2026 INSC 999

REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 4732 OF 2024

BHARAT RAJ MEENA ...**APPELLANT (S)**

VERSUS

CENTRAL BUREAU OF INVESTIGATION ...**RESPONDENT(S)**

WITH

CRIMINAL APPEAL NO. 4733 OF 2024

JUDGEMENT

NONGMEIKAPAM KOTISWAR SINGH, J.

1. These appeals arise out of a common anti-corruption investigation conducted by the Central Bureau of Investigation pursuant to FIR No. RC19(A)/2005/KER/CBI registered on 04.08.2005 by the Anti-Corruption Branch, CBI, Kochi, on allegations that the appellant, while serving as Divisional Security Commissioner, Railway Protection Force, Palakkad, had abused his official position by demanding and obtaining illegal gratification through subordinate officials acting as intermediaries from Railway Protection Force personnel seeking transfers, postings and other service-related benefits. The investigation culminated in the filing of multiple final reports and the institution of several prosecutions founded on distinct alleged transactions of illegal gratification.

2. The present appeals arise from two such prosecutions, namely C.C. No. 2 of 2014 and C.C. No. 3 of 2015 on the file of the learned Special Judge (SPE/CBI)-III, Ernakulam. By judgment dated 31.05.2016 in C.C. No. 2 of 2014, concerning the allegations made by complainant Nandakumar (PW-6), the learned Special Judge convicted the appellant for offences punishable under Sections 7 and 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act, 1988 (Hereinafter referred to as "the Act") and sentenced him to undergo rigorous imprisonment for two years and to pay a fine of Rs. 1,00,000/-, with a default sentence of six months' simple imprisonment, no separate sentence being awarded under Section 7 of the Act.

3. By a separate judgment of the same date in C.C. No. 3 of 2015, concerning three transactions i.e., allegations made by

T.V. Rajan (PW-9), C.K. Aravindan (PW-10) and N.P. Gopi Kumar (PW-11), the appellant was convicted under Sections 7 and 13(2) read with Section 13(1)(a) of the Act and sentenced to undergo rigorous imprisonment for one year each and to pay a fine of Rs. 25,000/- each, with a default sentence of three months' simple imprisonment, in respect of the offences under Section 7 pertaining to the transactions involving alleged bribe giver C.K. Aravindan (PW-10) and Gopi Kumar (PW-11), and further sentenced to undergo rigorous imprisonment for two years and to pay a fine of Rs. 1,00,000/-, with a default sentence of six months' simple imprisonment, for the offence punishable under Section 13(2) read with Section 13(1)(a) of the Act, all substantive sentences being directed to run concurrently.

4. The aforesaid convictions and sentences were affirmed by the High Court of Kerala by separate judgments and orders dated 24.05.2024 rendered in Criminal Appeal No. 591 of 2016 and Criminal Appeal No. 587 of 2016 respectively. However, in Criminal Appeal No. 587 of 2016, only the conviction pertaining to transaction involving bribe giver Gopi Kumar (PW-11) was upheld.

5. Since both appeals emanate from the same FIR, arise from a common investigation, involve overlapping evidence, common witnesses including approvers, and raise substantially identical questions concerning the proof of demand and acceptance of illegal gratification through intermediaries, the evidentiary value of approver testimony, the validity of prosecution sanction and the circumstances in which the statutory presumption under Section 20 of the Act may be invoked, they were heard together and are accordingly being disposed of by this common judgment.

6. The prosecution case has its genesis in a complaint made by one P.P. Nandakumar, a Junior Clerk attached to the Personnel Branch of the Railway Protection Force at Palakkad. During the relevant period, namely December 2004 to August 2005, the appellant was serving as Divisional Security Commissioner (DSC), Railway Protection Force, Palakkad Division, Southern Railway. The appellant had assumed charge as Divisional Security Commissioner, Palakkad on 4 December 2004. The Palakkad Division exercised administrative control over a large number of Railway Protection Force establishments spread across parts of Kerala, Tamil Nadu and Karnataka.

7. The prosecution alleged that while holding the said office, the appellant had evolved a system whereby members of the Railway Protection Force seeking favourable transfers, postings or other service-related benefits were required to pay illegal gratification. According to the prosecution, the appellant did not ordinarily deal directly with the concerned personnel but utilised subordinate officials as intermediaries for collecting the illegal gratification demanded from various members of the force.

8. The principal intermediaries identified by the prosecution were Anantha Narayanan, a Constable of the Railway Protection Force and Abdul Gafoor, Head Constable. According to the prosecution, Anantha Narayanan represented to several members of the force that he enjoyed direct access to the appellant and was capable of securing favourable administrative orders in consideration of payment of money. The prosecution case further was that the monies collected by Anantha Narayanan were intended for and ultimately received on behalf of the appellant. Abdul Gafoor who was working in the office of the appellant as Head Constable, was the other conduit who was claimed to be close to the appellant.

9. The investigation eventually revealed what the prosecution described as twelve separate instances of illegal gratification collected from different members of the Railway Protection Force during the period between April 2005 and August 2005. The alleged payments related to transfers from one station to another, retention at preferred stations, or postings at locations desired by the concerned personnel. The prosecution asserted that the amounts ranged from ₹5,000/- to ₹13,000/- and were collected either through Anantha Narayanan or through another Railway Protection Force official, Abdul Gafoor.

