



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A. BADHARUDEEN

WEDNESDAY, THE 1ST DAY OF APRIL 2026/11TH CHAITHRA, 1948

CRL.A NO. 992 OF 2020

CRIME NO.13/2012 OF VACB, IDUKKI, Idukki

AGAINST THE ORDER/JUDGMENT DATED IN CC NO.173 OF
2016 OF COURT OF ENQUIRY COMMISSIONER & SPECIAL JUDGE,
MUVATTUPUZHA

APPELLANT/ACCUSED:

MUHESHKUMAR K,
AGED 41 YEARS,
S/O KRISHNANKUTTY, KIZHAKKUMKARA HOUSE,
KUTTARA, OTASEKHARAMANGALAM, NEYYATTINKARA,
THIRUVANANTHAPURAM, (SECTION FOREST OFFICER,
MUKKUDAM, KAMBILIKANDAM, ADIMALY RANGE).

BY ADV SRI.NIREESH MATHEW

RESPONDENT/COMPLAINANT:

STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH
COURT OF KERALA, ERNAKULAM, KOCHI-682031.

SPECIAL PUBLIC PROSECUTOR SRI RAJESH.A
SENIOR PUBLIC PROSECUTOR SMT.REKHA.S

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON
19.03.2026, THE COURT ON 01.04.2026 DELIVERED THE
FOLLOWING:

**“C.R”*****A. BADHARUDEEN, J.***

Crl.Appeal No.992 of 2020

Dated this the 1st day of April, 2026

J U D G M E N T

The sole accused in C.C.No.173/2016 (formerly C.C.No.1/2015 on the files of the Enquiry Commissioner and Special Judge, Kottayam) on the files of the Enquiry Commissioner and Special Judge (Vigilance), Muvattupuzha, has filed this appeal challenging the conviction and sentence imposed against him vide judgment dated 04.12.2020 in the above case. Respondent is the State of Kerala representing the VACB.

2. Heard the learned counsel for the appellant/accused and the learned Special Public Prosecutor. Gone through the verdict impugned and the evidence available.



3. In this case, the prosecution alleges commission of offences punishable under Sections 7 and 13(1) (d) r/w 13(2) of the Prevention of Corruption Act, 1988 ('PC Act, 1988' for short), by the appellant/accused. The specific case of the prosecution is that on 11.12.2012 the accused, while working as Forest Officer, Mukkudam Section as a public servant demanded an amount of Rs.20,000/- as illegal gratification from the defacto complainant as a motive or reward for allowing him to transport pieces of woods of Mango trees, jackfruits, etc. The further case of the prosecution is that pursuant to the said demand, on 11.12.2012, the accused accepted Rs.10,000/- from the defacto complainant. Thereafter on 14.12.2012, the accused again demanded Rs.5,000/- from the defacto complainant for the said purpose as illegal gratification and he obtained the same at 3.50 p.m on 15.12.2012. Further, 1½ months prior to 15.12.2012, the accused demanded and accepted Rs.2,000/- as illegal gratification. On this premise, the



prosecution alleges commission of the said offences by the appellant/accused.

4. The learned Special Judge proceeded with trial in this case after framing charge for the said offences. During trial, PW1 to PW19 were examined and Exts.P1 to P32 were marked on the side of the prosecution. M.O1 to M.O10 series were also marked. On the side of the defense, DW1 to DW3 were examined and Exts.D1 to D6 were marked. Ext.C1 was marked as the court document. Exts.X1 to X3 series were also marked. Thereafter the learned Special Judge found that the accused committed the offences punishable under Sections 7 and 13(1)(d) r/w 13(2) of the PC Act, 1988. Accordingly, he was sentenced as under:

“1. The accused is sentenced to undergo Rigorous imprisonment for one year and to pay fine of Rs. 25,000/-(Rupees Twenty Five Thousand) for offence punishable u/s. 7 of the Prevention of Corruption Act. In default of payment of fine the accused shall undergo



Rigorous imprisonment for two months.

2. The accused is sentenced to undergo Rigorous imprisonment for one year and to pay fine of Rs. 25,000/- (Rupees Twenty Five Thousand) for offence punishable u/s. 13(2) r/w 13(1)(d) of the Prevention of Corruption Act. In default of payment of fine the accused shall undergo Rigorous imprisonment for two months.

