



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A. BADHARUDEEN

FRIDAY, THE 19TH DAY OF JUNE 2026 / 29TH JYAISHTA, 1948

CRL.A NO. 36 OF 2013

AGAINST THE JUDGMENT DATED 13.12.2012 IN C.C. NO.56 OF 2006 OF THE

ENQUIRY COMMISSIONER & SPECIAL JUDGE, KOZHIKODE

APPELLANT/ACCUSED:

D.JAYANARAYANA
S/O.LATE D. MAHALINGA BHAT, RESIDING AT THAYANNOOR HOUSE,
MEEPGURI, RAM DAS NAGAR (RD NAGAR) KASARAGOD DISTRICT,
PIN - 671124.

BY ADVS.
SRI.B.VINOD
SHRI.AZEEM SALIH

RESPONDENT/STATE:

THE STATE OF KERALA
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM, PIN - 682 031.

SPL PP - SRI.RAJESH A.
SR PP - SMT.REKHA S.

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 01.06.2026,
THE COURT ON 19.06.2026 DELIVERED THE FOLLOWING:

**“C.R”****JUDGMENT****Dated this the 19th day of June, 2026**

The sole accused in C.C. No.56/2006 on the files of the Court of the Enquiry Commissioner and Special Judge, Kozhikode, has filed this appeal, under Section 374(2) of the Code of Criminal Procedure, 1973 [hereinafter referred as ‘Cr.P.C.’ for short], challenging the conviction and sentence imposed by the Special Judge, against him as per the judgment dated 13.12.2012. The State of Kerala, represented by the Special Public Prosecutor is arrayed as the respondent herein.

2. Though this Court appointed Adv.Adithya Narayanan K.G. as the State Brief to argue this appeal, as the learned counsel for the appellant has relinquished his vakalath, later Adv.B.Vinod has filed fresh vakalath for the appellant and argued the matter on merits.

3. Heard the learned counsel for the appellant and the learned Special Public Prosecutor, in detail. Perused the verdict under challenge and the records of the Special Court.



4. Parties in this appeal shall be referred as 'accused' and 'prosecution', hereafter.

5. The prosecution case is that, the accused while working as U.D. Clerk at Sub Registrar's Office, Kasaragod, being a public servant abused his position as public servant and committed criminal misconduct by demanding an illegal gratification of Rs.500/- from the complainant, on 08-08-2005 at Sub Registrar's Office, for issuing certified copy of Document No.2815/2005 of Sub Registrar's Office, Kasaragod and reduced the same to Rs.200/- and repeated the demand on 19-08-2005 and he had demanded and accepted an amount of Rs.200/- as bribe from the complainant on 23-08-2005 at Sub Registrar's Office, Kasaragod. On this premise, the prosecution alleges commission of offences punishable under Sections 7 and 13(1)(d) read with 13(2) of the Prevention of Corruption Act 1988 [hereinafter referred as 'P.C. Act, 1988' for short], by the accused.

6. After framing charge for the above said offences, the Special Court recorded evidence and completed trial. During trial, PWs 1 to 11 were examined, Exts.P1 to P17 and



MOs 1 to 3 were marked on the side of the prosecution. Even though, the accused was given opportunity to adduce defence evidence after questioning him under Section 313(1)(b) of the Cr.P.C., he did not opt to adduce any defence evidence.

7. On appreciation of evidence, the Special Court found that the accused was guilty for the offences punishable under Sections 7 and 13 (1)(d) read with 13(2) of the P.C. Act, 1988. Accordingly, the accused was convicted for the said offences and sentenced as under:

"In the result, the accused is sentenced to undergo Rigorous Imprisonment for a period of one year and to pay a fine of Rs.2,000/- and in default of payment of fine to undergo Rigorous Imprisonment for a period of three months for each of the offences punishable under Section 7 and 13(1)(d) r/w. 13(2) of the Prevention of Corruption Act, 1988. The substantial portion of the sentences shall run concurrently. Accused is entitled to get set off regarding the period of detention under Section 428 Cr.P.C. M.O-1 series currency notes will be returned to PW-7 and M.O-2 and MO-3 bottles will be destroyed as valueless after the expiry of appeal period."