10. The twelve transactions alleged by the prosecution were the following:

(i) Rs. 5,000/- from P. Shankaranarayanan for securing transfer from Erode to Palakkad;
(ii) Rs. 10,000/- from Abdul Rahiman for securing transfer from Palakkad to Calicut;
(iii) Rs. 5,000/- from T. Rajendran for obtaining a posting at Palakkad;
(iv) Rs. 10,000/- from P.P. Johny for obtaining a posting at Palakkad;
(v) Rs. 10,000/- from A. Mohanakrishnan for transfer from Erode to Palakkad

(vi) Rs. 10,000/- from Girish Kumar for transfer from Erode to Palakkad;

(vii) Rs. 7,500/- from T.V. Rajan for posting at Calicut;

(viii) Rs. 5,000/- from C.K. Aravindan for transfer from Erode to Palakkad;

(ix) Rs. 13,000/- from N.P. Gopi kumar for transfer from Palakkad to Shoranur;

(x) Rs. 10,000/- from T.K. Kathiresh Babu for transfer from Erode to Palakkad;

(xi) Rs. 7,500/- from P.P. Abdul Majeed for transfer from Erode to Palakkad; and

(xii) Rs. 7,500/- from V.V. Gangadharan for transfer from Erode to Palakkad.

According to the prosecution, all the aforesaid payments were ultimately made for the benefit of the appellant and constituted illegal gratification within the meaning of the Act.

11. The prosecution story came to light when P.P. Nandakumar, who was then working in the Personnel Branch at Palakkad, approached the Central Bureau of Investigation (CBI) with a complaint that he had been asked to pay Rs. 10,000/- for securing a posting at Palakkad. The prosecution case is that the demand was conveyed through Anantha Narayanan, who informed the complainant Nandakumar that the amount was required to be paid to the appellant. The amount was allegedly fixed at Rs. 10,000/- and was to be paid in two instalments of Rs. 5,000/- each. The first instalment was to be delivered on 04.08.2005 and the remaining few days thereafter.

12. Acting on the complaint, the CBI registered a case and organised a trap operation on 04.08.2005. During the trap, Anantha Narayanan was allegedly apprehended while accepting ₹5,000/- from Nandakumar. The trap proceedings constituted the foundation of the subsequent investigations. The prosecution treated Anantha Narayanan as the person through whom the appellant had demanded and accepted illegal gratification and proceeded on the footing that the money received by him was intended for the appellant.

13. Following the trap, the CBI undertook a wider investigation into the functioning of the Railway Protection Force in Palakkad Division. During the course of investigation, statements were recorded from a number of personnel who claimed to have paid money through Anantha Narayanan or Abdul Gafoor, another intermediary for obtaining transfers or postings. The prosecution ultimately formed the view that the trap transaction involving Nandakumar was not an isolated occurrence but part of a broader pattern of illegal gratification allegedly orchestrated by the appellant.

14. During the course of investigation, the CBI ascertained that Anantha Narayanan and Abdul Gafoor, who were initially arrayed as accused and had acted as intermediaries in the alleged collection of illegal gratification from various Railway Protection Force personnel could be roped in as prosecution witnesses to bolster the prosecution case. Accordingly, on 05.01.2006, the investigating agency moved applications under Section 306 of the Code of Criminal Procedure before the Chief Judicial Magistrate, Ernakulam seeking tender of pardon to both of them. By orders dated 27.03.2006, pardon was granted and both Anantha Narayanan and Abdul Gafoor were subsequently examined as approver prosecution witnesses during trial.

15. Upon completion of investigation, the CBI filed three separate final reports on 31.07.2006 bearing Nos. (1) 04/SK/19(A)/05/KER, (2) 05/SK/19(A)/05/KER and (3) 06/SK/19(A)/05/KER before the Court of the Special Judge for CBI Cases, Kochi. The first two final reports were taken on file as (i) C.C. No. 2 of 2014 and (ii) C.C. No. 3 of 2014 respectively, wherein, the appellant was convicted only under C.C. No. 2 of 2014, both by the Trial Court as well as High Court. The third final report, which comprised a larger number of alleged transactions, was subsequently split by the trial court into four separate calendar cases under Section 219 Cr.P.C., namely (iii) C.C. No. 4 of 2014, (iv) C.C. No. 2 of 2015 and (v) C.C. No. 4 of 2015, wherein the appellant was convicted by the Trial Court but later on acquitted by the High Court, and (vi) C.C. No. 3 of 2015, wherein the appellant was convicted by the Trial Court as well as the High Court.

16. In the present appeals, we are concerned only with C.C. No. 2 of 2014 (Criminal Appeal No. 4733 of 2024) and C.C. No. 3 of 2015 (Criminal Appeal No. 4732 of 2024). In C.C. No. 2 of 2014, both the Trial Court and the High Court convicted the appellant on the sole transaction it involved, the trap laid pursuant to the complaint of P.P. Nandakumar (PW-6). On the other hand C.C. No. 3 of 2015, comprised three distinct transactions, involving T.V. Rajan (PW-9), C.K. Aravindan (PW-10), and N.P. Gopi Kumar (PW-11) respectively. Of these, the allegation concerning T.V. Rajan was disbelieved by the Trial

Court itself and was not carried further in appeal, it therefore does not require consideration here. The convictions in respect of the remaining two transactions, those concerning C.K. Aravindan and N.P. Gopi Kumar, both were convicted by the Trial Court. However, only the conviction in respect of transaction relating to N.P. Gopi Kumar was affirmed by the High Court. We accordingly examine, in Criminal Appeal No. 4733 of 2024, the sole transaction involved in C.C. No. 2 of 2014, and, in Criminal Appeal No. 4732 of 2024, the surviving transactions in C.C. No. 3 of 2015 concerning N.P. Gopi Kumar.

