IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. Appeal No. 5 of 2014
Reserved on: 23.04.2026
Date of Decision: 05.06.2026.

State of H.P. ...Appellant

Versus

Kailash Chand ...Respondent

Coram

Hon'ble Mr Justice Rakesh Kainthla, Judge.

Whether approved for reporting?[1] *Yes*

For the Appellant	:	Mr Lokender Kutlehria, Advocate.
For the respondent	:	Mr Kashmir Singh Thakur, Senior Advocate with Mr Harjeet Singh, Advocate.

Rakesh Kainthla, Judge

The present appeal is directed against the judgment dated 19.09.2013, passed by the learned Special Judge, Sirmour, District at Nahan, H.P. (learned Trial Court) vide which the respondent (accused before the learned Trial Court) was acquitted of the charged offences (*The parties shall hereinafter be referred to in the same manner as they were arrayed before the learned trial Court for convenience*).

[1] Whether reporters of Local Papers may be allowed to see the judgment? Yes.

2. Briefly stated, the facts giving rise to the present appeal are that the police presented a challan before the learned Trial Court against the accused for the commission of offences punishable under Sections 7 and 13(2) read with Section 13(1) (d) of the Prevention of Corruption Act, 1988 (PC Act). It was asserted that Jivnee, mother of the informant Nazakat Ali (PW-1), had inherited 3 Bighas and 14 Biswas of land after her mother's death in Village Bogrian, Tehsil Nahan, H.P. A mutation was to be attested in her favour. Accused (Kailash Chand) was posted as Patwari in Patwar Circle, Nahan, H.P. The informant visited the office of the accused many times for entering the mutation. The accused demanded ₹3000/- as a bribe for entering the mutation. The accused called the informant to Patwarkhana on 07.01.2012 with ₹3000/-. The informant narrated the matter to the police by means of an application (Ext.PW-1/A). FIR (Ext.PW-7/A) was registered by Deputy Superintendent of Police (Dy.SP) Babita Rana (PW-10), who joined Avtar Singh (PW-5) and Dalip Kumar (PW-4) with the investigation. She constituted a trap party consisting of Inspector Kulvinder Singh (PW-13). Inspector Madan Lal, Inspector Vidya Chand, Sub –Inspector Joginder, HC Sudhir

Chauhan, Constable Dev Raj (PW-8), informant Nazakat Ali (PW-1), Mehmood Khan (PW-2), Avtar Singh (PW-5), and Dalip Kumar (PW-4). Dy. S.P Babita Rana (PW-10) read over the contents of the application (Ext.PW-1/A) to the members of the trap party. Nazakat Ali produced four currency notes of ₹500/- and ten currency notes of ₹100/-, which were counted by Mehmood Khan (PW-2). Dy. SP Babita Ran prepared the solution of sodium carbonate powder in a clean glass of water, and the water remained colourless. Mehmood Khan (PW-2) was asked to dip his fingers in the solution, and the solution did not change colour. Serial numbers of currency notes were noted in a pre-trap memo. Babita Rana (PW-10) dusted the currency notes with Phenolphthalein powder and handed them over to Mehmood Khan (PW-2), who counted them. Mehmood Khan (PW-2) was asked to put the currency notes in the left pocket of Nazakat Ali's jacket. Mehmood Khan (PW-2) was asked to dip his fingers in the solution of sodium carbonate, and the colour changed to pink. The witnesses were told about the use of Phenolphthalein powder and sodium carbonate. Mehmood Khan (PW-2) threw the pink solution in the bathroom. He washed his hands with soap. All the members of the trap party also washed their hands.

