact and of law.
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> (3) Various expressions, such as, "substantial and compelling reasons", "good and sufficient grounds", "very strong circumstances", "distorted conclusions", "glaring mistakes", etc. are not intended to curtail extensive powers of an appellate court in an appeal against acquittal. Such phraseologies are more in the nature of "flourishes of language" to emphasise the reluctance of an appellate court to interfere with acquittal than to curtail the power of the court to review the evidence and to come to its own conclusion.
>
> (4) An appellate court, however, must bear in mind that in case of acquittal, there is double presumption in favour of the accused. Firstly, the presumption of innocence is available to him under the fundamental principle of criminal jurisprudence that every person shall be

presumed to be innocent unless he is proved guilty by a competent court of law. Secondly, the accused having secured his acquittal, the presumption of his innocence is further reinforced, reaffirmed and strengthened by the trial court.

(5) If two reasonable conclusions are possible on the basis of the evidence on record, the appellate court should not disturb the finding of acquittal recorded by the trial court." 4 (2007) 4 SCC 415.

12. To summarize, an Appellate Court undoubtedly has full power to review and reappreciate evidence in an appeal against acquittal under Section 378 and 386 of the Code of Criminal Procedure, 1973. However, due to the reinforced or 'double' presumption of innocence after acquittal, interference must be limited. If two reasonable views are possible on the basis of the record, the acquittal should not be disturbed. Judicial intervention is only warranted where the Trial Court's view is perverse, based on misreading or ignoring material evidence, or results in manifest miscarriage of justice. Moreover, the Appellate Court must address the reasons given by the Trial Court for acquittal before reversing it and assigning its own. A catena of the recent judgements of this Court has more firmly entrenched this position, including, inter alia, Mallappa & Ors. vs. State of Karnataka, 2024 INSC 104, Ballu @ Balram @ Balmukund & Anr. vs. The State of Madhya Pradesh 2024 INSC 258, Babu Sahebagauda Rudragaudar and Ors. vs. State of Karnataka 2024 INSC 320 and Constable 907 Surendra Singh & Anr. vs. State of Uttarakhand 2025 INSC 114"

7.1 The Apex Court, in the case of **Surendra Singh and Ors. Vs. State of Uttarakhand** reported in **2025 INSC 114**, has observed in Para No. 11 as under:

"11. Recently, in the case of Babu Sahebagouda Rudragoudar and others v. State of Karnataka6, a Bench of this Court to which one of us was a Member (B.R. Gavai, J.) had an occasion to consider the legal position with regard to the scope of interference in an appeal against acquittal. It was observed thus:

"38. First of all, we would like to reiterate the principles laid down by this Court governing the scope of interference by the High Court in an appeal filed by the State for challenging acquittal of the accused recorded by the trial court.

39. This Court in Rajesh Prasad v. State of Bihar [Rajesh Prasad v. State of Bihar, (2022) 3 SCC 471 : (2022) 2 SCC (Cri) 31] encapsulated the legal position covering the field after considering various earlier judgments and held as below : (SCC pp. 482-83, para 29)

29. After referring to a catena of judgments, this Court culled out the following general principles regarding the powers of the appellate court while dealing with an appeal against an order of acquittal in the following words : (Chandrappa case [Chandrappa v. State of Karnataka, (2007) 4 SCC 415 : (2007) 2 SCC (Cri) 325] , SCC p. 432, para 42)

42. From the above decisions, in our considered view, the following general principles regarding powers of the appellate court while dealing with an appeal against an order of acquittal emerge:

(1) An appellate court has full power to review, reappreciate and reconsider the evidence upon which the order of acquittal is founded.

(2) The Criminal Procedure Code, 1973 puts no limitation, restriction or condition on exercise of such power and an appellate court on the evidence before it may reach its own conclusion, both on questions of fact and of law.

(3) Various expressions, such as, ''substantial and compelling reasons'', ''good and sufficient grounds'', ''very strong circumstances'', ''distorted conclusions'', ''glaring mistakes'', etc. are not intended to curtail extensive powers of an appellate court in an appeal against acquittal. Such phraseologies are more in the nature of ''flourishes of language'' to emphasise the reluctance of an appellate court to interfere with acquittal than to curtail the power of the court to review the evidence and to come to its own conclusion.

(4) An appellate court, however, must bear in mind that in case of acquittal, there is double presumption in favour of the accused. Firstly, the presumption of

innocence is available to him under the fundamental principle of criminal jurisprudence that every person shall be presumed to be innocent unless he is proved guilty by a competent court of law. Secondly, the accused having secured his acquittal, the presumption of his innocence is further reinforced, reaffirmed and strengthened by the trial court.