In Crl. Appeal No. 4733 of 2024 (arising from C.C. No. 2/2014)

Submissions on behalf of the appellant

17. The appellant contends that neither the demand nor acceptance of illegal gratification has been established beyond reasonable doubt, and that the finding of guilt rests solely on the oral testimony of approver PW-2 Anantha Narayanan and the complainant PW-6 P.P. Nandakumar, which, on a closer scrutiny, does not disclose demand and acceptance of bribe money attributable to the appellant himself, as required to attract Sections 7 and 13(2) read with 13(1)(d) of the Act.

18. It is submitted that the Senior Divisional Office Personnel Branch (DPO), Palakkad, and not the appellant, was the competent authority for absorption and posting of medically decategorised staff such as PW-6 and PW-6 had already been posted at Palakkad on 13.07.2005 by an order of the Senior DPO, and hence there was consequently no occasion for him to approach the appellant on 13.07.2005 to request a posting in Palakkad Area.

19. It is urged that the tainted currency was admittedly recovered from the intermediary PW-2 and not from the appellant, and that no hand-wash or comparable test was ever conducted on the appellant to connect him with the recovery. Reliance is placed on **R.P.S. Yadav v. CBI**[1], for the proposition that the prosecution must chronologically establish demand by the accused, acceptance through the intermediary, and ultimate recovery traceable to the accused, failing which the chain of

[1] (2015) 11 SCC 642

proof under Sections 7 and 13(2) read with 13(1)(d) of the Act remains incomplete.

20. The appellant submits that PW-2, having secured pardon under Section 306 Cr.P.C., is an accomplice whose evidence cannot be accepted without independent corroboration.

21. It is contended that, in the absence of proof of demand, the presumption under Section 20 of the Act could not have been invoked. Reliance is placed on **B. Jayaraj v. State of Andhra Pradesh**[2], and **Sujit Biswas v. State of Assam**[3], for the propositions that proof of demand is an indispensable requirement antecedent to the presumption, and that suspicion, however strong, cannot substitute for proof.

22. The validity of the sanction under Section 19 of the Act is challenged on the ground that 52 documents, including the FIR, were not forwarded to the sanctioning authority at the relevant stage, so that the sanction order dated 21.06.2006 was issued without due application of mind. Reliance is placed on **CBI v. Ashok Kumar Aggarwal**[4], and **State of T.N. v. M.M.**

---

[2] (2014) 13 SCC 55
[3] (2013) 12 SCC 406
[4] (2014) 14 SCC 295

Rajendran[5], for the proposition that the mere existence of a detailed report by the investigating agency does not cure the sanctioning authority's own failure to apply its mind to the complete record.

23. It is further urged that the Entrustment Mahazar (Ext.P8) was prepared between 10.00 a.m. and 11.30 a.m. on 04.08.2005, before the complaint was formally recorded at 2.00 p.m. on 04.08.2005 and before the FIR (Ext.P14) came to be registered, rendering the trap proceedings and the consequent recovery illegal and hit by Sections 154 and 162 Cr.P.C.; and that the non-production of the recorded telephonic conversations between PW-6 and PW-2, and between PW-6 and the appellant, ought to have led the courts below to draw an adverse inference under Section 114(g) of the Evidence Act.

24. The appellant points to what are said to be material contradictions between approver PW-2, official trap witness PW-4 and complainant-PW-6 as to the place of PW-2's arrest, and between the mahazar's account of the tainted cover being placed

[5] (1998) 9 SCC 268

in PW-2's pocket and the positive phenolphthalein result said to follow from it.

25. Reliance is placed on the appellant's monthly diary (Ext.D2) to show that he was away from Palakkad on duty with the Minister of State for Railways between 29.07.2005 and 31.07.2005, the period during which the prosecution alleges the demand of Rs. 10,000/- came to be communicated and on the RPF Coimbatore muster roll and Roznamcha (Ext.D14/D15) to show that PW-2 was, during the material period, posted and on duty at Coimbatore rather than at Palakkad.

Submissions on behalf of the Respondent

26. The respondent submits that the demand and recovery of Rs. 5,000/- through PW-2 stand established, and are corroborated by the muster roll (Ext.D15) read with PW-2's own evidence that, despite his formal transfer to Coimbatore in 2003, he continued to function at Palakkad on working arrangement, and by Ext.P11 dated 15.07.2005 posting PW-6 at the DSC's office, Palakkad.

27. It is submitted that the oral testimony of PW-2, apprehended in the trap, and of PW-6, the complainant, is credible and mutually corroborative, and that the concurrent findings of the trial court and the High Court on the credibility of these witnesses do not warrant interference by this Court.

28. The respondent disputes the contention that the Senior DPO's formal competence to approve postings excludes the appellant's role in the matter, and relies on the evidence of PW-8 together with Ext.P19 and Ext.P20 to submit that the appellant recommended the transfer of only a fraction of the personnel who applied, demonstrating his practical ability to influence the outcome of such applications.

29. It is contended that the presumption under Section 20 of the Act does not require direct proof of demand, and that the recovery of tainted currency together with the surrounding circumstances furnishes the necessary foundational facts; ***B. Jayaraj v. State of Andhra Pradesh***[6], is distinguished on the ground that it turned on the complainant's own disavowal of the demand, a circumstance absent in the present case.

