

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA**Cr. Appeal No. 208 of 2015****Reserved on: 16.09.2026****Date of Decision: 01.10.2026**

State of H.P.

...Appellant.

Versus

Narinder Singh

...Respondent.

*Coram****Hon'ble Mr Justice Rakesh Kainthla, Judge.******Whether approved for reporting?¹ No.***

For the Appellant/State : Mr Tarun Pathak, Deputy
Advocate General

For the respondent : Ms Sheetal Vyas, Advocate.

Rakesh Kainthla, Judge

The present appeal is directed against the judgment dated 11.11.2014, passed by learned Special Judge, Bilaspur, H.P., District Bilaspur, H.P. (learned trial Court), vide which the respondent (accused before learned trial Court) was acquitted of charges framed against him. *(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 for the commission of offences punishable under Sections 7 and 13(2) of the Prevention of Corruption Act (PC Act). It was asserted that the informant Sunil Kumar (PW-1) had taken a contract for constructing the wall of Koldam–Nalagarh Tower Line in the year 2005. He constructed the walls in Tower Line No. 20 and 22, and submitted the bills to Jyoti Company, which submitted them to the office of Power Grid at Sundernagar. Accused Narender Singh was posted as Executive Engineer (EXEN), who used to pass the bills. The accused did not pass the informant's bills, and the informant met the accused many times to get his bill passed. The accused demanded a bribe of ₹20,000/- for passing the bill. He asked the informant to visit Swagat Hotel on 12.06.2010 with ₹20,000/-. The informant was against the payment of the bribe. Hence, he filed a complaint (Ext.PW1/A) before the police. The police registered the FIR (Ext.PW-16/A). Dy.SP, Vinod Kumar (PW-16) constituted a trap party consisting of the informant, Sunil Kumar (PW-1), Ram Nath (PW-13), SI Lachman Dass, and Constable Dharam Singh (PW-11). He took out phenolphthalein and sodium powders from

the investigation kit. He procured the water in two clean glass tumblers and added phenolphthalein powder in one tumbler and sodium carbonate in another. The water did not change its colour. When the mixtures were added, the colour changed to pink. Vinod Kumar explained to the witnesses that if the solutions of sodium carbonate and phenolphthalein are mixed, the water changes its colour to pink. He retained the pink solution in a nip/bottle, sealed it with seal impression 'T', and seized it vide Memo (Ext.PW-1/B). He prepared a memorandum of demonstration (Ext.PA). Sample seal (Ext.W1/C) was taken on a separate piece of cloth. Informant Sunil Kumar produced twenty currency notes of ₹1000/- each. These were treated with phenolphthalein powder, and their serial numbers were noted in the memo (Ext.PW-1/D). The currency notes were handed over to the informant with a direction to give these notes on demand to the accused and not to unnecessarily fiddle with the currency notes. Witness Ram Nath (PW-13) was instructed to be a shadow witness and signal the police party by moving his right hand above his head after the money was paid to the accused. Informant Sunil Kumar (PW-1) and Ram Nath (PW-13) went to Sawagat Hotel Beri, where the money was to be paid. The police

officials concealed themselves and waited for the signal. The informant paid ₹20,000/- to the accused on his demand. The shadow witness signalled the police. The police party went to the Hotel. Constable Dharam Singh and HC Nishant caught hold of the wrists of the accused. Vinod Kumar introduced himself. He associated Anoop Kumar (PW-2) as a witness. The hands of the accused were washed in a *Thali*. The water remained colourless, and when the solution of sodium carbonate was added to the water, the water turned pink. The accused produced currency notes of ₹20,000/-. Their serial numbers were tallied with the serial numbers noted in the memo and were found to be the same. These were put in a parcel, and the parcel was sealed with seal 'T'. The hand wash was preserved in a nip, and the nip was also sealed with seal 'T'. The purse of the accused and currency notes were seized vide memo (Ext. PW1/E). The seal was handed over to Ram Nath after use. Vinod Kumar (PW-16) investigated the matter. He prepared the site plan (Ext.PW-16/B) and deposited the case property with MHC. The informant produced one memory card of a mobile phone on 29.06.2010, in which he had recorded the conversation with the accused regarding the demand of ₹20,000/- to pass the bill. The contents of the