8. While assailing the verdict of the Special Court,



the learned counsel for the accused raised multifold contentions. According to the learned counsel for the accused, in this case, going through the FIS as well as the evidence given by PW7, the complainant, demand of bribe on five occasions could be seen and the evidence is not conclusive to prove the demand and acceptance of bribe by the accused. According to him, in the pre-trap mahazar marked as Ext.P14, it was stated that the trap money was entrusted as smeared in phenolphthalein powder. Therefore, there is likelihood of presence of phenolphthalein at the hands of the accused and because of this reason, when the accused hand was dipped in sodium carbonate solution and the same showed pink colour change.

9. The learned counsel for the accused also pointed out that, in Ext.P1 application tendered in evidence through PW1, alleged to be given for getting certified copy of Ext.P6 document contains two signatures and the same is an anomaly. He also pointed out that, Ext.P13 complaint contains only selective allegations, however, several demands spoken to during the trial by PW1, where an alleged demand on 09.08.2005 could not be found. While



Ext.P2 depicts the date of application as 08/08/2005, the register Ext.P3(a) entered by the Sub Registrar would show that receipt No. 635 was entered as the 8th entry on 09/08/2005. PW7 introduced an improved story during trial stating the application was accepted by the Sub Registrar and the receipt was then entrusted to him to give to the accused to parabolize the demand on 08/08/2005. When Ext.P3(a) shows Ext.P1 was filed on 09/08/2005, a demand on 08/08/2005 is an impossibility. It is submitted that, the second demand is alleged on the next day of filing the application, which would be 10/08/2005, but Ext.P13 complaint makes no mention of any demand on the next day of presentation. PW7 materially improved and altered the prosecution case during the trial which affects the core narrative and makes the demand quiet unreliable.

10. According to the learned counsel for the accused, the alleged demand and acceptance of bribe by the accused itself are improbable and there are defects in trap procedures and witnesses participation. Moreover, the decoy witness to the trap procedure did not witness the demand of bribe by the accused. Accordingly, the learned counsel for



the accused pressed for interference in the impugned verdict, by acquitting the accused for the offences punishable under Sections 7 and 13(1)(d) read with 13(2) of the P.C. Act, 1988.

11. Repelling the contentions raised by the learned counsel for the accused, the learned Special Public Prosecutor submitted that, as per the available evidence, the entire allegation as to demand and acceptance of bribe by the accused have been proved by the prosecution without any reasonable doubt. Therefore, the conviction and sentence are liable to be sustained.

12. In view of the rival submissions, the points arise for consideration are:

1. Whether the Special Court is justified in finding that the accused committed the offence punishable under Section 7 of the P.C. Act, 1988?

2. Whether the Special Court is justified in finding that the accused committed the offence punishable under Section 13(1)(d) read with 13(2) of the P.C. Act, 1988?

3. Whether the verdict of the Special Court would require interference?

4. Order to be passed?



13. Point Nos.1 and 2:- PW-1, the Head Clerk at Sub Registrar's Office, Kasaragod from June, 2005 onwards deposed about the trap and arrest of the accused. According to him, the accused was working as U.D. Clerk in that office and accused was arrested on 23-08-2005 by the Vigilance Police when he had received Rs.200/- from one Ibrahim (PW7), who had approached him for obtaining certified copy of a document. At that time, Sub Registrar was on leave and PW1 was in charge of Sub Registrar. On 04-10-2005 he had produced Single Search Application given by Ibrahim (complainant) on 08-08-2005 which was marked as Ext.P-1, Receipt Book of Sub Registrar's Office, Kasaragod having No. D-164/2005 for the period from 08-08-2005 to 09-08-2005 which was marked as Ext.P-2, Account D-Register Vol.53 for the period from 28-06-2005 to 02-09-2005, which was marked as Ext.P-3 and the Copy Register for the period from 19-11-2004 to 23-09-2005 which was marked as Ext.P-4. Those documents were seized from him as per Ext.P-5 Mahazar. Ext.P-1 application was given to him by the complainant, for getting certified copy of Document No.2815/2005. On receipt of the application, he had given