Babita Rana was directed to deliver the currency notes to Patwari Kailash Chand on his demand and not to shake hands with anyone. Mehmood was deputed as a shadow witness and instructed to hear the conversation between the accused and the informant Nazakat Ali (PW-1) and give the signal to the mobile number of Inspector Kulwinder Singh (PW-13) bearing No. xxxxxxx504 by a missed call. Mehmood Khan (PW-2) was directed to signal the trap party by putting his hand on his head after coming out of the office of the Patwari if it was not possible to make a missed call. The remaining Phenolphthalein powder was kept in the Police Station in safe custody. Pre-trap memo (Ext.PW-1/B) was prepared, and the signatures of the witnesses were obtained. The members of the trap party took their position near Patwarkhana. The informant and the shadow witness went to the office of Patwari, who demanded the bribe money from the informant. The informant paid the money to the accused, and the shadow witness signalled the trap party. The trap party went towards Patwarkhana, and the accused was found present outside the door. Inspector Kulwinder Singh caught hold of the accused by his right wrist, and SI Joginder caught hold of the accused by his left wrist. The accused was taken inside the office, and the money was found lying in a file on the office table. The accused could not give any satisfactory explanation regarding the currency notes. The hands of the accused were washed with plain water, and the colour did not change. Sodium carbonate was added to the hand wash, and the hand wash turned pink. The pink solution was put into a nip, and the nip was sealed with seal impression 'X'. Currency notes lying on the file were taken into possession. Their serial numbers were compared with the serial numbers mentioned in the pre-trap memo, and they matched each other. Currency notes were put into an envelope, which was sealed with seal 'X". The envelop and the nips were seized vide memo (Ext.PW-1/C). Sample seal (Ext.PW-13/A) was taken on a separate piece of cloth, and the seal was handed over to witness Dalip Singh after use. The search of the house of the accused was conducted, but no incriminating substance was found in it. Memo (Ext.PW-4/A) was prepared. Inspector Kulwinder Singh investigated the matter. He prepared the spot map (Ext.PW-13/B). The envelop and the nip were deposited by Kulwinder Singh (PW-13) with MHC, who deposited them in Malkhana. Informant Nazakat Ali (PW-1) produced a copy of the agreement (Ext.PW-1/D) on 12.01.2012, which was seized vide memo (Ex.PW-1/A). Nazakat Ali (PW-1) presented a memory card (Ext.P-7), which was put into a parcel and was sealed with the seal of DYSP ACZ, Nahan and taken into possession vide memo (Ext.PW-1/F). The seal was handed over to HHC Dalip Singh after its use. The case property was deposited with Constable Rajan (PW-6), who made an entry in the register of Malkhana at Sl. No. 48 (Ext.PW-6/A) and sent the case property to FSL Junga through Constable Angrez Singh (PW-9). Kamal Kishore Saini produced the appointment and posting order of the accused (Ext.PW-3/A and Ext.PW-3/B), which were taken into possession vide memo (Ext.PW-3/C). Copy of the mutation No. 218 (Ext.PW-13/J) was received from the revenue department. The result of the analysis (Ext.PW-10/A) was issued after the analysis, mentioning that the traces of Phenolphthalein and Sodium Carbonate were detected in the hand wash. The result (Ext.PW-10/B) was issued stating that the conversation of bribery was found present in the memory card, which was preserved. The statements of witnesses were recorded, and after the completion of the investigation, the challan was prepared and presented before the learned Trial Court.

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3. Learned Trial Court found sufficient reasons to summon the accused. When the accused appeared, he was charged with the commission of offences punishable under Section 7 & 13 (i) (d) and 13 (2) of the PC Act, to which the accused pleaded not guilty and claimed to be tried.

4. The prosecution examined 13 witnesses to prove its case. Nazakat Ali (PW-1) is the informant. Mehmood Khan (PW-2) is the shadow witness. Kamal Kishore Saini produced the record regarding the appointment and posting of the accused. Dalip Kumar (PW-4), Avtar Singh (PW-5), SI Joginder Singh (PW-7) and Constable Dev Raj (PW-8) were members of the trap party. Constable Rajan Thakur (PW-6) was working as MHC with whom part of the case property was deposited. Constable Angrez Singh (PW-9) carried the case property to FSL Junga. Babita Rana was posted as Dy. S.P., who conducted pre-trap proceedings. Constable Mohamad Khalid was posted as MHC with whom the case property was deposited. Dr Jagjit Singh (PW-12) was posted as a Scientific Officer, who analysed the case property in FSL Junga. Inspector Kulvinder Singh (PW-13) headed the trap party.

5. The accused, in his statement recorded under section 313 of the Code of Criminal Procedure (Cr.P.C.), denied the prosecution's case in its entirety. He stated that he had come out of his residence to throw away the waste in the dustbin after dressing the wounds of his son. The Vigilance officials caught him by surprise. He was asked about the currency notes lying on the table, and he told the police that he was not aware who had placed the currency notes on the table. The police official had asked him to pick up those currency notes, and his hands were washed thereafter. He had put in 29 years of service as a Patwari. He had received the papers from the Tehsil office regarding the private partition of the land. He had entered the mutation on 19.12.2011, and the mutation was attested on 23.12.2011. He never demanded any money for entering the mutation from Nazakat Ali. Some revenue officials wanted to get posted in Patwarkhana at Nahan and joined with the complainant and others to falsely implicate him. He did not produce any evidence in his defence.

6. Learned Trial Court held that the informant had not supported the prosecution's version regarding the demand for a bribe. The shadow witness stated that the informant had put the money on the table in the absence of the accused. Thus, the

prosecution's version that the money was kept on the table at the instance of the accused was not proved. Mutation No. 218 (Ext.PW-13/J) was entered by the accused on 19.12.2011, which was compared by the Kanungo on 23.12.2011. The learned Assistant Collector sanctioned the mutation on the same day. The informant’s mother had also agreed to sell the land, which was registered in her name. The accused had no justification to demand a bribe when the mutation had already been sanctioned in his name. The prosecution's version was not proved beyond a reasonable doubt. The voices on the memory card were also not compared to show that these voices were of the accused and the informant. Hence, the learned trial Court acquitted the accused of the charges framed.

7. Being aggrieved by the judgment passed by the learned Trial Court, the State has filed the present appeal asserting that the learned trial Court discarded the statements of prosecution witnesses without any cogent reason. The informant had specifically deposed about the demand of ₹3000/- made by the accused. The accused failed to explain the bribe money lying on his table. His hand wash also turned pink, clearly suggesting that he had dealt with the money. Learned

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Trial Court failed to appreciate all these aspects. Hence, it was prayed that the present appeal be allowed and the judgment passed by the learned Trial Court be set aside.