(5) If two reasonable conclusions are possible on the basis of the evidence on record, the appellate court should not disturb the finding of acquittal recorded by the trial court.''

40. Further, in H.D. Sundara v. State of Karnataka [H.D. Sundara v. State of Karnataka, (2023) 9 SCC 581: (2023) 3 SCC (Cri) 748] this Court summarised the principles governing the exercise of appellate jurisdiction while dealing with an appeal against acquittal under Section 378CrPC as follows : (SCC p. 584, para 8)

''8. … XXX XXX XXX

8.1. The acquittal of the accused further strengthens the presumption of innocence;

8.2. The appellate court, while hearing an appeal against acquittal, is entitled to reappreciate the oral and documentary evidence;

8.3. The appellate court, while deciding an appeal against acquittal, after reappreciating the evidence, is required to consider whether the view taken by the trial court is a possible view which could have been taken on the basis of the evidence on record;

8.4. If the view taken is a possible view, the appellate court cannot overturn the order of acquittal on the ground that another view was also possible; and

8.5. The appellate court can interfere with the order of acquittal only if it comes to a finding that the only conclusion which can be recorded on the basis of the evidence on record was that the guilt of the accused was proved beyond a reasonable doubt and no other conclusion was possible.''

41. Thus, it is beyond the pale of doubt that the scope of interference by an appellate court for reversing the judgment of acquittal recorded by the trial court in favour of the accused has to be exercised within the four corners of the following principles:

41.1. That the judgment of acquittal suffers from patent

perversity;

41.2. That the same is based on a misreading/omission to consider material evidence on record; and

41.3. That no two reasonable views are possible and only the view consistent with the guilt of the accused is possible from the evidence available on record.''

8. It is a settled principle of law that in an appeal against acquittal, the Appellate Court is circumscribed by limitation that no interference has to be made in the order of acquittal unless after appreciation of the evidence produced before the learned Trial Court, it appears that there are some manifest illegality or perversity which could not have been possibly arrived at by the Court. It is also a settled principle that there is no embargo on the Appellate Court to review the evidence but, generally the order of acquittal shall not be interfered with as the presumption of innocence of the accused is further strengthened by the order of acquittal. The golden thread which runs through the web of administration of justice in criminal cases is that if two views are possible on the evidence adduced in the case of the prosecution i.e. (i) guilt of the accused and (ii) his innocence, the view, which is in favour of the accused, should be adopted, and if the trial Court has taken the view in favour of the accused, the Appellate Court should not

disturb the findings of the acquittal. The Appellate Court can interfere with the judgment and order of acquittal only when there are compelling and substantial reasons and the order is clearly unreasonable and where the Appellate Court comes to conclusion that based on the evidence, the conviction is a must.

9. With regard to the cases under the PC Act, the Apex Court, in the case of **Neeraj Dutta Vs. State (Govt. of N.C.T. of Delhi)** reported in **2022 0 Supreme (SC) 1248**, has observed in Para No. 68 as under:

> "**68.** What emerges from the aforesaid discussion is summarised as under: -
>
> (a) Proof of demand and acceptance of illegal gratification by a public servant as a fact in issue by the prosecution is a sine qua non in order to establish the guilt of the accused public servant under Sections 7 and 13 (1)(d) (I) and(ii) of the Act.
>
> (b) In order to bring home the guilt of the accused, the prosecution has to first prove the demand of illegal gratification and the subsequent acceptance as a matter of fact. This fact in issue can be proved either by direct evidence which can be in the nature of oral evidence or documentary evidence.
>
> (c) Further, the fact in issue, namely, the proof of demand and acceptance of illegal gratification can also be proved by circumstantial evidence in the absence of direct oral and documentary evidence.
>
> (d) In order to prove the fact in issue, namely, the demand and acceptance of illegal gratification by the public servant, the following aspects have to be borne in mind:

(i) if there is an offer to pay by the bribe giver without there being any demand from the public servant and the latter simply accepts the offer and receives the illegal gratification, it is a case of acceptance as per Section 7 of the Act. In such a case, there need not be a prior demand by the public servant.

(ii) On the other hand, if the public servant makes a demand and the bribe giver accepts the demand and tenders the demanded gratification which in turn is received by the public servant, it is a case of obtainment. In the case of obtainment, the prior demand for illegal gratification emanates from the public servant. This is an offence under Section 13 (1)(d)(i) and (ii) of the Act.