[6] (2014) 13 SCC 55

30. On the question of sanction, it is submitted that the sanctioning authority, namely the Minister of Railways, applied its mind to the investigation report and other relevant records before according sanction, and that the non-forwarding of a subset of documents to the Central Vigilance Commission at an intermediate stage does not, without more, establish non-application of mind by the ultimate sanctioning authority, in line with ***CBI v. Ashok Kumar Aggarwal***[7].

In Crl. Appeal No. 4732 of 2024 (arising from C.C. No. 3/2015)

Submissions of behalf of the appellant

31. The appellant contends that the High Court's affirmance proceeds on the same infirm appreciation of evidence as the Trial Court, and that the evidence of PW-7 Abdul Gafoor, the intermediary and accused turned approver, PW-9 T.V. Rajan, PW-10 C.K. Aravindan and PW-11 N.P. Gopi Kumar, the complainant, taken together, does not establish a demand or acceptance of illegal gratification attributable to the appellant.

[7] (2014) 14 SCC 295

32. It is submitted that PW-11's version of having initially paid Rs. 10,000/- to PW-7 after demand of Rs.15,000 from PW-7 finds no support in PW-7's own deposition. If PW-7 did not demand Rs.15,000/- and did not accept 10,000/- then there is no question of demand of balance money and acceptance of Rs.3000/-.

33. It is urged that PW-7, having secured pardon under Section 306 Cr.P.C., stands in the same footing as any other approver, and that no material independent of his own account connects the appellant as distinct from PW-7 with any of the transactions in question; that no tainted currency or other incriminating article was ever recovered from the appellant in this case; and that there is no evidence that PW-7 acted under the appellant's authority or instructions, as opposed to his own initiative, in soliciting money from PW-9, PW-10 and PW-11.

34. The appellant contends that the competent authority for approving premature transfers was the Chief Security Commissioner, Chennai, and not the appellant, whose role was at most confined to forwarding recommendations; and that this absence of decision-making authority undermines the prosecution's theory of a demand for illegal gratification in exchange for transfers.

35. Reliance is placed on the appellant's travel diary (Ext.D2) to demonstrate inconsistency between PW-7's account and the appellant's recorded whereabouts on the dates the transactions are alleged to have occurred, and it is pointed out that the Muster Roll and Roznamcha records capable of fixing the location of PW-7 and PW-11 at the material time were neither seized nor produced by the investigating agency.

<u>Submissions on behalf of the Respondent</u>

36. The respondent submits that the testimony of PW-7 and PW-11 constitutes evidence of demand and acceptance, and that PW-7's admitted role in receiving money and transferring it to the appellant establishes the necessary link between the appellant and the illegal gratification; the absence of the appellant's physical presence at every stage of the transaction does not absolve him, since the law recognises acceptance through an intermediary as sufficient.

37. It is submitted that the discrepancies pointed out by the appellant, including PW-11's reference to a demand of Rs. 15,000/- as against the figures given by PW-7, and PW-7's silence on the initial payment of Rs. 10,000/- said to have been made by PW11, are minor and do not detract from the consistency of the core allegation across PW-7, PW-9, PW-10 and PW-11 read together with the surrounding circumstances, including the timing of the transfers in question.

38. The respondent contends that, even without direct proof of demand, the chain of circumstances including PW-7's role as intermediary and the transfer-related motive common to the transactions suffices to sustain an inference of demand and acceptance and to attract the presumption under Section 20 of the Act, and the absence of any recovery from the appellant's person is not fatal, since the presumption does not require physical possession by the accused himself.

39. On sanction, it is submitted that the appellant has not demonstrated any prejudice flowing from the sanctioning authority's alleged lack of access to a subset of documents, and that the burden of showing that such omission affected the ultimate decision to sanction remains undischarged.

40. It is submitted, finally, that the concurrent findings of the trial court and the High Court reflect a careful and differentiated appreciation of the evidence relating to each alleged transaction, the High Court having itself discarded the allegation concerning T.V. Rajan (PW9) as unproved and that such a considered exercise does not call for interference by this Court.

THE CORE ISSUES :

41. Having heard the parties and having perused the material on record, the following questions fall for our consideration:

(i) Whether the prosecution has succeeded in proving beyond reasonable doubt that the appellant demanded illegal gratification, either directly or through the alleged intermediaries, from the complainants and other Railway Protection Force personnel in connection with transfers, postings or other service-related benefits?

(ii) Whether the prosecution has succeeded in proving that the amounts allegedly paid to Anantha Narayanan and Abdul Gafoor were accepted or obtained by them on behalf of the appellant so as to constitute acceptance of illegal gratification by the appellant within the meaning of Sections 7 and 13 of the Act?

(iii) Whether the evidence of Anantha Narayanan and Abdul Gafoor, both of who were originally arrayed as accused and subsequently tendered pardon and examined as approvers, is reliable and sufficiently corroborated in material particulars so as to sustain the convictions recorded against the appellant?

(iv) Whether the statutory presumption under Section 20 of the Act could have been invoked in the facts and circumstances of the present case?

(v) Whether the findings recorded by the Trial Court and affirmed by the High Court warrant interference by this Court?

(vi) Whether the sanctions are validly accorded?

42. Since the first four questions are closely interlinked and go to the root of the prosecution case, these may conveniently be considered together.