8. I have heard Mr Lokender Kutlehria, learned Additional Advocate General, for the appellant/State and Mr Kashmir Singh Thakur, learned Senior Advocate, with Mr Harjeet Singh, learned counsel for the respondent.

9. Mr Lokender Kutlehria, Additional Advocate General, for the appellant/State, submitted that the prosecution's version was proved beyond a reasonable doubt by the statements of the informant and the shadow witness. Learned Trial Court erred in rejecting the statements of prosecution witnesses without any justification. Learned trial Court had taken a view that could not have been taken by any person. Hence, he prayed that the present appeal be allowed and the judgment passed by the learned Trial Court be set aside.

10. Mr Kashmir Singh Thakur, learned Senior Advocate, assisted by Mr Harjeet Singh, learned counsel for the respondent/accused, submitted that the learned Trial Court had taken a reasonable view of the matter. It was admitted that the

mutation had been sanctioned much before the alleged demand for a bribe. The accused had no occasion to demand the bribe, and the informant had no justification to bribe the accused when the mutation had already been sanctioned. This fact was known to the family members of the informant, as the informant's mother had agreed to sell the land. This Court should not interfere with the reasonable view of the learned Trial Court while deciding an appeal against acquittal. Hence, he prayed that the present appeal be dismissed.

11. I have given considerable thought to the submissions made at the bar and have gone through the records carefully.

12. The present appeal has been filed against a judgment of acquittal. It was laid down by the Hon'ble Supreme Court in ***Surendra Singh v. State of Uttarakhand, (2025) 5 SCC 433: 2025 SCC OnLine SC 176*** that the Court can interfere with a judgment of acquittal if it is patently perverse, is based on misreading of evidence, omission to consider the material evidence and no reasonable person could have recorded the acquittal based on the evidence led before the learned Trial Court. It was observed on page 438:

> "24. It could thus be seen that it is a settled legal position that the interference with the finding of acquittal recorded by the learned trial Judge would be warranted by the High Court only if the judgment of acquittal suffers from patent perversity; that the same is based on a misreading/omission to consider material evidence on record; and 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.

13. This position was reiterated in ***State of M.P. v. Ramveer Singh, 2025 SCC OnLine SC 1743,*** wherein it was observed:

> 21. We may note that the present appeal is one against acquittal. Law is well-settled by a plethora of judgments of this Court that, in an appeal against acquittal, unless the finding of acquittal is perverse on the face of the record and the only possible view based on the evidence is consistent with the guilt of the accused, only in such an event, should the appellate Court interfere with a judgment of acquittal. Where two views are possible, i.e., one consistent with the acquittal and the other holding the accused guilty, the appellate Court should refuse to interfere with the judgment of acquittal. Reference in this regard may be made to the judgments of this Court in the cases of ***Babu Sahebagouda Rudragoudar*****v. *State of Karnataka (2024) 8 SCC 149***; ***H.D. Sundara* v. *State of Karnataka (2023) 9 SCC 581*** and ***Rajesh Prasad* v. *State of Bihar (2022) 3 SCC 471***.

14. A similar view was taken in ***Tulasareddi v. State of Karnataka, 2026 SCC OnLine SC 89,*** wherein it was observed:

> "**29.** From the aforesaid decisions rendered by this Court, it can be said that if two reasonable conclusions are possible on the basis of the evidence on record, the

Appellate Court should not disturb the findings of acquittal recorded by the Trial Court. Further, 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. The following principles have to be kept in mind by the Appellate Court while dealing with the appeals against an order of acquittal:

(a) whether the judgment of acquittal suffers from patent perversity;

(b) whether the judgment is based on misreading/omission to consider the material evidence on record;

(c) an order of acquittal is to be interfered with only when there are "compelling and substantial reasons" for doing so. If the order is "clearly unreasonable", it is a compelling reason for interference.'

(d) 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;

(e) 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

(f) 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."

15. The present appeal has to be decided as per the parameters laid down by the Hon'ble Supreme Court.

16. Nazakat Ali (PW-1) stated that he, Mehmood Khan (PW-2), Dalip Kumar and Avtar Singh went towards the Patwarkhana. He alone went inside the Patwarkhana. Dalip, Avtar Singh and Mehmood Khan remained outside the Patwarkhana near the gate. The Patwari was not found sitting on the official chair. The residence of the Patwari was adjoining to his office. He peeped through the door, and Patwari was found present inside the room. He put the currency notes on the official file lying on the table of the Patwari. He came out of the office of Patwari and told Mehmood Khan, Dalip Kumar and Avtar Singh that he had put the currency notes on the official table of Patwari. Vigilance officials were also informed. They came to the office of Patwari, and Patwari was found near the door outside his office.