the application to the concerned Clerk for receiving necessary fees. Thereafter the application was entered in Ext.P-3 Account D-Register at Page No.60 as Serial No.635, which was marked as Ext.P-3(a). An amount of Rs.91/- was collected as fees. Original receipt for that amount is seen in Page 30 of Ext.P-2 Receipt Book which was marked as Ext.P-2(a). Carbon copy of the receipt would be given to the client. Application was given to obtain the copy on priority basis and if such an application would be received, certified copy had to be given on priority, but in ordinary applications, copies would be given within 14 days. Copy of the documents shown in the application was prepared by the accused and he had signed Ext.P-1 application that he had prepared the copies of the document and certified it. He had also signed in Page 29 of Ext.P-4 Copy Register to the effect that he had prepared the copy of document. He deposed that, Ext.P-6 the certified copy of the document was prepared by the accused. As per Ext.P-6 it was endorsed that, accused was the person who prepared and examined it and he had prepared the document on 09-08-2005. The person who had signed in Ext.P-6 and Ext.P-1 in the columns



of reader identified as Arunkumar, who was working as L.D. Clerk in that office.

14. PW-1 deposed further that, works regarding Ext.P-6 document was already completed on 09-08-2005. After 09-08-2005, when the person came for receiving the copy it could given to him. Stamp paper for Rs.50/- seen in first page of the document was produced by the applicant along with Ext.P-1 application. When the Deputy Superintendent of Police, Vigilance came to his office and introduced him, accused was standing near PW-1. Since registration was going on in the office Vigilance Deputy Superintendent of Police did not insist the presence of PW-1, when the proceedings of the trap were conducted at his office. Arrest of the accused was informed to him by the Vigilance Deputy Superintendent of Police at 12.30 P.M. He had produced the Personal Cash Declaration Register for the period from 24-05-2004 to 23-08-2005 to the Vigilance Deputy Superintendent of Police, which was marked as Ext.P-7 and the Attendance Register from January 2005 to August 2005 which was marked as Ext.P-8 and as per Ext.P-7, total cash in hand declared by accused on 23-08-2005 was Rs.480/-.



Deputy Superintendent of Police had told him that an amount of Rs.300/- was recovered from the drawer of table of the accused and an amount of Rs.459/- was recovered from the pocket of the accused. When copy was given to the applicant, it would be endorsed on the application. An amount of Rs.91/- was collected from the applicant out of which one rupee was application fee, Rs.10/- was search fee, Rs.40/- was copying fee and Rs.40/- was priority fees.

15. When PW-1 was cross-examined, nothing elicited to discredit the version of this official witness. He had stated that in Ext.P-1, nobody had initialed at the place where it was written as priority. In Ext.P-6 document the village of Ibrahim shown in the stamp paper by the vendor in the purchase seal of stamp paper was Muttathody and in Ext.P-1 application the place was shown as Chemmad Village. Receipt given to the applicant had to be brought by him, when he would receive certified copy of the document and certified copy of the document would be given only after receiving the carbon copy of the receipt issued to the applicant and that carbon copy would be destroyed after the certified copy is given. Till the receipt of the certified copy,



carbon copy of the receipt would be in the possession of the applicant. Only if the carbon copy of the receipt would be given to the concerned officer, he could trace out the certified copy of the document. He testified that, rules and regulations were in force showing the period within which each certified copy had to be given. If application was given on priority basis after signing the certified copy by the Sub Registrar, that document would be in the custody of Sub Registrar. L.D. Clerk and U.D. Clerk of the office were entrusted with the work of preparing copy of the document. No instruction was given that any particular document has to be prepared by any particular person. He could not say whether he had not signed in the certified copy of the document after signing in the copy Register due to the pressure of work or not. As per the Office Proceedings certified copy would be handed over to the applicant by the Sub Registrar. During re-examination, PW-1 stated that the complainant never approached him for the certified copy of the document.