(iii) In both cases of (i) and (ii) above, the offer by the bribe giver and the demand by the public servant respectively have to be proved by the prosecution as a fact in issue. In other words, mere acceptance or receipt of an illegal gratification without anything more would not make it an offence under Section 7 or Section 13 (1) (d), (i) and (ii) respectively of the Act. Therefore, under Section 7 of the Act, in order to bring home the offence, there must be an offer which emanates from the bribe giver which is accepted by the public servant which would make it an offence. Similarly, a prior demand by the public servant when accepted by the bribe giver and inturn there is a payment made which is received by the public servant, would be an offence of obtainment under Section 13 (1)(d) and (i) and (ii) of the Act.

(e) The presumption of fact with regard to the demand and acceptance or obtainment of an illegal gratification may be made by a Court of law by way of an inference only when the foundational facts have been proved by relevant oral and documentary evidence and not in the absence thereof. On the basis of the material on record, the Court has the discretion to raise a presumption of fact while considering whether the fact of demand has been proved by the prosecution or not. Of course, a presumption of fact is subject to rebuttal by the accused and in the absence of rebuttal presumption stands.

(f) In the event the complainant turns 'hostile', or has died or is unavailable to let in his evidence during trial, demand of illegal gratification can be proved by letting in the evidence of any other witness who can again let in evidence, either orally or by documentary evidence or the prosecution can prove the case by circumstantial evidence. The trial does not abate nor does it result in an order of acquittal of the accused public servant.

(g) In so far as Section 7 of the Act is concerned, on the proof of the facts in issue, Section 20 mandates the Court to raise a presumption that the illegal gratification was for the purpose of a motive or reward as mentioned in the said Section. The said presumption has to be raised by the Court as a legal presumption or a presumption in law. Of course, the said presumption is also subject to rebuttal. Section 20 does not apply to Section 13 (1) (d) (i) and (ii) of the Act.

(h) We clarify that the presumption in law under Section 20 of the Act is distinct from presumption of fact referred to above in point (e) as the former is a mandatory presumption while the latter is discretionary in nature."

10. In light of the settled principles of law, the evidence on record is re-appreciated and the prosecution has examined PW-1 Bharatkumar Rameshchandra Solanki at Exh.48. The witness is the complainant, who has stated that he had passed an order for the accused to take over the charge of Devkaran na Muvada beat of one R.B.Mansuri, who had gone for training to Kakrapad. The accused did not take over the charge as per the order, but was patrolling the area for forest protection. In December, 2005, the complainant came to know that the accused had caught four persons of Pathavat village including

Rameshji Bhulaji, Mangaji and Fataji Javaraji and the accused did not have any authority to collect any amount of fine, but had collected an amount of Rs.2500/- from them through a mediator Udaji Ataji Solanki. The accused had three labourers Prahladji Ajaji, Babuji Jivaji and Bhikhaji Nathaji, and out of Rs.2500/ gave Prahladji Rs.400/-, Babuji Rs.400/- and Bhikhaji Rs.100/- and kept the rest of the amount with him. The complainant came to know about this through the labourers and he had initiated a departmental inquiry against him. The amount taken was the government money without having any authority to collect the amount, and hence, the complainant sent a letter to the Superior Officer Deputy Forest Officer, Gandhinagar Range, Gandhinagar, which is produced at Exh.49 and filed the complaint, which is produced at Exh.50. In the cross-examination by the learned advocate for the accused the witness has stated that R.B.Mansuri was the beat guard of Devkaran Muwada beat and as R.B.Mansuri had gone for training the charge was handed over to Barot Vanpal. None of them had filed any complaint before him and Prahladji Ajaji, Babuji Ajaji and Bhikhaji Nathaji were labourers of Devkaran na

Muwada beat. He did not file any complaint against any of them and prior to 01.03.2006, he was not knowing who was Udaji Ataji. He does not know the amount of wood that was alleged to have been stolen and the complaint was filed only on the basis of information that he had received from other labourers.

10.1. PW-2 Jesangbhai Ranaji Solanki examined at Exh.55 is the panch witness of the panchnama produced at Exh.56. The document is the panchnama of the place where the accused sat with others and agreed to accept the amount of Rs.2500/- for the case.

10.2. PW-3 Jayantibhai Fulaji Chauhan examined at Exh.60 is the panch witness of the panchnama produced at Exh.61, by which, the Investigating Officer had seized certain documents, but the witness has not supported the case of the prosecution and has been declared hostile.