17. Mehmood Khan (PW-2) made a similar statement. He stated that he and the informant went to Patwarkhana in a private vehicle. The members of the police party followed them in another vehicle. Nazakat Ali (PW-1) entered the office of Patwari and came out after some time. He revealed that Patwari was dressing his son, and that Nazakat Ali had left the money in

Patwari's office. He returned with the police officials, and the Patwari was found near the gate.

18. Dalip Kumar (PW-4) stated that informant Nazakat Ali entered the office of Patwari, and he remained outside. Nazakat Ali came out of the office and disclosed that Patwari was not present in his seat, and he had kept the money on the table. They returned with the police officials, and Patwari was found outside the gate.

19. These witnesses were declared hostile and were cross-examined by the learned Pubic Prosecutor; however, they denied that Patwari was present in the office and that the informant had handed over the currency notes to him. Therefore, the learned Trial Court had rightly held that the prosecution had failed to establish the demand and acceptance by the accused. It was laid down by the Hon'ble Supreme Court in ***State through the Central Bureau of Investigation Vs. Dr Anup Kumar Srivastava 2017(15) SCC 560*** that demand and acceptance are essential to prove offences under Section 7 and 13 (1)(d) of the PC Act. It was observed: -

> "7. The essential ingredients of Section 7 are:

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(i) that the person accepting the gratification should be a public servant;

(ii) that he should accept the gratification for himself and the gratification should be 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 function, favour or disfavour to any person.

8. Insofar as Section 13 (1) (d) of the Act is concerned, its essential ingredients are:

(i) that he should have been a public servant;

(ii) that he should have used corrupt or illegal means or otherwise abused his position as such a public servant and

(iii) that he should have obtained a valuable thing or pecuniary advantage for himself or for any other person.

9. In the case of ***C.K. Damodaran Nair v. Government of India 1997 (9) SCC 477***, this Court had an occasion to consider the word "obtained" used in Section 5(1)(d) of the Prevention of Corruption Act, 1947 (now Section 13(1)(d) of the Act, 1988), and it was held:

"12. The position will, however, be different so far as an offence under Section 5(1) (d) read with Section 5(2) of the Act is concerned. For such an offence prosecution has to prove that the accused "obtained" the valuable thing or pecuniary advantage by corrupt or illegal means or by otherwise abusing his position as a public servant and that too without the aid of the statutory presumption under Section 4(1) of the Act as it is available only in respect of offences under Section 5(1)(a) and (b) -- and not under Section 5(1)(c), (d) or (e) of the Act. "Obtain" means to secure or gain (something) as the result of request or effort (Shorter Oxford Dictionary). In case of obtainment, the initiative vests in the person who receives, and in that context, a demand or request from him will be a primary requisite for an offence under Section 5(1) (d) of the Act, unlike an offence under Section

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161 IPC, which, as noticed above, can be established by proof of either "acceptance" or "obtainment."

10. The legal position is no more res integra that the primary requisite of an offence under Section 13(1)(d) of the Act is proof of a demand or request of a valuable thing or pecuniary advantage from the public servant. *In other words, in the absence of proof of demand or request from the public servant for a valuable thing or pecuniary advantage, the offence under Section 13(1) (d) cannot be held to be established.*" (Emphasis supplied).

20. A similar view was taken in ***Aman Bhatia v. State (NCT of Delhi), 2025 SCC OnLine SC 1013,*** wherein it was observed:

52. It is well-settled that mere recovery of tainted money, by itself, is insufficient to establish the charges against an accused under the PC Act. To sustain a conviction under Sections 7 and 13(1)(d) of the Act, respectively, it must be proved beyond a reasonable doubt that the public servant voluntarily accepted the money, knowing it to be a bribe. The courts have consistently reiterated that the demand for a bribe is *sine qua non* for establishing an offence under Section 7 of the PC Act.

53. A five-Judge Bench of this Court in ***Neeraj Dutta v. State (Government of NCT of Delhi), (2023) 4 SCC 731***, categorically held that an offer by bribe-giver and the demand by the public servant have to be proved by the prosecution as a fact in issue for conviction under Sections 7 and 13(1)(d)(i) and (ii) of the PC Act. Mere acceptance of illegal gratification without proof of offer by the bribe-giver and demand by the public servant would not make an offence under Sections 7 and 13(1)(d)(i) and (ii) of the PC Act. The relevant observations are reproduced herein below:

"**88.4.** (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 Sections 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 Sections 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 in turn there is a payment made which is received by the public servant, would be an offence of obtainment under Sections 13(1)(d)(i) and (ii) of the Act." *(Emphasis supplied)*

54. It was further explained by this Court in ***P. Satyanarayana Murthy v. State of A.P., (2015) 10 SCC 152***, as follows:

> *"23. The proof of demand of illegal gratification, thus, is the gravamen of the offence under Sections 7 and 13(1)(d)(i) and (ii) of the Act and in the absence thereof, unmistakably the charge therefor would fail. Mere acceptance of any amount allegedly by way of illegal gratification or recovery thereof, dehors the proof of demand, ipso facto, would thus not be sufficient to bring home the charge under these two sections of the Act. As a corollary, failure of the prosecution to prove the demand for illegal gratification would be fatal and mere recovery of the amount from the person accused of the offence under Section 7 or 13 of the Act would not entail his conviction thereunder."* (Emphasis supplied)

55. From the above exposition of law, it may be safely concluded that mere possession and recovery of tainted currency notes from a public servant, in the absence of proof of demand, is not sufficient to establish an offence under Sections 7 and 13(1)(d) of the PC Act, respectively. Consequently, without evidence of demand for illegal gratification, it cannot be said that the public servant used corrupt or illegal means, or abused his position, to obtain any valuable thing or pecuniary advantage in terms of Section 13(1)(d) of the PC Act.