RELEVANT LEGAL PRINCIPLES :

43. Before adverting to the evidence on record, it would be apposite to briefly notice the settled legal position governing prosecutions under the Prevention of Corruption Act, particularly with regard to proof of demand and acceptance of illegal gratification, evidentiary value of accomplice testimony and circumstances in which statutory presumption under Section 20 of the Act may be invoked.

44. Over the years, this Court has consistently held that proof of demand and acceptance of illegal gratification constitutes the gravamen of the offence and forms the indispensable foundation upon which a conviction under the Act must rest. The law in this regard is no longer res integra.

45. The jurisprudence governing offences under the Prevention of Corruption Act has evolved on the fundamental premise that criminality does not arise merely because money changes hands. What the prosecution is required to establish is that the public servant demanded, accepted or obtained gratification other than legal remuneration as a motive or reward for performing, forbearing or facilitating an official act. Consequently, proof of demand and acceptance occupies a position of central importance in prosecutions under the Act.

46. In **C.M. Girish Babu v. CBI**[8], this Court held that mere recovery of tainted currency notes is insufficient to sustain a conviction unless the prosecution proves beyond reasonable doubt that the accused voluntarily accepted the money knowing it to be illegal gratification. The Court observed that recovery, divorced from proof of demand and acceptance, cannot by itself establish the commission of an offence under the Act.

47. The principle was reiterated and emphatically restated in **B. Jayaraj v. State of Andhra Pradesh**[9]**.** This Court held that proof of demand is an indispensable essentiality for establishing the offence and that in the absence of proof of demand, possession and recovery of currency notes from an accused

[8] (2009) 3 SCC 779
[9] (2014) 13 SCC 55

would not establish the offence. This Court further held that the statutory presumption under Section 20 of the Act does not arise unless the foundational facts giving rise to such presumption are first established by the prosecution, as under: -

> "*8. In the present case, the complainant did not support the prosecution case insofar as demand by the accused is concerned. The prosecution has not examined any other witness, present at the time when the money was allegedly handed over to the accused by the complainant, to prove that the same was pursuant to any demand made by the accused. When the complainant himself had disowned what he had stated in the initial complaint (Ext. P-11) before LW 9, and there is no other evidence to prove that the accused had made any demand, the evidence of PW 1 and the contents of Ext. P-11 cannot be relied upon to come to the conclusion that the above material furnishes proof of the demand allegedly made by the accused. We are, therefore, inclined to hold that the learned trial court as well as the High Court was not correct in holding the demand alleged to be made by the accused as proved. The only other material available is the recovery of the tainted currency notes from the possession of the accused. In fact such possession is admitted by the accused himself. Mere possession and recovery of the currency notes from the accused without proof of demand will not bring home the offence under Section 7. The above also will be conclusive insofar as the offence under Sections 13(1)(d)(i) and (ii) is concerned as in the absence of any proof of demand for illegal gratification, the use of corrupt or illegal means or abuse of position as a public servant to obtain any valuable thing or pecuniary advantage cannot be held to be established.*
>
> *9. Insofar as the presumption permissible to be drawn under Section 20 of the Act is concerned, such presumption can only be in respect of the offence under Section 7 and not the offences under Sections 13(1)(d)(i) and (ii) of the Act. In any event, it is only on proof of acceptance of illegal gratification that presumption can be drawn under Section 20 of the Act that such gratification was received for doing or forbearing to do*

> *any official act. Proof of acceptance of illegal gratification can follow only if there is proof of demand. As the same is lacking in the present case the primary facts on the basis of which the legal presumption under Section 20 can be drawn are wholly absent.”*

We are aware that in the aforesaid case, the complainant did not support the Prosecution, as in the present case, but the legal principle remains that the foundational facts have to be proved for attracting Section 20 of the Act.

48. A similar view was adopted in **P. Satyanarayana Murthy v. District Inspector of Police[10],** wherein this Court observed that proof of demand of illegal gratification is *sine qua non* for constituting offences under Sections 7 and 13 of the Act and that mere acceptance or recovery of money without proof of demand would not bring home the guilt of the accused.

49. The law was comprehensively examined by a Constitution Bench of this Court in **Neeraj Dutta v. State (Government of NCT of Delhi)[11].** After an exhaustive survey of precedents, the Constitution Bench reaffirmed that proof of demand and acceptance of illegal gratification remains the gravamen of offences under the Prevention of Corruption Act. At

---

[10] (2015) 10 SCC 152
[11] (2023) 4 SCC 731

the same time, the Court clarified that proof of demand need not invariably be by direct evidence and may, in an appropriate case, be established through circumstantial evidence. The Constitution Bench also clarified that the absence of the complainant's testimony would not necessarily be fatal if demand and acceptance can otherwise be proved through reliable evidence and surrounding circumstances. The Constitution Bench further explained that the presumption under Section 20 of the Act is not intended to relieve the prosecution of its primary burden. The presumption operates only after the prosecution establishes the foundational facts necessary to show that the accused accepted or obtained gratification other than legal remuneration. Once such foundational facts are established, the burden shifts to the accused to offer a satisfactory explanation. However, where the prosecution itself fails to establish the foundational facts, the presumption does not arise.