memory card were copied to a CD. The CD and memory card were seized vide memo (Ext.PW-1/F). Vinod Kumar seized the certificate (Ext.PW-3/A), bills regarding the payment of Sunil Kumar (Ext.PW-3/B to Ext.PW-3/D), and the work order (Ext.PW-3/E) issued to the informant vide memo (Ext.PW-3/F). He also seized the call detail record (Ext.PW-5/A). He obtained the appointment order (Ext.PW-7/A) of the accused, Narender Kumar and his posting order (Ext.PW-7/B) and terms and conditions (Ext.PW-7/C). He recorded the statements of witnesses as per their version. The memory card was sent to FSL, where Dr Minakshi Mahajan (PW-14) examined it and issued a report (Ext.PW-14/A). As per her opinion, the contents of the memory card and CD were the same. The prosecution sanction (Ext. PW-15/A) was obtained, and the challan was prepared and presented before the learned trial Court after the completion of the investigation.

3. The learned trial Court charged the accused with the commission of offences punishable under Sections 7 and 13 (2) of the PC Act, to which he pleaded not guilty and claimed trial.

4. The prosecution examined 16 witnesses to prove its case. Informant Sunil Kumar (PW-1), Manager Anoop Kumar

(PW-2), shadow witness Ram Nath (PW-13), Tara Chand (PW-6), and Rohit (PW-12) did not support the prosecution case. Rakesh Roshan (PW-3) produced the record. Varun Sharma (PW-4) and HHC Dharam Singh (PW-11) witnessed the recoveries. SI Sardar Singh (PW-5) collected the records. Pritam Singh (PW-7) proved the service record of the accused. Nishant Dabra (PW-8) is the witness to the recovery of the memory card and its transfer to the CD. HHC Sohan Lal (PW-9) carried the case property to RFSL, Gutkar. Sita Ram (PW-10) carried the CD and the memory card to the FSL, Junga. Dr Minakshi Mahajan (PW-14) analysed the memory card and CD. V. M. kaul (PW-15) accorded the prosecution sanction. Vinod Kumar (PW-16) investigated the matter.

5. The accused, in his statement recorded under Section 313 of the Code of Criminal Procedure (CrPC), denied the prosecution case in its entirety. He stated that he was alone and the police officials had introduced themselves. The witnesses had vested interests. He is innocent. He did not produce any evidence in his defence.

6. The learned trial Court held that the prosecution is required to prove the demand and the acceptance; mere recovery

of money without any demand or acceptance is not sufficient to prove the prosecution case. All the witnesses, except the official witnesses, have not supported the prosecution case. The statements of the informant and shadow witness are not sufficient to prove the demand and the acceptance of the money. The informant has not stated that he had recorded the conversation between him and the accused, and there is no evidence to establish that the voice in the recording was that of the accused and the informant. The payment for the construction work of Tower Nos. 20 and 22 had already been received by Jyoti Structures before 2010, and the whole of the prosecution case that the accused had demanded the money for passing the bills became suspicious. Hence, the learned trial Court acquitted the accused of the charged offences.

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 had failed to appreciate the evidence in its proper perspective. The statements of prosecution witnesses were discarded without any sufficient reason. The informant admitted his signatures on the complaint and the various steps of the trap. The official witnesses proved the

prosecution version. Therefore, 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 Tarun Pathak, learned Deputy Advocate General, for the appellant/State and Ms Sheetal Vyas, learned counsel for the respondent/ accused.

9. Mr Tarun Pathak, learned Deputy Advocate General, for the appellant/State, submitted that the learned trial Court erred in acquitting the accused. The statements of official witnesses corroborated each other, and the learned trial Court erred in acquitting the accused on the ground that the informant and the shadow witness had not supported the prosecution version. Therefore, he prayed that the present appeal be allowed and the judgment passed by the learned trial court be set aside.

10. Ms Sheetal Vyas, learned counsel for the respondent/accused, submitted that the prosecution is required to prove the demand and the acceptance. The informant and the shadow witness have not supported the prosecution version. The learned trial Court had taken a reasonable view while acquitting the accused, and this Court should not interfere with the reasonable view of the learned trial Court even if another view is

possible. Therefore, she 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 *Sanjay Kumar v. State of Bihar*, 2026 SCC OnLine SC 1373, that the Court can interfere with a judgment of acquittal only if it is impossible, perverse, wholly unsustainable, or manifestly illegal.