56. The present case is not one of an "*offer to pay by the bribe-giver*" where, in the absence of any demand from the public servant, the mere acceptance of illegal gratification would constitute an offence under Section 7 of the PC Act. The expression "offer" indicates that there is a conveyance of an intention to give, which must be communicated and understood by the recipient, leading to the meeting of minds. Consequently, the offer is accepted. For such an acceptance to constitute an offence under Section 7, there must be clear and cogent evidence establishing that the public servant was aware of the offer and accepted it voluntarily, knowing it to be illegal

> gratification. In other words, even where there is no express demand, the bribe-giver and the bribe-taker must be shown to have been *ad idem* as regards the factum of the offer of a bribe.

21. In the present case, the informant and the shadow witness have not deposed about the demand and the essential ingredients of the charged offences were not proved.

22. It was submitted that the recovery of the currency notes would shift the burden to the accused to rebut the presumption contained in Section 20 of the PC Act. This submission is not acceptable. It was laid down by the Hon'ble Supreme Court in ***Paritala Sudhakar v. State of Telangana, 2025 SCC OnLine SC 1072,*** that the presumption under Section 20 of the PC Act will not be triggered without the evidence of the demand. It was observed:

> "**21.** As far as the submission of the State is that, the presumption under Section 20 of the Act, as it then was, would operate against the Appellant is concerned, as our analysis *supra* would indicate that the factum of demand, in the backdrop of an element of *animus* between the Appellant and the complainant, is not proved. In such circumstances, the presumption under Section 20 of the Act would not militate against the Appellant, in terms of the pronouncement in ***Om Parkash v. State of Haryana, (2006) 2 SCC 250***:
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> > '**22.** In view of the aforementioned discrepancies in the prosecution case, we are of the opinion that the defence story set up by the appellant cannot be said to

> be wholly improbable. Furthermore, it is not the case where the burden of proof was on the accused in terms of Section 20 of the Act. *Even otherwise, where demand has not been proved, Section 20 will also have no application.* (***Union of India v. Purnandu Biswas [(2005) 12 SCC 576: (2005) 8 Scale 246]*** and ***T. Subramanian v. State of T.N. [(2006) 1 SCC 401: (2006) 1 Scale 116]***)' (emphasis supplied)"

23. In the present case, there is no satisfactory evidence of the demand, and no advantage can be derived from the provisions of Section 20 of the PC Act.

24. As per the prosecution, the mutation of inheritance of the informant's mother was to be entered, for which the accused had demanded ₹3000/- from the informant. The copy of the mutation (Ext.Pw 13/J) shows the name of Jivnee, the informant's mother, in the column of ownership. This falsifies the informant's version that a mutation of inheritance of his grandmother was to be sanctioned in the name of his mother, for which the bribe was demanded.

25. Mehmood Khan (PW-2) stated that he had entered into an agreement (Ext.PW-1/D) with Smt. Jivnee for the purchase of the land in the name of his son, Salman Khan. Copy of the agreement (Ext.PW-1/D) mentions that the agreement was made on 27.12.2011 between Jivnee and Salman Khan. This

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agreement is thumb-marked by Jivnee and signed by informant Nazakat Ali. The informant made a complaint on 07.01.2012 that mutation of inheritance had not been sanctioned in the name of his mother. He has not explained that if the mutation of inheritance was not sanctioned in the name of the informant's mother, how the name of Jivnee appeared in the revenue record and how she could have entered into an agreement to sell the land to Salman Khan.

26. The informant admitted in his cross-examination that the land owned by his mother was jointly owned with other co-sharers, who had made a private partition. He admitted that Patwari had entered the mutation on 19.12.2011 and Tehsildar had attested the mutation on 23.12.2011 in the presence of his mother and co-sharer. He admitted that his mother had agreed to sell the land after the attestation of the mutation. These admissions make the informant's case highly suspect that a mutation of the inheritance was to be attested in favour of Jivenee, and the accused had demanded money for entering the mutation. The record shows that no such mutation was pending; rather, Jivnee was recorded to be the co-owner of the suit land,

who had partitioned it and the mutation to this effect was also attested.