3. The substantive sentences of imprisonment shall run concurrently.”

5. The learned counsel for the appellant/accused, who challenged the finding of the Special Court, specifically argued that no evidence was adduced by the prosecution to prove the factum of demand of bribe by the accused. That apart, the evidence of PW1 is not believable since PW1 is a person who had involvement in multiple criminal cases. It is further argued that, the specific case of the defense, while admitting receipt of the amount alleged as bribe by the prosecution, is that the money was received in connection with the festival of Anachal Ayyappa Temple which would normally be sponsored by the Forest Department. According to the



learned counsel for the appellant, DW1 to DW3 had supported the appellant's version about the sponsorship of funds given by the Forest Department as well as KSEB for the conduct of festival at Anachal Ayyappa Temple and therefore the money should have to be treated as the money collected as donation for conducting the festival and in that view of the matter, the prosecution allegation cannot be sustained. Therefore, the verdict imposed would require interference.

6. The learned Special Public Prosecutor strongly opposed the argument advanced by the learned counsel for the appellant to unsettle the verdict impugned. It is pointed out by the learned Special Public Prosecutor that the evidence of PW1 alone is sufficient to show demand and acceptance of bribe, as alleged by the prosecution. That apart, PW1 is consistent in denying the defence contention that the money was given as donation for the conduct of the festival at Aanachaal Ayyappa Temple. Therefore, the prosecution succeeded in



proving the twin ingredients, viz., demand and acceptance of bribe, by the accused, as alleged, and the defence case was emphatically denied by PW1. It is further argued that even though defence witnesses DW1 to DW3 got examined and Exts.D1 to D3 were marked to show that the second day of the Chirappu Mahotsavam of Aanachaal Ayyappa Temple would be organised jointly by the Forest Department and KSEB, the same by itself is insufficient to hold that the money, proved to have been demanded and accepted by the accused as illegal gratification, was in fact received for permitting the transport of pieces of woods of many trees. Therefore, the verdict impugned doesn't require any interference.

7. Adverting to the rival submissions, the points that arise for consideration are:

(i) Whether the learned Special Judge is right in holding that the accused committed the offence punishable under Section 7 of the PC Act, 1988?



(ii) Whether the learned Special Judge is right in holding that the accused committed the offence punishable under Section 13(1)(d) r/w 13(2) of the PC Act, 1988?

(iii) Is it necessary to interfere with the impugned judgment in any manner?

(iv) The order to be passed?

Points (i) to (iv)

8. On scrutiny of the verdict impugned, the evidence of PW1 has been relied on by the learned Special Judge to hold that the accused demanded and accepted bribe. PW1 Robin Thomas deposed that he had been engaged in timber business at Kambilikandam in Konnathadi Panchayat and he had lodged a complaint before the Deputy Superintendent of Police and he identified the same as Ext.P1. According to him, he lodged the said complaint when the accused, Muhesh Kumar, working as forest officer, demanded bribe for permitting the transport of wild jack, jackfruit, and



other timber. His version is that at 10 a.m on 11.12.2012, he had reached the forest office at Kambilikandam and met the accused; and made request to grant permission to transport the above timber. In response to the said request, the accused replied that no timber would be permitted to be transported from Konnathadi Panchayat. Thereupon, PW1 informed the accused that it was part of the timber which was loaded about one and a half months before and that, at the time of the initial transport, Rs.2,000/- had been paid to him. The accused then demanded Rs.20,000/- for transporting the timber and also threatened PW1 that if the amount would not be paid, a case would be registered against him. Then he had remembered the accused as to payment of Rs.20,000/- earlier to him, then also the accused made repeated the demand of Rs.20,000/- for transportation of the trees. At 4 p.m on 11.12.2012 he had given Rs.10,000/- to the accused at the Forest Office, Kambilikandam. Thereafter the accused again demanded Rs.10,000/- for transporting the