16. PW-2 had given evidence that he had worked as District Registrar at Kasaragod in 2005, while the accused



was working as U.D. Clerk of Sub Registrar's Office, Kasaragod. He had produced the Order issued by the Administrator of Registration Department, Thiruvananthapuram dated 22-12-2004 having No.E.4/20400/2004/Tvm, which was marked as Ext.P-9 on 17-10-2005. Accused was posted at the Office of Sub Registrar, Kasaragod based on Ext.P-9 Order. That document was seized from him as per Ext.P-10 Seizure Mahazar.

17. PW-3 had given evidence that he had worked as L.D. Clerk at Sub Registrar's Office, Kasaragod from 2004 December onwards. Accused had worked as U.D. Clerk in that office during that period. PW-3 attended the office on the day on which the accused was arrested. He had signed in Ext.P-6 document in the column of reader and he had signed the document after perusing it on 09-08-2005 and comparing it with the original. He had also signed in Ext.P-1 document in the column of reader. Ext.P-6 document was prepared by the accused. He had not seen the procedures conducted by the vigilance officials in the office. He knew later that the colour of the liquid in which the hands of the accused were dipped changed. The Head Clerk informed him



that the accused was arrested for receiving bribe. In cross-examination he had stated that the Deputy Superintendent of Police informed him that the colour of the liquid was changed when the fingers of the accused were dipped in the solution. The seat of the accused could not be seen from the seat occupied by PW-3. There were a lot of persons in the office on that day and there is shelf in between the seats of the accused and that of himself.

18. The U.D. Clerk in Sub Registrar's Office, Kasaragod from February 2005 onwards got examined as PW-4. He knows the accused and he had worked as U.D. Clerk in the same office. Copies of the documents were prepared by the accused and L.D. Clerk Arunkumar. The work allotted to PW-4 was preparation of Encumbrance Certificate. The seat of the accused was on the northern side of his seat and the table used by them was not common table. He knew that the vigilance officials have come to the office only, when he saw the vigilance officials taking the accused to his seat. He was present in his seat till Vigilance Officials came to the office. He had not seen the procedures done by the vigilance officials at the office. He had seen vigilance officials taking



the accused after arresting him. He had signed in Ext.P-5 Mahazar when PW-1 produced the documents before the vigilance officials.

19. The Special Village Officer, Kasaragod was examined as PW-5 and he had prepared the location sketch of the place where the Sub Registrar's Office, Kasaragod situated and the same got marked as Ext.P-11 series.

20. PW-6 had given evidence that while he was working as Inspector General of Registration, he had issued Prosecution Sanction Order to prosecute the accused on 06-07-2006, which was marked as Ext.P-12 and he had issued the order after verifying the connected records and applying his mind and getting convinced that the accused was liable to be prosecuted. He also deposed about his competence as the authority to remove the accused from the office at the time of issuing the sanction order.

21. The crucial witness in this case is PW7, the complainant. He deposed that, on 23-08-2005 he had given Ext.P13 F.I. Statement before the Vigilance and was recorded by the Vigilance Deputy Superintendent of Police. PW-7 deposed further that, he had entered into an agreement



regarding the purchase of a property for Rs.5,00,000/- and an amount of Rs.2,50,000/- was given as advance. When he demanded for the execution of the document, the seller told him that there was loan from Housing Board in respect of that property and that had also to be paid by PW-7. So, PW-7 withdrew from the contract and when he demanded the amount paid by him as advance, the vendor issued a cheque for Rs.2,50,000/- to him and that cheque was bounced on the ground that there was no sufficient amount in the account. Thereafter, criminal prosecution was launched against him, which ended in conviction. Thereafter, civil case was filed for the realization of the advance amount and PW-7 succeeded in getting a decree for Rs.4,37,001/-. Subsequently, he had filed application for execution of the decree, when dispute was raised by the judgment debtor regarding the valuation of the property sought to be sold. At this juncture, in order to prove the land value in the locality, he had filed Ext.P1 application before the Sub Registrar, Kasaragod on 08-08-2005 for obtaining certified copy of Document No.2815/2005 registered at Sub Registrar's Office, Kasaragod. He deposed that, he had signed in Ext.P1. An