27. It was laid down in ***Kanhaiyalal v. State of Rajasthan, 1998 SCC OnLine Raj 342: 1998 Cri LJ 3155,*** that when no work was pending with the accused, no bribe could have been given to him. It was observed at page 3159:

> "**13...**It is proved by this negative evidence that no such verification was made by the patwari. Hence, a form to obtain a subsidy for Rukmani could not have been and was not presented to the accused appellant. *So no work was pending, and the demand of Rs. 100/- could not have been made by the accused appellant. When it is proved beyond doubt from the record that no such application form was submitted, it cannot be held that any work was pending with the accused and any demand could be made by him in relation to the sanction to be made with regard to the deepening of the well. P.W. 1 Radhey Shyam has himself admitted that he did not pay the money for the purpose. According to him, instead, the amount was paid to the accused appellant for the work which had already been done and for which there is no charge against the accused appellant.*" (Emphasis supplied)

28. In ***Suryabhan v. State of Maharashtra, 1994 SCC OnLine Bom 428: (1996) 1 Bom CR 46: 1995 Cri LJ 107,*** mutation was already entered by the accused, which was certified and approved before the alleged demand of a bribe. It was held that the essential ingredient that the money was demanded as a

motive or reward for doing an official act was missing. It was observed at page 52:

> "**12**...The copy of the extract of the mutation register (Exh. 67) shows that the mutation has been effected in the mutation register on 2-1-1986 itself. The said mutation was made on 2-1-1986, and it is recorded that the concerned persons were intimated on 2-1-1986. It is further apparent from the said document that the mutation, which was effected in the names of Shankar Ingole (P.W. 11), Dayaram Ingole (P.W. 7) and Bhaiya Ingole (P.W. 9), was certified by the Revenue Inspector on 31-1-1986. Both Shankar Ingole (P.W. 11) as well his brothers Bhaiya Ingole (P.W. 9) and Dayaram (P.W. 7) are shown to be present at the time of verification and certification by the Revenue Inspector. It is recorded in the said register that the persons named Bhaiya (P.W. 9), Dayaram (P.W. 7) and Shankar (P.W. 11) were present and on verification of the will deed, they admitted that Bhagirathibai has died. On that, the mutation which was effected on 2-1-1986 by the accused was certified on 31-1-1986. When the mutation was effected on 2-1-1986 by the accused - appellant and it was duly certified by the Revenue Inspector on 31-1-1986 in the presence of Shankar Ingole (P.W. 11), Dayaram (P.W. 7) and Bhaiya Ingole (P.W. 9), it becomes unbelievable and in any case highly doubtful that the accused demanded the sum of Rs. 200/- in the month of May, 1986. It will be further seen from the statement of P.W. 7 Dayaram Ingole that the agricultural field was partitioned amongst the brothers, namely, Dayaram (P.W. 7), Bhaiya (P.W. 9) and Shankar (P.W. 11) in the month of February 1986. It is thus clear that after the mutation was effected on 2-1-1986 and duly certified on 31-1-1986, the partition of agricultural land took place between the three brothers and thus it can be inferred that Shankar Ingole (P.W. 11), Bhaiya Ingole (P.W. 9) and Dayaram Ingole (P.W. 7) had knowledge that the mutation was effected on 2-1-1986 and was duly

certified on 31-1-1986 by the Revenue Inspector. The statement of these three brothers, namely, P.W. 7 Dayaram, P.W. 9 Bhaiya and P.W. 11 Shankar, to the contrary that they were not present on 31-1-1986 before the Revenue Inspector cannot be believed. This is further fortified from the fact that on 5-5-1986 one of the brothers Bhaiya (P.W. 9) has sold his share of agricultural land to Ishwar Raut by the registered sale-deed (Exh. 98). If the mutation had not been effected on 2-1-1986 and certified on 31-1-1986 and was not in the knowledge of these three brothers as alleged, Bhaiya could not have sold his share on 5-5-1986 much before the date of incident on 16-5-1986. From this evidence, it can be inferred that the prosecution's case that Rs. 200/- was demanded by the accused - appellant from Madhukar Ingole (P.W. 1) as gratification as a motive or reward for effecting the entries in the mutation register in favour of Shankar and his brothers does not inspire confidence and cannot be believed. *On the face of the facts that the mutation was already effected by the accused - appellant on 2-1-1986, which was certified by the Revenue Inspector on 31-1-1986 and the post conduct of Shankar Ingole and his brothers of partition of their respective shares in the month of February, 1986 and the sale of share by one of the brothers Bhaiya (P.W. 9), the prosecution story about the demand of Rs. 200/- by the accused - appellant from Madhukar Ingole (P.W. 1) as gratification as a motive or reward for effecting entries in the mutation register in favour of Shankar and his brothers becomes highly improbable and can be said to be suffering from inherent improbabilities.* There is no reason to doubt the correctness and genuineness of the entries recorded in the mutation register on 2-1-1986 and 31-1-1986 respectively....” (Emphasis supplied)

29. Similar is the judgment in ***Chandrasen v. State of Maharashtra, 2011 SCC OnLine Bom 277,*** wherein it was observed:

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> "**36.** Therefore, on going through the entire evidence brought on record and more particularly, the evidence of P.W.1 Laxman, complainant, it is clear that the complainant and his two sons were released on bail in the police station and on the next day their bail was accepted in Chapter Case in Tahsil Office at Beed. This fact is also corroborated by P.W.2 Vasant, who has proved Exh. 19/1 to 19/7. These documents would show that in Chapter Case No. 1/91, the complainant and his sons were released on furnishing P.R. bond of Rs. 500/- on 2.1.1991 and in Chapter Case No. 3/91, they were released on furnishing P.R. bond of Rs. 2000/- on 4.1.1991 by accepting surety. Therefore, P.W.1 himself has stated that they were released on bail six days prior to the date of the trap. Therefore, one of the essential ingredients of section 7 of the Prevention of Corruption Act, 1988, that the amount of Rs. 300/- was received by the accused/appellant from Laxman Arey P.W.1 as gratification as a motive or reward for releasing him on bail, has not been proved by the prosecution beyond a reasonable doubt."