timber. He had met the accused at 3 p.m on 14.12.2012 and thus he demanded Rs.5,000/- on the next day for transport of the timber. He deposed about the purchase of the timber etc. and at this juncture he had lodged Ext.P1 on 15.12.2012. He deposed about the entrustment of 5 numbers of one thousand rupee notes to the Dy.S.P and the phenolphthalein test conducted by the Dy.S.P showing pink colour change and return of the bribe money after smearing the same with Phenolphthalein powder with direction to give the same to the accused on demand. He also deposed that the Dy.S.P instructed him to give a signal by rubbing on his head. Accordingly, he reached the office of the accused at 3.15 p.m and he found the accused therein. Then the accused demanded the money and the same was accepted by the accused. Soon he had shown the signal as directed. Then the Dy.S.P and gazetted officer and various other officers reached the office of the accused. Then the Dy.S.P introduced himself to the accused and asked the accused whether the bribe money



was demanded and accepted from him. Then the accused became panic and he stated that he put the money in his pocket. Thereafter the money was recovered by the Vigilance party and he identified M.O1 series as the said bribe money. He also identified M.O2 series, the 2 pieces of the broken board of the office, collected by the Vigilance.

9. During cross-examination, questions regarding the niceties of the purchase of timber and the related legal procedures for its transport were asked, to which PW1 gave rational answers. He also deposed about the procedure for transport and verification by the forest officials. During further cross examination, PW1 was questioned about the registration of three cases against him for the sale of illicit liquor, which he conceded, while asserting that he had been acquitted in all three cases. Another crime committed against the Preventive Officer of Vellathooval Police Station also was also suggested, and PW1 admitted the same, stating that he had been acquitted in



the said case also. He further added that all the three cases were filed by the Preventive Officer in retaliation to a complaint he had lodged prior to the registration of this crime. Two more crimes were suggested with a view to shake the evidence of PW1, contending that he was involved in multiple crimes and he was not a believable witness. In this connection, it is pointed out by the learned Special Public Prosecutor that merely because a witness has involvement in some crimes, and, according to the witness, all the cases ended in acquittal, the same by itself would not be sufficient to hold that the evidence is not believable, particularly, when the evidence given by the witness is regarding the demand and acceptance of illegal gratification as part of trap proceedings and the trap money was recovered red-handedly during the trap.

10. The pertinent question now arises for consideration is as to whether the evidence of a witness, who has criminal antecedents or involvement in criminal cases, is to



be treated as wholly unreliable even the evidence given by the witness not at all shaken during cross examination?

11. It is true that as per Section 140 of the Evidence Act as well as under Section 145 of Bharatiya Sakshya Adhiniyam, 2023, the witnesses to character may be cross-examined and re-examined, thereby ensuring that their testimony is properly scrutinised and tested for credibility. The testimony of such a witness could not be rejected automatically or casually. But the Court has to scrutinise the evidence to find as to whether the evidence is (1) consistent and coherent (2) the evidence would get support of other corroborative evidence (3) the evidence is found to be truthful and reliable even on meticulous cross examination (4) the evidence doesn't have any material contradictions and (5) the evidence is either biased or fraudulent. Thus the evidence of a witness with criminal antecedents or involvement in criminal cases should not be used merely to maliciously discredit a witness, unless the same found to be unreliable for non-satisfaction of the ingredients, illustrated above.



12. Here PW1 is a person engaged in timber business and he had involvement in certain crimes, as deposed by him during cross examination and according to PW1, in all these cases he had been acquitted. Hence PW1 had given candid evidence to prove the prosecution case and his evidence in this regard failed to be shaken in any manner to make the same as not wholly reliable. Thus on re-appreciation of the evidence of PW1 this Court could found the same as wholly reliable. Therefore, his criminal antecedents would not disqualify his evidence as unbelievable in the facts of the case as already discussed. Therefore, this challenge is found to be unsustainable. Insofar as the evidence of PW1 as to demand and acceptance of bribe is concerned, the same is found to be credible and wholly reliable, therefore, the same can be acted upon.