10.3. PW-4 Govindbhai Vashrambhai Prabari is the panch witness of the arrest panchnama produced at Exh.65. The witness has not supported the case of the prosecution.

10.4. PW-5 Babubhai Jivaji Solanki examined at Exh.70 has

stated that he was working as a labourer in the Devkaran na Muvada beat and prior to 07.04.2006 he, Prahladbhai and the accused were doing patrolling in the outskirts of village Pathavat and they found wood of the "Israel Bawal (Babool) trees that was hidden. They called Rameshbhai Bhulaji, Mangaji Fulaji, Fataji Javaraji and Amaraji Chanduji and they admitted to the offence and were ready to pay the amount of fine and Utaji Ataji decided the amount of Rs.2500/-. On that day, the accused was given Rs.500/- and the remaining amount of Rs.2000/- was promised to be paid after 10 days. Vakhatsinh and Prahladji returned and he was sent to Udaji Ataji to get the money and Udaji Ataji gave Rs.2000/- to Prahladji. Out of that, the accused gave him Rs.400/- Prahladji Rs.400/- and Bhikhaji Rs.100/-. In the cross-examination by the learned advocate for the accused, the witness has stated that R.B.Mansuri was the Forest Officer of Devkaran na Muvada beat and at the time of the offence, the accused was working in the Vaghjipur beat which is a separate beat from the Devkaran na Muvada beat. R.B. Mansuri was on training from 01.10.2005 to 31.01.2006, and during that time, Vanpal Barot used to come for checking in Devkaran na Muvada

beat. They had seen wood of the Israel Bawal (Babool) trees at one place and they did not weigh the wood and no wood was found from Udaji Ataji.

10.5. PW-6, Bhikhabhai Nathabhai Solanki examined at Exh.74 and PW-7 Prahladji Ajaji Parmar examined at Exh.77 are the witnesses, who were along with PW-5 Babubhai Jivaji Solanki and they have both narrated the same facts as stated by PW-5 Babubhai Jivaji Solanki. Both of them have stated that they called Rameshbhai, Mangabhai, Amrabhai and all they were fined Rs.2500/- and Udaji Ataji decided the amount of Rs.2500/-. They both were given a share of Rs.100/- and 400/- respectively from the amount. In the cross-examination, both the witnesses have admitted that they do not know what had happened to the wood, and in their statement, they have not stated that the amount Rs.2500/- was decided.

10.6. PW-8 Udaji Ataji Solanki examined at Exh.81 is the witness, who had decided the amount of Rs.2500/- as per the case of the prosecution and had given the amount to Prahladji Ajaji to be given to the accused. The witness has not supported

the case of the prosecution and has completely resigned from his statement and has been declared hostile and cross-examined at length by the APP but nothing to support the case of the prosecution has come on record.

10.7. PW-9 Rameshbhai Bhulabhai Solanki examined at Exh.82 was one of the persons along with Udaji Ataji Solanki and he has stated that Udaji had told him that he had to pay a fine of Rs.625/- and he gave the amount to Udaji, who had given the amount to the watchman Babuji Jivaji. The witness has not supported the case of the prosecution and has been declared hostile and cross-examined at length by the learned APP but nothing to support the case of the prosecution has come on record.

10.8. PW-10 Mangaji Fulaji Solanki examined at Exh.84 has also narrated the same things as stated by PW-9 Rameshbhai Bhulabhai Solanki and has stated that they were all together told to pay a fine of Rs.2500/- and he had given his share of Rs.625/- and Udaji Ataji had brought Babuji Jivaji, Vakhatsinh and one another person to his house. They had

collected the amount and given to Udaji and he had demanded for a receipt but he was not given one. In the cross-examination, the witness has admitted that he had given the amount to Udaji at his house, but immediately he has stated that Udaji had come to his house to take the amount. Udaji had taken the money and gone to his house and had given it to Babuji Jivaji and they had demanded for the receipt from Babuji Jivaji, who had stated that he would give it later on.

10.9. PW-11 Fataji Javaraji Solanki examined at Exh.85 was also one of the persons, who were called as the wood of Israel Bawal (babool) trees were found and he too has stated that he had to pay an amount of Rs.625/- and they had all collected the amount and given it to Udaji, who told them that the amount was to be given to the accused. They had demanded for the receipt but no receipt was given to them. In the cross-examination by the learned advocate for the accused, the witness has stated that Udaji told him that the amount was to be given to the accused and when he gave the amount to Udaji, he had told Udaji to tell the accused to give him a receipt.