50. Equally well settled are the principles governing prosecutions where the alleged gratification is received for another public servant. The law does not require that the public servant must personally receive the money for himself in every case. Acceptance for another person or through another person by way of an intermediary acting on behalf of the public servant may, in a given case, satisfy the statutory requirement. In this regard, it is apposite to note the legal proposition as set out in the observations of this Court in **State by Lokayuktha Police v. K. Rangayya[12],**:

> "*22. Thus, such an offending act can be done by "another public servant" also under the personal influence of the concerned public servant. What we, therefore, understand from the reading of Section 7 (a) of the PC Act read with Explanation 2, is that, it is not necessary that the public servant who has been charged of the offence under Section 7 of the PC Act has to obtain the undue benefit for himself, but it also covers cases where he does the offensive act for obtaining undue advantages for "another person", and this act may be done by himself by abusing his position, or may be executed through another public servant by using his personal influence over the other public servant.*
>
> *Therefore, in the light of the above provision, a public servant may not be directly a recipient or the executor of the offensive act and thus, may not be in the limelight and remain in the background. Nevertheless, he can be instrumental in ensuring obtaining, accepting or attempting to obtain from another person the undue advantage for "another person" by taking the help of "another public servant". Such public servant who has been charged of offence under Section 7(a) may be the main instrumentality, through whom undue advantage is obtained and/or arranged through other public servant….*
>
> *23. …….*
>
> *24. The High Court fell into a grave error in characterizing the aforesaid conduct of the Respondent*

[12] 2026 SCC OnLine SC 963

> *No. 1 as insufficiently proximate to constitute a 'demand' within the meaning of Section 7 of the PC Act. The High Court appears to have imported a requirement of a direct, personal, and express demand by the public servant himself by not taking into consideration Explanation 2, a standard not warranted by the broad statutory language. The PC Act does not countenance any such straitjacketed formulation limiting to acts of demand and acceptance of bribe by the official himself as explained by expansive provision of Explanation 2. <u>It can be for obtaining the undue advantage "for another person" also. Further, an attempt to obtain a bribe through subordinates who are also public servants, is precisely the kind of indirect corruption that the legislature, by enacting Explanation 2 to Section 7, has sought to bring within the fold of the statute.</u>*
>
> *25. The interpretation adopted by the High Court, if permitted to stand, would limit the broad scope of Section 7 read with Explanation 2, and would create a pernicious loophole in the anti-corruption law by permitting senior public officials to orchestrate and direct the collection of illegal gratification through their public servant subordinates and park the benefits in the account of the "another person" for whose benefit the public servant intends, while maintaining personal deniability. Such a construction would subvert the manifest purpose and policy of the PC Act and render the Explanation 2 redundant, and thus, cannot be countenanced."*
>
> (emphasis supplied)

51. However, before criminal liability can be fastened upon the public servant, the prosecution must establish by reliable evidence that the intermediary was acting under the authority, direction or for the benefit of the accused and that the demand itself was attributable to the accused. Mere receipt of money by a third person cannot automatically result in criminal liability being imputed to a public servant.

52. The present case raises an additional dimension inasmuch as the prosecution relies substantially upon the testimony of persons who were originally arraigned as accused and were subsequently tendered pardon. The law relating to accomplice evidence is equally well settled. Section 133 of the Evidence Act declares that an accomplice is a competent witness and that a conviction is not illegal merely because it proceeds upon uncorroborated accomplice testimony. At the same time, Illustration (b) to Section 114 embodies a rule of prudence that an accomplice is ordinarily unworthy of credit unless corroborated in material particulars.

53. In **Sarwan Singh v. State of Punjab**[13]**,** and in a long line of subsequent decisions, this Court has consistently held that though a conviction based upon accomplice evidence is legally permissible, courts ordinarily insist upon independent corroboration connecting the accused with the commission of the offence. The rationale is self-evident. An accomplice who has

[13] AIR 1957 SC 637

participated in the crime and subsequently secured pardon possesses a powerful incentive to minimise his own culpability and shift responsibility onto others.

54. The principles governing approver evidence assume particular significance in corruption prosecutions where the alleged demand and acceptance are sought to be proved through intermediaries who participated in the transactions. In such cases, the Court must scrutinise the evidence with great care and caution and must satisfy itself that the testimony of the approver receives assurance from independent witnesses or circumstances and reliable corroborative material before acting upon it.

55. In this regard, it must be borne in mind that admissibility of evidence and its credibility operate on entirely different planes. That the evidence of an approver, or of a witness who claims to have paid a bribe, is admissible in law, does not by itself, answer the distinct question of whether such evidence is credible and safe to act upon. That question falls to be assessed on a careful appraisal of the surrounding circumstances, the presence or absence of independent corroboration, and inherent probabilities of the account given, and not merely on the fact that the law permits such evidence to be received.

56. It is in the light of the aforesaid principles that the evidence adduced by the prosecution in the present case must be examined.

ANALYSIS BY THE COURT :

A. Crl.A No. 4733 of 2024 [C.C. No. 2/2014]

Transaction I: Complaint by P.P. Nandakumar (PW-6), wherein the appellant was convicted by the Trial Court and affirmed by High Court.

57. The prosecution case against the appellant is based primarily on the evidence of the complainant Nandakumar, PW-6, and the approver intermediary, Anantha Narayanan, PW-2. Since it is these two witnesses who had alleged that the appellant had demanded bribe from the complainant, and there is no independent witness to that fact, we must carefully analyse their evidence to arrive at the satisfaction that their evidence is credible enough to sustain the charge against the appellant as to have been proved beyond reasonable doubt. The other material witness can at best corroborate only to prove that the approver intermediary Anantha Narayanan was caught taking the bribe, but not that the appellant was caught taking the bribe.

It is important to note that Nandakumar who was posted in the office of Sr. DPO on 13.07.2005 sought the help of the appellant to be posted as Personal Branch Clerk in DSC's office, to which the appellant agreed, but asked him to meet Anantha Narayanan, PW-6.