It was observed:

Scope of interference with an acquittal:

26. At the outset, it is necessary to remind ourselves of the settled principles governing interference with an order of acquittal. An accused is presumed innocent until proven guilty. When a court of competent jurisdiction acquits the accused, the presumption of innocence is not weakened but reinforced. Where such acquittal is affirmed by the High Court, the caution to be exercised by this Court under Article 136 is even greater.

27. In *Kali Ram v. State of Himachal Pradesh* (1973) 2 SCC 808: 1973 SCC (Cri) 1048, this Court explained the golden thread running through criminal jurisprudence in the following words:

“25. Another golden thread which runs through the web of the administration of justice in criminal cases is that if two views are possible on the evidence adduced in the case, one pointing to the guilt of the accused and the other to his innocence, the view which is favourable to the accused should be adopted. This principle has a special relevance in

cases wherein the guilt of the accused is sought to be established by circumstantial evidence. The rule has accordingly been laid down that unless the evidence adduced in the case is consistent only with the hypothesis of the guilt of the accused and is inconsistent with that of his innocence, the Court should refrain from recording a finding of guilt of the accused. It is also an accepted rule that in case the Court entertains reasonable doubt regarding the guilt of the accused, the accused must have the benefit of that doubt. Of course, the doubt regarding the guilt of the accused should be reasonable; it is not the doubt of a mind which is either so vacillating that it is incapable of reaching a firm conclusion or so timid that it is hesitant and afraid to take things to their natural consequences. The rule regarding the benefit of doubt also does not warrant acquittal of the accused by resort to surmises, conjectures or fanciful considerations. As mentioned by us recently in the case of State of Punjab v. Jagir Singh, a criminal trial is not like a fairy tale wherein one is free to give flight to one's imagination and fantasy. It concerns itself with the question as to whether the accused arraigned at the trial is guilty of the offence with which he is charged. Crime is an event in real life and is the product of the interplay of different human emotions. In arriving at the conclusion about the guilt of the accused charged with the commission of a crime, the Court has to judge the evidence by the yardstick of probabilities, intrinsic worth and the animus of witnesses. Every case in the final analysis would have to depend upon its own facts. Although the benefit of every reasonable doubt should be given to the accused, the Courts should not at the same time reject evidence which is ex facie trustworthy on grounds which are fanciful or in the nature of conjectures."

28. The decision in *Kali Ram* (supra) further cautions that wrongful acquittal and wrongful conviction do not stand on the same footing, for conviction of an innocent person causes grave injustice and shakes public confidence in the administration of criminal justice. The rule of benefit of doubt, therefore, is not a technical rule; it

is a substantive safeguard flowing from the presumption of innocence.

29. In *Ghurey Lal v. State of Uttar Pradesh* (2008) 10 SCC 450 : (2009) 1 SCC (Cri) 60, this Court reiterated the limited scope of interference with acquittals. This Court observed:

“75. The Trial Court has the advantage of watching the demeanour of the witnesses who have given evidence; therefore, the appellate court should be slow to interfere with the decisions of the Trial Court. An acquittal by the Trial Court should not be interfered with unless it is totally perverse or wholly unsustainable.”

30. The decision in *Ghurey Lal* (supra) also crystallised certain propositions: first, there is a double presumption of innocence in favour of an acquitted accused; secondly, if two views are possible, the view favourable to the accused must prevail; thirdly, though the appellate court has the power to reappreciate evidence, it should interfere only when the acquittal is manifestly illegal, perverse or results in miscarriage of justice; and fourthly, due weight must be given to the Trial Court's findings, particularly because the trial judge had the advantage of observing the demeanour of witnesses.

31. In *Chandrappa v. State of Karnataka* (2007) 4 SCC 415 : (2007) 2 SCC (Cri) 325, this Court held that though the appellate court has full power to review and reappreciate the evidence, the presumption of innocence is strengthened by an order of acquittal. It was held that when two reasonable conclusions are possible on the basis of evidence on record, the appellate court should not disturb the finding of acquittal.

32. The same principle was restated in *Mrinal Das v. State of Tripura* (2011) 9 SCC 479, wherein this Court held that an order of acquittal is to be interfered with only when there are compelling and substantial reasons for doing so. If two reasonable views are possible on the basis of the evidence on record, the appellate court should not disturb the finding of acquittal.