amount of Rs.91/- was paid as fees along with the application and necessary stamp papers were also produced. Registrar initialed the application and directed him to give it to the accused Jayanarayana. He gave Ext.P-1 application to the accused and accused requested him to meet him in the evening for giving receipt. When he met the accused in the evening, he gave the receipt and told him that if copy had to be obtained within one week, an amount of Rs.500/- has to be given to him. He had not replied. After two days he went to the Sub Registrar's Office and met the accused and enquired about the copy of the document, accused told him that copy was not ready. He met the accused at 1.00 A.M. on 19-08-2005 and then the accused asked him whether he had brought the amount demanded by him. He told that he did not bring the amount. Then the accused told him that he had to give at least Rs.200/- to him. PW-7 returned and he met the accused on 22-08-2005 in the morning at his office and he told him that if the amount would be given in the evening, copy would be given to him. PW-7 had not gone to the office as requested by the accused. On 23-08-2005, he went to the vigilance office and gave the complaint. After



recording his F.I. Statement which is marked as Ext.P-13, two witnesses came to the office of the Deputy Superintendent of Police at about 11.45 A.M. Deputy Superintendent of Police told details regarding the complaint to the witnesses and they confirmed it with PW-7. Thereafter, PW-7 handed over two 100 rupee currency notes to the Deputy Superintendent of Police and he initialed it. MO-1 series are the currency notes handed over by him to the Deputy Superintendent of Police. Thereafter, demonstration of Phenolphthalein test was conducted using 2 rupee currency note. Thereafter, Phenolphthalein powder was smeared on MO-1 series currency notes and the same was handed over to him by the Deputy Superintendent of Police with an instruction that the amount should be given to the accused only if he would demand the same. A Mahazar was prepared regarding the details of the procedures conducted at the vigilance office and the same got marked as Ext.P-14 and he had signed in it. Thereafter, the trap party proceeded to the Sub Registrar's Office. They reached there at 12.15 P.M. Deputy Superintendent of Police asked him to go to the Sub Registrar's Office and to give signal if the accused would



accept the amount from him by rubbing on the head. PW-7 went to the Sub Registrar's Office. He met the accused and he asked him whether he had brought the amount. Then he told the accused that he had brought the amount and gave the currency notes to the accused. He received it with his right hand, put it in the drawer of his table and closed the drawer of the table. Accused asked him whether he had brought the receipt. Then he gave the receipt to him. Thereafter, he came out of the Sub Registrar's Office and gave signal to the Deputy Superintendent of Police and the Deputy Superintendent of Police and party entered the office and he had shown the accused to the Dy.S.P. Accused was standing near the Registrar at that time. He remained at the Sub Registrar's Office and saw the procedures done by the Deputy Superintendent of Police inside the office. He had signed on the label affixed on the bottle in which sample of the Sodium Carbonate Solution in which the hands of the accused were dipped was taken. Thereafter he returned to his house.

22. Although PW-7 was subjected to searching cross-examination, nothing extracted to disbelieve his version



supported by documentary evidence in the form of Ext.P-1, his application and conduct of phenolphthalein test as part of trap proceedings.