30. In ***S.D. Amalraj vs. State Cr.A. no. 490 of 2002, decided on 25.1.2008 (Madras High Court),*** the order was passed and placed on file for issuing a license. It was held that the demand for a bribe for issuing the license was not probable. It was observed:

> "10. When the accused has already passed an order to issue a licence and sent the file to A.4 clerk even on 24.8.1998, nothing remains to be done by the accused thereafter. It is the duty of A.4 Clerk to wait for three days or one week, whether the applicant (P. W.2) comes and gets the licence or otherwise, A.4 Clerk should have sent the licence to the applicant by post. P. W.1 Collector himself has admitted as follows: -... (vernacular matter omitted).

11. Therefore, the payment of a bribe after completion of the official favour is a serious lacuna in the prosecution case, as held by the Hon'ble Supreme Court in ***State of U. P. Vs. Jagdish Singh Malhotra, 2003 SCC(Cri) 1008***. In the present case, on the facts, there is no official favour persisted at all when already the appellant has ordered for an issue of a licence.

12. In ***Ram Smugh Mourya Vs. State of Madhya Pradesh, 2002 2 CurCriR 169***, the Madhya Pradesh High Court has held as follows:-

> "17. In the present case, the purpose for which the money was demanded as illegal gratification by the appellant was already served much prior to the alleged demand of Rs. 100/- to the appellant for releasing the complainant and his son Mohan. Complainant Rajaram was also given notice for appearance before the Court for filing the charge sheet. In the circumstances, it would be difficult to believe that the appellant was demanding money for the work which had already been done. If the money was not paid by the complainant, after his release on surety, Deokaran (PW.5) was never called and asked for the payment of money because, as per the prosecution case, on his assurance, the complainant Rajaram and his son were released on bail. This fact is also tilting the balance of innocence in favour of the appellant. "

13. In ***S. Suryanarayana Rao Vs. State of Karnataka, 2000 CrLJ 2377***, the Karnataka High Court has held as follows:-

> 6. . . . Unless there is corroboration by other materials, it is difficult to hold that the prosecution has established beyond a reasonable doubt that there was demand and acceptance. Moreover, another hole in the jacket of the prosecution is that the file was left on 22.7.1986 itself with P. W2 to conduct the survey. In view of these facts and circumstances of the case, naturally, the doubt

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> arises as to the genuineness of the prosecution's story. Hence, the benefit of the doubt is extended to the appellant"

14 In ***M. K. Shanmugasundaram Vs. The Inspector of Police, V and AC, Salem, 2007 1 LW(Cri) 199***, this court held that

> "Like every other criminal case, a case of bribery is subject to the rule that the accused is presumed innocent and that the burden to discharge the said innocence is paramountly on the prosecution. However strong the suspicion against the accused, if every reasonable possibility of innocence has not been excluded, he is entitled to an acquittal. If, therefore, the evidence regarding the demand and acceptance of a bribe leaves room for doubt and does not displace the presence of innocence wholly, the charge cannot be said to have been established".

31. Similar is the judgment in ***Basavaraj I. v. State of Karnataka, 2025 SCC OnLine Kar 1084,*** wherein it was observed:

> "13. According to the case of PW 1, on 23-3-2000, he visited the appellant's office to request her to issue a final assessment order. According to his case, at that time, initially, the appellant reiterated her demand of Rs. 3000. But she scaled it down to Rs. 2000. Admittedly, on 15-3-2000, the said Society was served with a notice informing the said Society that an exemption had been granted from payment of commercial tax to the said Society. Therefore, the said Society was not liable to pay any tax for the year 1996-1997. The issue of the final assessment order was only a procedural formality. Therefore, the prosecution's case about the demand for a bribe made on 23-3-2000 by the appellant appears to be highly doubtful."