13. Apart from the evidence of PW1, the prosecution examined PW2, the gazetted officer, who accompanied the trap



team to prove the trap. PW2 deposed that, he also had accompanied the trap team to witness the trap. He along with the trap team reached near Kambilikandam by 03.50 pm. After reaching there, Dy.SP sent PW1 to Forest Office with a strict instruction that the money should be given only if the accused would demand the bribe. Moreover, the Dy.SP instructed PW1 to give a signal as and when the money would be received by the accused and authorized two police officers to receive the signal and send them along with PW1. He waited in the departmental vehicle along with Dy.SP. After a short while, Dy.SP told that, he had received the signal and asked him to move to the forest office. Then he along with the other gazetted officer had moved to the forest office and had seen the accused sitting on a cot inside the office. Then PW1 pointed out the accused to Dy.SP. Then the Dy.SP introduced himself to the accused. The other members of the trap team were also introduced to the accused. Then Dy.SP asked the accused



whether he had received bribe from PW1. Then accused got perplexed and admitted that he had received the money and told that the same was kept inside the pocket of his pants. Thereafter, the accused took a purse from the pocket of his pants and had taken Rs.5,000/- from the said purse and put it on the top of a table. Regarding the pre trap proceedings also PW2 had given evidence exactly in similar terms as testified by PW1.

14. PW18 examined in this case is the Deputy Superintendent of Police, VACB, Idukki, who registered the F.I.R. arrested the accused and conducted major part of the investigation in this case. PW18 deposed that, on 15.12.2012 while he was working as Dy.SP, VACB Idukki Unit, at around 10.30 a.m, PW1 came to his office and had given a statement. He recorded the said statement and he identified Ext.P1 as the F.I.S so recorded by him. On the strength of the Ext.P1 statement, Ext.P25 F.I.R was registered. Thereafter on the same day at about 11.30 am PW1 produced five currency notes



having denomination of Rs.1,000/-. The gazetted officers present there were allowed to verify and note the number of the currency notes. Thereafter, the chemical effect of phenolphthalein powder with sodium carbonate solution was demonstrated. Then, his initials with date were put on the water proof mark portion of the currency notes. Subsequently, PW17 smeared phenolphthalein powder on the said currency notes as directed by him. The said currency notes were put inside the pocket of the PWI by PW17. He had instructed PW1 to give the bribe money only if the accused would demand the same. When the hands of PW17 was dipped in sodium carbonate solution the said solution showed pink colour change. Thereafter a pre-trap mahazar was prepared. By around 03.50 p.m he along with the trap team reached at Kambilikandam Junction. He had again instructed PW1 to give the currency notes only if the accused would demand money. A further direction was also given to PWI to give a signal by rubbing on his head if the accused



would accept the bribe. He had authorized PW14 as well as another vigilance officer named Shanavas to receive the signal. Thereafter, PW1 proceeded to the room of the accused at Kambilikandam. After two minutes PW1 conveyed the pre-arranged signal. Then he along with the trap team proceeded to the room where the accused was sitting. When they reached at the Veranda of the room, PW1 was found standing on the veranda. Then PW1 had taken him and other members of the trap team to the room where the accused was sitting and on the front side of the said room a board was found exhibited as "Forest Office". PW1 had pointed out the accused who was sitting on a cot inside the said room. Thereafter, he had introduced himself and other members of the trap team to the accused. When the accused was asked whether he had obtained bribe from PW1, the accused got perplexed and admitted that he had received bribe. Subsequently, the accused took a purse from the pockets of his pants and had taken five currency notes having



denomination of Rs.1,000/- from the purse and put it on the top of a table. Thereafter, he as well as the gazetted officers dipped their hands in a sodium carbonate solution but there was no colour change to the solution. The said solution was taken in a bottle and was sealed and labeled. MO-3 got identified as the said bottle and MO-1 series got identified as the currency notes used in the trap proceedings. Thereafter, the right hand fingers of the accused were dipped in sodium carbonate solution and then the solution was turned pink in colour. The said solution was taken into a bottle and sealed and labeled it properly. He identified MO-4 as the said bottle. Thereafter the left hand fingers of the accused were also dipped in sodium carbonate solution, Then the solution as well as the fingers of the accused turned pink in colour. The said solution was also taken into a bottle and was sealed and labelled properly. He identified MO-5 as the said bottle. Thereafter, the shadow witnesses were given an opportunity to verify the currency notes. Thereafter, the tip