23. The Senior Superintendent in Kasaragod Collectorate was examined as the decoy witness, PW-8. He testified that, he went to the office of the Vigilance Deputy Superintendent of Police on 23-08-2005 for witnessing a trap as Instructed by the District Collector. He reached the office of the Deputy Superintendent of Police at 11.45 A.M and at that time complainant, Ibrahim, was present in the Office of the Deputy Superintendent of Police. Deputy Superintendent of Police has given details of the complaint given by the complainant and the complainant told him that the facts stated by the Deputy Superintendent of Police were correct. Thereafter, complainant handed over two 100 rupee currency notes to the Deputy Superintendent of Police and they were shown to him and Deputy Superintendent of Police initialed on those currency notes which he identified and got marked as MO-1 series. Demonstration of Phenolphthalein test was conducted using 2 rupee currency note. Thereafter, Phenolphthalein powder was smeared on MO-1 series



currency notes and it was handed over to the complainant with the direction that the same would be given to the accused only if he would demand for the same. A pre-trap mahazar was prepared regarding the procedure conducted at the vigilance office and the same got marked as Ext.P-14 and he had signed in it. Thereafter trap party proceeded to the Sub Registrar's Office. Deputy Superintendent of Police sent the complainant to the Sub Registrar's Office with an instruction to give signal to him if the accused would accept the amount by rubbing on the head. On receiving the signal, trap party rushed to the Sub Registrar's Office. After entering the Sub Registrar's Office, complainant pointed out the accused as a person who received the amount from him. The accused was standing near the dais of the Registrar with certain papers in his hand at that time. Deputy Superintendent of Police introduced him and other trap party members to the accused. Deputy Superintendent of Police asked the accused where he had kept the amount received from the complainant. Accused told that he did not receive any amount, however he was in a perplexed condition. When Deputy Superintendent of Police repeated the question to



him, he told that the amount was kept in the drawer of his table. Deputy Superintendent of Police asked him to show the amount accepted by him, the accused opened the drawer of the table, currency notes were seen inside the drawer. The hands of the members of the trap party were dipped in Sodium Carbonate Solution. There was no colour change for the liquid. It was taken in a bottle and label was affixed with the signatures of PW-7, CW-3 and the accused got marked as MO-2. Thereafter, the fingers of the accused were dipped in the Sodium Carbonate Solution. The colour of the liquid turned pink and the fingers of the accused also turned pink. Liquid was taken in a bottle and sealed and label was affixed and he had signed in the label and he identified MO-3 as the bottle which contains that liquid. Thereafter, two 100 rupee currency notes were taken from the drawer of the table of the accused and on verification they were found to be the currency notes entrusted to the complainant at the office of the Deputy Superintendent of Police and when Sodium Carbonate Solution sprinkled on those currency notes, they turned pink and thereafter accused was arrested. On searching of the body of the



accused an amount of Rs.459/- was found in the pocket of the pants worn by him. When the drawer of the table of the accused was verified, an amount of Rs.300/- was found inside the drawer. When the cash Declaration Register was verified, it was found that the amount declared by the accused in the register was Rs.480/-. Ext.P-7 is the Cash Declaration Register verified on that day and the relevant entry was made by the accused in Page 89 of the register which is marked as Ext.P-7(a). Certified copy of the document was found at the hands of the accused and the Attendance Register of the office were seized and accused had signed in the Attendance Register on 23-08-2005 F.N and Ext.P-6 identified as the certified copy of the document and Ext.P-8 identified as the Attendance Register. He also deposed that, Ext.P15 mahazar was prepared regarding the procedures conducted in that office and he had signed in it. The person who was arrested on that day, at dock was identified as the accused in this case. In cross-examination he had stated that he had received the information to reach the office of the Deputy Superintendent of Police between 11 and 11.10 A.M. Soon after receiving the information he along



with CW-3 went to the office of the Deputy Superintendent of Police. When they reached the Office of the Deputy Superintendent of Police, he told that they were called to witness a trap.