10.10. PW-12 Mavjibhai Jethabai Shitaliya examined at Exh.87 was the Round Forester and he has stated that Range Forest Officer B.R.Solanki had asked him to accompany him to record the statements of Babuji Jivaji, Bhikhaji Nathaji, Prahladji Ajaji, and in his presence, they all had stated that they had given the amount to Udaji, who had given it to the accused. The witness has not supported the case and has been declared hostile. In the cross-examination by the learned advocate for the accused, the witness has stated that at the time of the offence, the accused was working as a beat guard in the Vaghjipura beat. The witness has also stated that the accused had told that there is a huge loss in the Devkaran na Muwada beat and if he would take the charge of the beat, he would be put in trouble as he would be held responsible and if the loss of Devkaran na Muwada beat was investigated into, it would be the responsibility of Mansuri and also the complainant Solanki Sir. He did not see the wood and does not know where the wood was lying. In their statements that were recorded in his presence, there was no evidence that the four persons had given the amount directly to the accused.

10.11. PW-13 Rashmin Bachubhai Mansuri examined at Exh.88 was a Forest Officer in the Devkaran na Muwada beat of Atarsumba and was sent for training from 01.10.2005 to 29.01.2006. His charge was given to Forester R.I. Barot and the Range Forest Officer B.R.Solanki had passed an order for the accused to take the charge but he refused to take the charge and hence the charge was given to I.R.Barot, the Round Forest of Vaghjipur. When he returned from training, the departmental inquiry against the accused was going on and the accused had taken an amount of Rs.2500/- from some businessmen and he came to know about the same, but they had distributed the amount amongst themselves. In the cross-examination, the witness has admitted that he has no personal knowledge about any incident narrated by him in the examination.

10.12. PW-14 Chandubhai Becharbhai Maurya examined at Exh.89 has stated that he was informed by the complainant Solanki Saheb that the accused had taken an amount of Rs.2500/-. In the cross-examination, the witness has admitted that he has no personal knowledge and the information was given to him by the complainant.

10.13. PW-15 Vijaysinh Mohisinh Jhala examined at Exh.91 has stated that he was working as a beat guard in Lalna Mandwa Beat and he does not know anything about the incident.

10.14. PW-16 Mehmoodkhan Gulabnabi examined at Exh.92 is the PSO, who has registered the offence at Katlal Police Station, 1CR No. 124 of 2026 and has produced an extract of the Station Diary at Entry No.13 at Exh.93.

10.15. PW-17 Ashokbhai Chandulal Parmar examined at Exh.95 and PW-18 Harishbhai Narottambhai Parmar examined at Exh.18 are the panch witnesses of the panchdama produced at Exh.96, by which, the Investigating Officer had seized certain documents, but both the panch witnesses have not supported the case of the prosecution and have been declared hostile.

10.16. PW-19 Ramsingh Madhavsingh, Buckle No.1344, examined at Exh.99, is the Investigating Officer, who had initially investigated the offence and has narrated the procedure undertaken by him. The witness has stated that during investigation, the accused had filed an application for anticipatory bail and during the hearing it was found that the

offence under the P.C.Act was made out, and hence, he had sent a report to the Police Inspector and he had handed over the investigation to PSI Samvatdaan Sukhdaan Gadhavi.

10.17. PW-20 Dushyantbhai Tarunchandra Vasavada, examined at Exh.100, is the Officer who was working as the Deputy Forest Officer, and he has given the order of sanction for prosecution, which is produced at Exh.104.

10.18. PW-21 Samvatdan Sukhdan Gadhvi, examined at Exh.107, is the Investigating Officer, who has taken over the investigation from Head Constable H.C.Ramsingh, and thereafter, handed over the further investigation to Circle Police Inspector Rajabhai Govabhai Desai.

10.19. PW-22 Rajabhai Govabhai Desai, examined at Exh.108, is the Investigating Officer, who has narrated the entire procedure that was undertaken by him during investigation. In the cross examination, the witness has stated that in the documents, there were certain affidavits and he had recorded the statement of the complainant, but he had not recorded the clarification of the persons, who had made the

affidavits. During investigation, it was found that four persons had stolen wood and an amount of Rs 2,500/- was demanded, but he has not seen the place where the wood was kept, and at the time of preparation of the panchnama of the place of offence, no wood was found and he did not find it necessary to draw any panchnama of the same. He did not verify the place of offence and does not know what denominations were the currency notes of Rs2,500/-. During investigation, no evidence was found that the entire amount of Rs 2,500/- was given and he did not arraign the others as accused in the case.