of the said currency notes were dipped in sodium carbonate solution. Then the sodium carbonate solution as well as the portion of the notes which were dipped in the solution were turned pink in colour. The said solution was also taken in a bottle and the bottle was sealed and labelled properly and the same identified as M.O6. Thereafter, the hands of PW2 was dipped in sodium carbonate solution and then the solution as well as the fingers of PW2 turned pink in colour. The said solution was also taken in a bottle and sealed and labeled properly and the same identified as M.O7. In the search subsequently conducted a bag was found kept under the cot where the accused was found sitting. On inspection of the said bag ten currency notes having denomination of Rs.1,000/- and seventeen currency notes having denomination of Rs. 500/- were found. The accused failed to give satisfactory explanation for the possession of said amount. M.O9 and M.O10 series got identified as the currency notes so recovered. Thereafter, the



accused was arrested and it was through him the arrest memo and Ext.P27 the inspection memo were tendered in evidence. PW18 deposed about preparation of Ext.P5, the post trap mahazar. According to him, the Thondy articles seized in this case were produced before this court as per Ext.P28 property list.

15. Apart from that, the other witness also supported the prosecution. Here the case put up by the defense is that the money recovered by the Vigilance Department, soon after its acceptance by the accused from PW1, was meant for donation in connection with the festival of Aanachaal Ayyappa Temple. In this regard, DW1 to DW3 supported Exts.X1 to X3 relied upon by the defense. Regarding this evidence, the learned Special Judge observed in paragraph 30 as under:

“From the evidence of DW1 to DW3 and from Ext.X1 to X3 notices it appears that there was a practice that the 2nd day of Chirappu Maholtsavam (Festival) of Anachal Ayyappa Temple is organized jointly by Forest Officers and local people. The evidence of DW1 to DW3 further suggest that, Pallivasal Forest



Officer used to collect voluntary contributions from the local timber merchants for the celebration of festival. However, it cannot be ignored that from the evidence of defence witnesses itself it is crystal clear that the said temple is situating within the local area of Pallivasal Forest Section. Therefore, the defence version that the Pallivasal Forest Officer, DW3, had directed Mukkudam Forest Officer who is the accused in this case to receive contributions from the timber merchants in his area cannot be swallowed without a pinch of salt. The evidence of DW3 shows that he had demanded contributions from timber merchants residing within the limit of Mukkudam Forest Section. In his evidence DW3 mentioned the names of six timber merchants who reside in the limit of Mukkudam Forest Section from whom he requested the contribution. However, he did not mention the name of at least one timber merchant residing within the limit of Pallivasal Forest Section from whom he demanded contribution. Moreover, he admitted that none of the programs in connection with the temple festival is conducted in any of the areas which comes under the Mukkudam Forest Section. Though in the cross examination he stated that the receipts issued from the festival committee were entrusted with one of the timber merchants he is not remembering the name of the said merchant. Moreover, he testified that, “പള്ളിവാസൽ സെക്ഷന്റെ കീഴിലുള്ള തടിക്കച്ചവടക്കാർ പിരിവു നൽകിയിരുന്നു” of Course evidence of PW1 that he is not remembering the name of at least one of the timber merchants who resides within Pallivasal Section



is highly suspicious especially when he had accurately stated the names of six timber merchants who reside within the limit of Mukkudam Forest Section. Therefore, nobody could be blamed if it is alleged that the names of the timber merchants were tutored to him before giving evidence, so as to help the accused. The fact that DW3 is not remembering the name of the timber merchants who reside in Pallivasal Forest Section where he is the Forester but he is remembering the names of six timber merchants where the accused is the forester shows that his attempt is to save his companion by deposing in line with the defence story. His evidence can be considered only as a ruse to save his companion from the clutches of law do to his comradial fraternity. Moreover, it cannot be ignored that it is illegal on the part of government servants to make collections from general public. If they want to sponsor a festival it must be from their pocket. For the sake of discussions even if the case of the defence is admitted as true there are absolutely no materials to show that the defacto complainant is having any nexus with Sanjoy, who was allegedly nurturing animosity towards the accused. Likewise, there is nothing to suggest that PWI is having any sort of animosity towards the accused to implicate the accused in a case of this nature. Therefore, I am of the view that the defence canvased from the side of the accused stands unestablished and is not sufficient to displace the presumption which is available in favour of the prosecution U/s. 20 of the P.C Act, 1988.”