24. Regarding the pre as well as the post trap proceedings, the evidence of PW-8 failed to be shaken.

25. PW-9 has given evidence that, while he was working as Deputy Superintendent of Police, Vigilance and Anti-Corruption Bureau, Kasaragod, on 23-08-2005 at 11 A.M, complainant came to his office and told that the accused Jayanarayana, who was working as U.D. Clerk at Sub Registrar's Office, Kasaragod had demanded bribe from him. Complaint stated by the complainant was recorded and his signature was obtained which is marked as Ext.P-13 and based on it F.I.R was registered which is marked as Ext.P13(a). Requisition was given to the Collectorate and thereafter PW-8 and CW-3 came to his office and the content of the complaint was stated to the witnesses and complainant told the witnesses that the facts stated in the complaint are true. Complainant entrusted two 100 rupee currency notes to him and he had put his initials on those



currency notes and they were seized as per Entrustment Mahazar. MO-1 series are the currency notes handed over by the complainant to him. Number shown in the currency notes were given to the witnesses. Thereafter, demonstration of Phenolphthalein test was conducted from his office using 2 rupee currency note. Thereafter, Phenolphthalein powder was smeared on MO-1 series currency notes and it was given to the complainant with an instruction that those currency notes has to be given to the accused only if he would demand the bribe. Ext.P-14 Mahazar was prepared regarding the procedure conducted at the office. Thereafter, trap party proceeded to the Sub Registrar's Office. Complainant was sent to the Sub Registrar's Office and trap party waited near the main gate. On receiving signal from the complainant at 12.30 P.M, the party proceeded to the Sub Registrar's Office. Before entering the office, it was confirmed that the trap party members had no amount with them. Complainant pointed out the accused to the Deputy Superintendent of Police and he asked the accused where he had kept the amount received from the complainant. At that time, the accused was standing near the Registrar. Accused told that



he did not accept any amount. When the question was repeated, he told that the amount was kept in his table and the accused opened the table and showed the currency notes. He deposed about the post trap proceedings. His version further is that, on verification of the Attendance Register, it was found that the accused had signed in that register on that day. The Cash Declaration Register, Attendance Register and certified copy of document found at the hands of the accused were seized as per Ext.P15 Recovery Mahazar. It was through him Ext.P-16 Arrest Memo was prepared. In the Recovery Mahazar and labels affixed on MO-2 and MO-3 himself, witnesses and accused had signed. Accused was produced before the Court along with Ext.P-17 Remand Report.

26. The Inspector, Vigilance and Anti-Corruption Bureau, Kasaragod was examined as PW-10. He deposed about the investigation of this case. He had questioned the witnesses and recorded their statements. He had seized Ext.P-1 to Ext.P-4 documents produced by PW1 as per Ext.P-5 Seizure Mahazar on 04-10-2005 and had seized Ext.P-5 document from PW-2 as per Ext.P-10 Mahazar on 17-10-



2005. He had received the location sketch produced by PW-5 which were marked as Ext.P-11 series and produced in Court.

27. During cross-examination, he had stated that PW-7 had not given statement to him that the accused had told him that receipt would be given in the evening and he had also not stated on which dates before 19-08-2005 he had gone to the Sub Registrar's Office, Kasaragod. PW-1 had also not stated that the contents of the complaint were read over to the witnesses.

28. PW-11 had given evidence that while he was working as Deputy Superintendent of Police, Vigilance and Anti-Corruption Bureau, Kasaragod he had obtained Sanction Order to prosecute the accused and based on that he had submitted the charge sheet after verifying the investigation.

29. Now, it is necessary to address the ingredients required to attract the offences under Section 7 r/w 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.

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(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."



30. 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.”

31. 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.

32. 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 dehors 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.”

33. In a recent decision of the Apex Court reported in [2026 INSC 365] in ***The State of Kerala v. K.A.Abdul Rasheed***, the Apex Court considered the decision [(2023) 4 SCC 731], ***Neeraj Dutta v. State (NCT of Delhi)*** and in paragraph 13 the Apex Court held as under:

*“13. We pause here to notice that the Constitution Bench in **Neeraj Dutta** had specifically dealt with the efficacy of the deposition of hostile witnesses. It referred with approval to **Sat Paul v. Delhi Administration** wherein it was held:*

“52. From the above conspectus, it emerges clear that even in a criminal prosecution when a witness is cross-examined and contradicted with the leave of the court, by the party calling him, his evidence



cannot, as a matter of law, be treated as washed off the record altogether. It is for the Judge of fact to consider in each case whether as a result of such cross-examination and contradiction, the witness stands thoroughly discredited or can still be believed in regard to a part of his testimony. If the Judge finds that in the process, the credit of the witness has not been completely shaken, he may, after reading and considering the evidence of the witness, as a whole, with due caution and care, accept, in the light of the other evidence on the record, that part of his testimony which he finds to be creditworthy and act upon it. If in a given case, the whole of the testimony of the witness is impugned, and in the process, the witness stands squarely and totally discredited, the Judge should as a matter of prudence, discard his evidence in toto."