Admittedly, Nandakumar was subsequently posted in the office of the DSC on 15.07.2005 within two days of the request.

58. On 02.08.2005, after two weeks of the posting on 15.07.2005, Anantha Narayanan met Nandakumar and told him that the appellant was demanding a bribe of Rs.10,000/- as a reward for getting the posting in the DSC's office, upon which Nandakumar expressed his difficulty in paying the amount, to which Ananth Narayanan asked Nandakumar to meet the appellant. On the same day on 02.08.2005, Nandakumar met the appellant, when the appellant demanded Rs.5000/- as the first instalment and the balance to be paid within ten days. As Nandakumar was unwilling to acquiesce to the demand of the appellant, he approached the CBI which made the necessary arrangement for executing a trap. The trap was arranged and executed on 04.08.2005 within two days of the demand made by the appellant. However, in the trap the appellant was not caught, but Anantha Narayanan, who allegedly accepted the bribe on behalf of the appellant.

59. At this stage it is important to refer to what transpired between the complainant Nandakumar and Anantha Narayanan. Nandakumar at the instance of the CBI apparently informed Anantha Narayanan on 04.08.2005 that he was willing to pay the amount and he also requested the presence of Anantha Narayanan when the amount was to be paid, to which he apparently agreed, as deposed before the Trial Court as follows :

> *"On 4.8.2005, I telephoned Ananthanarayanan from my quarters in the presence of DySP. I informed him that I was ready to pay the amount and told him that I require his presence and also at the time, when the amount was paid. He agreed to that."*
>
> *(emphasis added)*

However, when Nandakumar went to the office of the appellant bringing the amount, he did not meet the appellant along with Anantha Narayanan. Further, Nandakumar stated that though he offered the money directly to the appellant, the appellant instructed him to entrust it to Ananatha Narayanan. Both Nandakumar and the appellant then came out of the office after staying there for some time and the appellant went away in his car. Nandakumar then gave the cover carrying the Phenopthaline powder treated notes to Anantha Narayanan, who then kept it in his pocket. This is what Nandakumar had deposed:

> "*I went to the DSC's office and met Ananthanarayanan. I waited for the appointment of the accused. At about 6 pm. I got appointment to meet the accused. At 6 pm- I met the accused in his chamber. After 10 minutes he talked with me regarding official matters. I informed him that I brought the money. He told me to entrust the amount with Ananthanarayanan. He went out of the chamber. I also came out along with him. Accused get into his official car and went away. Ananthanarayanan was standing near the car. I entrusted the cover with Ananthanarayanan. He accepted it and kept the same in the pocket of his pants.*"

He incidentally does not mention about the presence of Nandakumar while meeting the appellant in his chamber.

60. We will pause here and compare with the deposition of Anantha Narayanan, the PW-2 who took the bribe.

Anantha Narayanan deposed as follows:

> *"On 4.8.2005, Nandakumar called me over phone and informed that money would be ready in the noon. He enquired me about the manner in which the amount is to be given. I instructed him to give the money directly. He told me that he was afraid of the accused and insisted my presence also when the amount was given. I told him that the same can be decided when he came to the office."*

Anantha Narayanan continued as follows:

> *"On 4.8.2005 in the evening, Nandakumar told me that the money was ready and he wanted to meet the accused. I met the accused and informed the matter. The accused asked me to direct Nandakumar to wait. At about 6 pm, Nandakumar again expressed his - intention to meet the accused. I went to the accused along with Nandakumar. Then, I came out of the chamber. Nandakumar was inside the chamber. After 10-15 minutes, both the accused and Nandakumar came out. The accused left in his car. Nandakumar came to me and gave me a cover stating that the accused directed him to entrust the same with me and to inform me to take that to the residence of the accused. I got the cover and kept it in the pocket of my pants. When I was about to go to the residence of the accused, the CBI officials came and apprehended me.' They took me to the DSC's office and directed me to take the cover given by Nandakumar out of my pocket. I did it. I was directed to open the cover and to take the money out of the cover. I did it."*

61. Incidentally in his deposition, he does not make any reference of the appellant asking him to collect the money from Nandakumar. From the above evidence of Nandakumar and Anantha Narayanan the following aspects emerge that though Nandakumar had requested Anantha Narayanan to be present with him when he meets the appellant, though Anantha Narayanan went with Nandakumar, he came out and

Nandakumar alone met the appellant for about 5-10 minutes. What transpired between Nandakumar and the appellant for about 10-15 minutes is not known though the only purpose of meeting the appellant was to give money. Further, Nandakumar had gone along with money to the office of the appellant but the appellant apparently did not accept the money from Nandakumar even though it was offered to him in the office where no one else was present. It is quite surprising that even though the appellant had himself allegedly demanded bribe from Nandakumar, but when it was offered to him directly where no one else was present, the appellant did not take it and instead asked Nandakumar to give it to Anantha Narayanan. At the same time, when the appellant allegedly demanded money from Nandakumar, he was not told at that time that the money was to be given through Anantha Narayanan. It is also to be noted that when Nandakumar talked to Anantha Narayanan, Anantha Narayan asked Nandakumar to give the money directly to the appellant. Thus, the statements of Nandakumar and Anantha Narayanan do not fall neatly together, but with variations where these matter the most.