16. Adverting to the finding of the Special Court,



after evaluating the evidence of DW1 to DW3 and Exts.X1 to X3 are found to be justifiable and if so the defense case would tumble down.

17. Now, it is necessary to address the ingredients required to attract the offences under Section 7 and Section 13(1)(d) r/w Section 13(2) of the PC Act, 1988. The same are extracted as under:-

Section 7:- Public servant taking gratification other than legal remuneration in respect of an official act. –
Whoever, being, or expecting to be a public servant, accepts or obtains or agrees to accept or attempts to obtain from any person, for himself or for any other person, any gratification whatever, other than legal remuneration, as a motive or reward for doing or forbearing to do any official act or for showing or forbearing to show, in the exercise of his official functions, favour or disfavour to any person or for rendering or attempting to render any service or disservice to any person, with the Central Government or any State Government or Parliament or the Legislature of any State or with any local authority, corporation or Government Company referred to in clause (C) of section 2, or with any public servant,



whether named or otherwise, shall be punishable with imprisonment which shall be not less than three years but which may extend to seven years and shall also be liable to fine.

Section 13:- Criminal misconduct by a public servant.

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

a) xxxxx

(b) xxxxx

(c) xxxxxx

(d) If he,- (i) by corrupt or illegal means, obtains for himself or for any other person any valuable thing or pecuniary advantage; or (ii) by abusing his position as a public servant, obtains for himself or for any other person any valuable thing or pecuniary advantage; or (iii) while holding office as a public servant, obtains for any person any valuable thing or pecuniary advantage without any public interest. xxxxx

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

18. In this connection it is relevant to refer a 5 Bench decision of the Apex Court in [AIR 2023 SC 330],



Neeraj Dutta Vs State, where the Apex Court considered when the demand and acceptance under Section 7 of the P.C Act,1988 to be said to be proved along with ingredients for the offences under Sections 7 and 13(1)(d) r/w 13(2) of the PC Act,1988 and in paragraph 68 it has been held as under :

"68. What emerges from the aforesaid discussion is summarised as under:

(a) Proof of demand and acceptance of illegal gratification by a public servant as a fact in issue by the prosecution is a sine qua non in order to establish the guilt of the accused public servant under Sections 7 and 13 (1) (d) (i) and (ii) of the Act.

(b) In order to bring home the guilt of the accused, the prosecution has to first prove the demand of illegal gratification and the subsequent acceptance as a matter of fact. This fact in issue can be proved either by direct evidence which can be in the nature of oral evidence or documentary evidence.

(c) Further, the fact in issue, namely, the proof of demand and acceptance of illegal gratification can also be proved by circumstantial evidence in the absence of direct oral and documentary evidence.

(d) In order to prove the fact in issue, namely, the demand and acceptance of illegal gratification by the public



servant, the following aspects have to be borne in mind:

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

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

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



payment made which is received by the public servant, would be an offence of obtainment under Section 13 (1)(d) and (i) and (ii) of the Act.

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

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

(g) In so far as Section 7 of the Act is concerned, on the proof of the facts in issue, Section 20 mandates the court to raise a presumption that the illegal gratification was for the purpose of a motive or reward as mentioned in



the said Section. The said presumption has to be raised by the court as a legal presumption or a presumption in law. Of course, the said presumption is also subject to rebuttal. Section 20 does not apply to Section 13(1) (d) and (ii) of the Act.

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

19. Thus the legal position as regards to the essentials under Sections 7 and 13(1)(d)(i) and (ii) of the P.C Act,1988 is extracted above. Regarding the mode of proof of demand of bribe, 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. The presumption of fact with regard to the demand and acceptance or obtainment of an illegal gratification may be made by a court of law by way of an inference only when the foundational facts have been proved by relevant oral and



documentary evidence and not in the absence thereof. On the basis of the material on record, the Court has the discretion to raise a presumption of fact while considering whether the fact of demand has been proved by the prosecution or not. Of course, a presumption of fact is subject to rebuttal by the accused and in the absence of rebuttal presumption stands. The mode of proof of demand and acceptance is either orally or by documentary evidence or the prosecution can prove the case by circumstantial evidence. The trial does not abate nor does it result in an order of acquittal of the accused public servant. Insofar as Section 7 of the Act is concerned, on the proof of the facts in issue, Section 20 mandates the court to raise a presumption that the illegal gratification was for the purpose of a motive or reward as mentioned in the said Section. The said presumption has to be raised by the court as a legal presumption or a presumption in law.