33. Therefore, the question before us is not whether another view on the evidence is possible. The question is whether the view taken by the Trial Court and affirmed by the High Court is impossible, perverse, wholly unsustainable, or manifestly illegal. Having examined the record, we are unable to hold so.

13. The informant, Sunil Kumar (PW-1), stated that the accused was the General Manager at Sundernagar and he used to pass the bill. The informant had submitted the bill to Jyoti Company. He approached the Jyoti Company's officials, and they told him that they had no payment to make. He knew Constable Rajender and told him about the non-payment, who assured him that he would get the money released. The accused was not known to him, and had not demanded any money. The informant was permitted to be cross-examined. He denied that the accused had demanded money for passing the bill and that he (the informant) had reported the matter to the police. He denied that the police had constituted a trap party. He also denied that he had visited the Sawagat Hotel and handed over the money to the accused. He denied that he had recorded the conversation between him and the accused and that he had handed over the memory card to the police. He denied the previous statement recorded by the police. Thus, it is apparent that he has not supported the prosecution version.

14. Ram Nath (PW-13) was a shadow witness. He stated that he was taking tea in Hotel Swagat at Beri. The accused came and placed an order for tea. A person came and started talking to the accused. He could not hear the conversation. The person was offering money to the accused, but the accused was not accepting the money. 5-6 persons came inside the hotel, and the person handed over the money to them. Those persons disclosed that they were police officials. No demonstration was given in his presence. He was permitted to be cross-examined. He denied that he was associated as a shadow witness and was asked to spring the trap by giving the signal to the police. He denied that the police had given the demonstration. He denied that the informant had paid the money to the accused and that he had signalled the police. He denied that the police caught hold of the accused. He denied the previous statement recorded by the police.

15. Therefore, it is apparent that both these witnesses have not supported the prosecution case. Thus, 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:

- (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, the 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 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).

16. 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 the 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 and 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.

17. 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.

18. 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, 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)"

19. 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.

20. As per the prosecution, the informant had submitted the bills to Jyoti Construction, who had engaged him as a Sub-Contractor. The accused was to pass the bill of Jyoti Construction regarding the Tower Nos. 20 and 22. Rakesh Roshan (PW-3) produced the record related to Tower Nos. 20 and 22. He stated that the payment of Tower No. 22, amounting to ₹2,57,336/-, had already been made to the informant against the bill, and the payment of Tower No. 20, amounting to ₹1,91,840/-, was pending, which could not be made because of the shortage of funds. He was permitted to be cross-examined, and he denied the previous statement recorded by the police. He stated in his cross-examination by learned counsel for the defence that full payment for the construction work of Tower No. 20 and 22 had already been received by Jyoti Co. Ltd. before May 2010. He admitted that there is no financial control of the Power Grid

Corporation regarding the further disbursement of payment by Jyoti Construction Company to the Sub-Contractor.

21. Learned trial Court had rightly pointed out that the statement of this witness made the prosecution case highly suspect. The payment was made to Jyoti Construction Company. Therefore, the accused had no justification to demand the money from the informant, and the informant also had no justification to pay money to the accused.

22. 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)

23. 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 as 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)

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

“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 at 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 a P.R. bond of Rs. 500/- on 2.1.1991 and in Chapter Case No. 3/91, they were released on furnishing a 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.”

25. 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 licence. It was held that the demand for a bribe for issuing the licence 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 the 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 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".

26. 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."

27. 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- 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 revert 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 *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, 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)

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

29. Therefore, the learned Trial Court had taken a reasonable view while acquitting the accused, and no

interference is required with a reasonable view of the learned Trial Court even if another view is possible.

30. In view of the above, the present appeal fails, and it is dismissed, so also the pending applications, if any.

31. 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 is directed to furnish personal bonds in the sum of ₹50,000/- with one surety in the like amount to the satisfaction of the learned trial Court, which shall be effective for six months with a stipulation that in the event of a Special Leave Petition being filed against this judgment or on grant of the leave, the respondent on receipt of notice thereof shall appear before the Hon'ble Supreme Court

32. The present appeal stands disposed of, so also the pending miscellaneous application(s), if any

33. A copy of the judgment, along with the record of the learned trial Court, be sent back forthwith.

(Rakesh Kainthla)
Judge

01st October, 2026
(Ravinder)