34. Coming to the contention raised by the learned counsel for the accused that, Ext.P1 contains two signatures, putting two signatures in an application by mistake or otherwise would not take away the legality of the application or the truthfulness of the allegations of the prosecution. Therefore, this challenge is of no significance. As regards to the anomaly pointed out by the learned counsel for the accused that, in Ext.P13 complaint only selective allegations



are raised and several demands spoken during trial of PW7, in fact, such anomaly could not be found either from Ext.P13 or from the evidence of PW7. Coming to the contention that PW7 introduced an improved story during trial and the demand was on 08.08.2005 is concerned, in fact, Ext.P13 does not suggest any demand on 08.08.2005 and the demand was on 09.08.2005 and the contention of the learned counsel for the accused has been mooted on wrongly reading the date. Similarly, the contention raised to the effect that 09.08.2005 as the date of Ext.P1 application also is incorrect, as the date of application is 08.08.2005. It is true that, some minor omissions in Ext.P13 were extracted during cross-examination of PW7 and proved through PW11, but the same could not be found as fatal to disbelieve the evidence of PW7, particularly when the examination of PW7 was after recording Ext.P13 statement.

35. The improbability of demand of bribe in a public office as pointed out by the learned counsel for the accused also found to be untenable because many officers working in the public offices alleged to be demanding bribe for doing their duties and that in fact resulted in registering of multiple



number of trap cases in the State and majority of the same end in conviction. Therefore, this aspect has no consequence.

36. Even though, it is argued by the learned counsel for the accused that the evidence of PW7 is improbable and unreliable, on reading the evidence of PW7 supported by other evidence, this submission cannot be appreciated. The challenge raised by the learned counsel for the accused that the decoy witness did not witness the demand and acceptance of bribe by the accused also is of no significance, since the demand proved through PW7 alone is sufficient to find commission of offences punishable under Sections 7 and 13(1)(d) read with 13(2) of the P.C. Act, 1988, by the accused, in view of the ratio laid in **Neeraj Dutta's** case (supra).

37. Thus, on re-appreciation of evidence it could be seen that the prosecution successfully proved the ingredients to bring home the offences punishable under Sections 7 and 13(1)(d) read with 13(2) of the P.C. Act, 1988, by the accused beyond reasonable doubt and none of the contentions raised by the learned counsel for the



accused to hold otherwise found to be either convincing or acceptable. Therefore, the finding of the learned Special Judge that the accused committed the above offences is only to be justified. In consequence thereof, the conviction entered into by the learned Special Judge is liable to be sustained.

38. Coming to the sentence, the learned Special Judge sentenced the accused to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.2,000/- and in default of payment of fine to undergo rigorous imprisonment for a period of three months for each of the offences punishable under Sections 7 and 13(1) (d) read with 13(2) of the P.C. Act, 1988. The minimum sentence provided for the offence punishable under Section 13(1)(d) read with 13(2) of the P.C. Act, 1988 is one year. Therefore, no substantive reduction in the sentence is possible. Thus, the sentence also is confirmed.

39. Point Nos.3 and 4:- The conviction and sentence imposed on the appellant by the learned Special Judge are confirmed. In the result, this appeal stands dismissed. All interlocutory applications pending in this appeal stand



dismissed.

40. The order suspending sentence and granting bail to the accused stands vacated, with direction to the accused to appear before the Special Court, forthwith, to undergo the sentence, failing which, the Special Court is directed to execute the sentence, without fail.

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

Sd/-
A. BADHARUDEEN
JUDGE

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