20. In this context, it is relevant to refer the



decision of this Court in ***Sunil Kumar K. v. State of Kerala*** reported in [2025 KHC OnLine 983], in Crl.Appeal No.323/2020, dated 12.9.2025, wherein in paragraph No. 12, it was held as under:

“12. Indubitably in Neeraj Dutta’s case (supra) the Apex Court held in paragraph No.69 that there is no conflict in the three judge Bench decisions of this Court in B.Jayaraj and P.Satyanarayana Murthy with the three judge Bench decision in M.Narasinga Rao, with regard to the nature and quality of proof necessary to sustain a conviction for offences under Section 7 or 13(1)(d)(i) and (ii) of the Act, when the direct evidence of the complainant or “primary evidence” of the complainant is unavailable owing to his death or any other reason. The position of law when a complainant or prosecution witness turns “hostile” is also discussed and the observations made above would accordingly apply in light of Section 154 of the Evidence Act. In view of the aforesaid discussion there is no conflict between the judgments in the aforesaid three cases. Further in Paragraph No.70 the Apex Court held that in the absence of evidence of the complainant (direct/primary,oral/documentary evidence) it is permissible to draw an inferential deduction of culpability/guilt of a public servant under Section 7 and 13(1)(d) r/w Section



*13(2) of the Act based on other evidence adduced by the prosecution. In paragraph No.68 the Apex Court summarized the discussion. That apart, in **State by Lokayuktha Police's** case (supra) placed by the learned counsel for the accused also the Apex Court considered the ingredients for the offences punishable under Section 7 and 13(1)(d) r/w 13(2) of the PC Act, 1988 and held that demand and acceptance of bribe are necessary to constitute the said offences. Similarly as pointed out by the learned counsel for the petitioner in **Aman Bhatia's** case (supra) the Apex court reiterated the same principles. Thus the legal position as regards to the essentials to be established to fasten criminal culpability on an accused are demand and acceptance of illegal gratification by the accused. To put it otherwise, proof of demand is sine qua non for the offences to be established under Sections 7 and 13(1)(d) r/w 13(2) of the PC Act, 1988 and de hors the proof of demand the offences under the two Sections could not be established. Therefore mere acceptance of any amount allegedly by way of bribe or as undue pecuniary advantage or illegal gratification or the recovery of the same would not be sufficient to prove the offences under the two Sections in the absence of evidence to prove the demand."*

21. On re-appreciation of evidence, this Court is of the view that the Special Court rightly appreciated the



evidence and entered into conviction finding that the accused committed the offences punishable under Section 13(1)(d) r/w 13(2) of the PC Act, 1988 and the said conviction is only to be justified. As a necessary consequence thereof, no interference in the sentence is warranted.

22. Coming to the sentence, the Special Court imposed rigorous imprisonment for a period of one year for the offence punishable under Sections 7 and 13(1)(d) r/w 13(2) of the PC Act, 1988. The minimum punishment provided for the offence punishable under Sections 3(1)(d) r/w 13(2) of the PC Act, 1988 is one year and in such circumstance, no reduction in sentence also practically possible. In view of the matter, the sentence is also to be confirmed.

23. In the result, this Appeal fails and is accordingly dismissed. The conviction and sentence imposed by the Special Court are confirmed. As a sequel thereof, the order suspending sentence and granting bail to the accused



stands cancelled and the bail bond also stands cancelled.

24. The accused is directed to surrender before the Special Court to undergo the sentence forthwith, failing which the Special Court shall execute the sentence forthwith.

Registry is directed to forward a copy of this judgment to the Special Court for compliance and further steps.

Sd/-

A.BADHARUDEEN, JUDGE

rtr/