28. This position was reiterated in ***State of Lokayuktha Police v. C.B. Nagaraj, 2025 SCC OnLine SC 1175,*** wherein it was observed:

> "**25.** It is pertinent to note that till 05.02.2007, when the Respondent had conducted the physical/spot inspection, there was not even a whisper of there being any demand for a bribe. Moreover, when the Complainant went back to the Respondent's office at 5: 30 PM with the money, the prosecution case itself, as per the deposition of its witnesses, makes it clear that the Respondent had informed the Complainant that he had already forwarded the concerned file. Thus, if the same is accepted, there was no occasion for the Complainant to go ahead with paying the amount, which he claims to be in the nature of a bribe demanded by the Respondent, after the work for which the bribe was purportedly sought had already been done. The observation of the High Court to this extent is correct that just because money changed hands, in cases like the present, it cannot be *ipso facto* presumed that the same was pursuant to a demand, for the law requires that for conviction under the Act, an entire chain, beginning from demand, acceptance, and recovery, has to be completed. In the case at hand, when the initial demand itself is suspicious, even if the two other components - of payment and recovery can be held to have been proved, the chain would not be complete. A penal law has to be strictly construed [***Md. Rahim Ali v. State of Assam, 2024 SCC OnLine SC 1695 @ Paragraph 45*** and ***Jay Kishan v. State of U.P., 2025 SCC OnLine SC 296*** @ Paragraph 24]. While we will advert to the presumption under Section 20 of the Act hereinafter, there is no cavil that while a reverse onus under a specific statute can be placed on an accused, even then, there cannot be a presumption which casts an uncalled-for onus on the accused. ***Chandrasha*** (supra) would not apply as demand has not been proven. In

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Paritala Sudhakar v. State of Telangana, 2025 SCC OnLine SC 1072, it was stated thus:

> '***21.*** *As far as the submission of the State is that the presumption under Section 20 of the Act, as it then was, would operate against the Appellant is concerned, as our analysis supra would indicate that the factum of demand, in the backdrop of an element of animus between the Appellant and the complainant, is not proved. In such circumstances, the presumption under Section 20 of the Act would not militate against the Appellant, in terms of the pronouncement in* ***Om Parkash v. State of Haryana, (2006) 2 SCC 250****:*
>
> > *'22. In view of the aforementioned discrepancies in the prosecution case, we are of the opinion that the defence story set up by the appellant cannot be said to be wholly improbable. Furthermore, it is not the case where the burden of proof was on the accused in terms of Section 20 of the Act.* ***Even otherwise, where demand has not been proved, Section 20 will also have no application.*** *(****Union of India v. Purnandu Biswas [(2005) 12 SCC 576 : (2005) 8 Scale 246]*** *and* ***T. Subramanian v. State of T.N. [(2006) 1 SCC 401 : (2006) 1 Scale 116]****)' (emphasis supplied)'*

(emphasis in bold is original, underlining is ours)

29. In the present case, no mutation was pending with the accused. The informant was aware of the fact that the name of his mother was recorded in the revenue record, and he had no reason to pay any bribe to the accused. Therefore, the learned Trial Court had rightly doubted the prosecution's case.

30. A heavy reliance was placed upon the conversation stated to have taken place between the informant and the

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accused. The informant has not said anything about this conversation. The learned Trial Court had rightly pointed out that the voices and the conversation were not identified, and the conversation cannot be connected to the accused.

31. It was submitted that the hand wash of the accused turned pink, which showed that the money was handled by the accused. This submission will not help the prosecution. Informant Nazakat Ali (PW-1) stated that the vigilance team told the Patwari that he had taken the bribe, but the Patwari refused. Patwari picked up the currency notes and counted them. Mehmood Khan (PW-2) stated that the vigilance official went inside the room and found the money lying on the table of the Patwari, who was asked to count the money, the Patwari counted the money, and the vigilance officials obtained the handwash. Dalip Kumar (PW-4) stated that the vigilance officials took the accused inside the office and asked him whether he had taken the money. The accused replied in the negative. The vigilance of officials asked about the money lying on the table, and the accused showed his ignorance. Vigilance officials asked the accused to pick up the currency notes and count them. Avtar Singh (PW-5) stated that the accused was

asked whether he had taken a bribe, and he replied in the negative. He was asked about the currency notes lying on the table, and the accused showed his ignorance. The vigilance officials asked the accused to count the notes, and thereafter his hands were washed. Therefore, the witnesses to the spot have consistently stated that the money was counted by the accused, which provides an explanation for the hand wash turning pink, and no advantage can be derived from the hand wash of the accused.

32. No other point was urged.

33. Therefore, the learned Trial Court had taken a reasonable view that was possible based on the evidence led before the learned Trial Court, and this Court will not interfere with the reasonable view of the learned Trial Court, even if another view is possible.

34. In view of the above, the present appeal fails, and it is dismissed. Pending miscellaneous application(s), if any, also stand disposed of.

35. In view of the provisions of Section 437-A of the Code of Criminal Procedure (Section 481 of Bhartiya Nagarik Suraksha

Sanhita, 2023) the respondent/accused is directed to furnish bail bonds in the sum of ₹25,000/- with one surety in the like amount to the satisfaction of the learned Trial Court within four weeks, which shall be effective for six months with stipulation that in the event of Special Leave Petition being filed against this judgment, or on grant of the leave, the respondent/accused on receipt of notice thereof, shall appear before the Hon'ble Supreme Court.

36. Records be sent back to the learned Trial Court forthwith, along with a copy of the judgment.

(Rakesh Kainthla)
Judge

05th June, 2026
(ravinder)