11. Upon a comprehensive and critical appreciation of the entire evidence on record, it becomes manifest that the prosecution has failed to establish even the basic substratum of its case. According to the prosecution, the accused allegedly demanded a sum of Rs.2500/- from four individuals, who were purportedly involved in stealing wood. However, the prosecution has not produced a scintilla of independent, ocular or documentary evidence to substantiate that any such incident of theft ever occurred. The complainant and other prosecution witnesses have unequivocally admitted that one Rashmin

Bachubhai Mansuri, who was the Forest Officer of Devkaran na Muvada Beat, had proceeded for training from 10.01.2005 to 29.01.2006. It has further come on record that though the charge of the Devkaran na Muvada Beat was sought to be handed over to the accused, the accused expressly refused to accept the same and the charge was thereafter validly entrusted to I.R.Barot, Round Forest Officer, Vaghjipur. The evidence of PW-9 Rameshbhai Bhulabhai Solanki, PW-10 Mangaji Fulaji Solanki and PW-11 FAataji Javraji Solanki clearly reveals that their respective alleged shares of Rs.625/- each were handed over to Udaji Aataji. PW-8 Udaji Aataji examined at Exh.81 has categorically deposed that he in turn handed over the said amount to Babuji Jivaji and Prahladji Ajaji. There is not even an iota of evidence, direct or circumstantial, to connect the accused with the receipt or acceptance of any part of the amount. On the contrary, the complainant himself admits that the accused had not taken the charge of the Devkaran na Muvada Beat and the same was with I.R.Barot during the relevant period. Moreover, the prosecution has failed to produce any panchnama or Site Inspection Report to show that any trees were cut, removed or

stored at the alleged location. It also emerges from the record that though the FIR was initially registered for the offence under Section 409 of the I.P.C., the said provision was subsequently deleted for reasons not explained by the Investigating Officer and Sections 13(1)(c), 13(1)(d) read with Section 13(2) of the P.C.Act were inserted without any foundational material. Most significantly, there is absolutely no evidence to prove the essential ingredients of ''demand'' and ''acceptance'' of illegal gratification. No amount has been recovered from the accused and the Investigating Officer has candidly admitted that he does not even know the denominations of the alleged bribe amount. In light of the settled legal position that proof of demand is sine qua non for establishing an offence under the P.C.Act as held in Neeraj Dutta (Supra) the prosecution has utterly failed to discharge its burden. The prosecution version thus falls far short of the standard of proof required in criminal jurisprudence and the accused is entitled to an acquittal.

12. The learned Trial Court has discussed all the aspects of the evidence of the prosecution and has concluded that there is no reliable evidence to support the conviction of the accused

and the prosecution has miserably failed to establish the charge against the accused. It is settled law that unless the evidence is clear, cogent and reliable, no conviction can be recorded and on re-appreciating the entire evidence, the evidence is contradictory and far from convincing. As observed by the learned Apex Court in the case of **P. Somaraju (Supra) and Surendra Singh (Supra)**, the scope of the Appellate Court to interfere in the finding of acquittal is limited and unless and until some perversity and illegality is found in the judgment and order of the learned Trial Court, the Appellate Court will interfere only to ensure that no miscarriage of justice has occurred. In the present case, there is no iota of evidence that any demand for illegal gratification was made by the accused or that the accused had accepted any amount of illegal gratification and the reasons assigned by the learned Trial Court are just and proper. This Court has perused the findings of the learned Trial Court and the learned Trial Court has appreciated all the evidence and has, in a well reasoned judgment and the order, acquitted the accused and there is no perversity or illegality in the findings recorded by the learned Trial Court. This Court is in

complete agreement with the findings, reasons, ultimate conclusion and the resultant order of acquittal by the learned Trial Court.

13. This Court finds no reason to interfere with the impugned judgment and order and the present appeal is devoid of merits and resultantly, the same is dismissed.

14. The impugned judgment and order passed by the learned Special Judge and 5th Additional Sessions Judge, Nadiad in Special ACB Case No.6 of 2007 on 25.01.2012 is hereby confirmed. Bail bonds stand cancelled.

15. Record and proceedings be sent back to the concerned Trial Court forthwith.

Sd/-
(S. V. PINTO,J)

F.S. KAZI