62. At this stage, it is important to note that recovery from Anantha Narayanan, PW-2 was not confined to the tainted currency alone. A further sum of Rs. 10,000/-, kept in a separate envelope marked "DSC/PGT", was also found on his person. The investigation attributed this amount to an entirely different and independent allegation that it was bribe money paid by one Kanakaraj/ASI, through Shankaranarayanan, Constable, in connection with departmental appeal proceedings against Kanakaraj and one Muthuswamy/ASI.

Anantha Narayanan had deposed that when he handed over the cover to the appellant, he returned this money to Anantha Narayanan and asked him to give at his residence along with the money to be paid by Nandakumar.

He deposed as follows:

> "*On the same day, Shankamarayanan called me over phone and requested to me to meet him on my way to the office. Accordingly I met him. He gave me a cover and he informed that he was entrusted with the same by Kanakraj, ASI for the purpose of giving to the accused. I opened the cover in the presence of Shankamarayanan. It contained money. I came to the office with the cover and entrusted the same with the accused in his chamber. The accused, informed me that the money was given for reducing the punishment of ASI Kanakraj and Muthuswami in DAR enquiry. The accused gave the money back to me and told me to give the same at his residence along with the money that will be paid by Nandakumar in the evening. I kept that money in the pocket of my pants.*"

It is very surprising that the appellant, though, received the money allegedly given by other personnel, naming Shankarnarayanan, personally from Anantha Narayanan in the office, yet the appellant handed over the same to Anantha Narayanan to give the appellant at his residence. The appellant was the person who was demanding money, and he was offered the same in his office, which he accepted but again gave to Anantha Narayanan, for being delivered to his residence. We fail to understand any logical reason for this strange detour of the bribe money.

As mentioned above, the appellant also did not accept the money from Nandakumar, though he was offered by Nandakumar in the office and instead asked him to deliver it to Anantha Narayanan.

63. If the prosecution wanted to show that it was the strategy of the appellant that he would not directly accept money himself in the office to leave any trail, but only through the intermediary, Anantha Narayanan, it is inconsistent with the statement of Anantha Narayanan who told Nandakumar that he handover the money directly to the appellant. It is also notable that the appellant never told Nandakumar earlier to give the money to Anantha Narayanan.

There is nothing to suggest that the appellant was apprehensive of a trap or had any reason to insulate himself from the transaction, on the contrary, as per the prosecution, the appellant made the demand himself directly to Nandakumar. In these circumstances, it is not comprehensible why a direct demand, made in person by the appellant and offer made to him directly, should have been redirected through an intermediary rather than simply accept it.

As we shall see later, this behaviour of the appellant is not consistent with his act in the other complaint case, where the appellant asked the bribe giver Gopi Kumar to meet him at his residence.

64. Another interesting aspect is that when the money was given by Anantha Narayanan to the appellant, the appellant explained to Anantha Narayanan that the money was given for reducing the punishment of two ASI Kanakraj and Muthuswamy in DAR Enquiry. Why should a superior officer give an explanation with regards to the reasons for accepting bribe to a constable working under him? Also, why did not the appellant keep the money with himself when he took it from Anantha Narayanan. This behaviour of the appellant is certainly quite weird, if not unbelievable. This unusual behaviour attributed to the appellant casts a serious doubt on the credibility of the prosecution case.

65. Another feature of PW-2's account of this envelope episode involving Rs. 10,000/- invites comment. The aforesaid transaction was a matter which was the subject of separate prosecution in C.C. No. 3 of 2014 and in which the appellant was, in fact, acquitted on trial. That PW-2 was, at the very moment of the trap, simultaneously holding monies attributed to a wholly separate transaction, one that did not survive scrutiny at trial, is a circumstance that bears on the reliability of treating him as a mere conduit acting strictly on the appellant's specific instructions in every instance, and lends some support to the alternative hypothesis already noticed above, that PW-2 dealt with such amount with independence of his own, where the appellant was not a party.

Interestingly enough, further, when PW-2 was caught with other extra-money of Rs.8,000/- and Rs.5,000/- which he claimed to be his personal money, the same were not seized by the CBI. At the time of such seizure, PW-2 was an accused and not yet an approver. This Court, thus finds it extremely queer that the CBI would accept his plea of the said amount to be his personal money at face value and returned the same to PW-2. How did the CBI distinguish at that moment that it was not tainted bribe money, but personal money of PW-2? The act of the CBI thus becomes questionable.

66. The CBI on being informed that the appellant was demanding bribe, decided to lay the trap for the appellant. If the trap was really meant for the appellant and not for PW-2, why was it executed against PW-2, Anantha Narayanan? It is relevant to consider the reason the trap was not permitted to run its full course as against the appellant. If, the money was ultimately meant to reach the appellant, the investigating agency ought to have kept a watch on the appellant and not merely on PW-2 and on being told that the money was handed over to PW-2, the CBI could have waited for some more time to observe the movement of PW-2 and if PW-2 was proceeding towards the residence of the appellant with the trap money, the CBI could have executed the trap at the residence of the appellant which would have furnished direct and conclusive proof of receipt qua the appellant himself. Instead, the trap was brought to an abrupt closure at the point of recovery from PW-2, which, at its highest, establishes only the unauthorized receipt of money by PW-2 and does not establish that the money was ever intended to reach, or did in fact reach, the appellant. Further, as per the version of PW-2, the chain contemplated was that the complainant would hand the money to PW-2, as directed by the appellant, and PW-2 would in turn carry it to the appellant's residence. Had the investigating agency allowed that chain to complete, the resulting evidence would have spoken far more directly to the appellant's culpability than the recovery actually effected. This is a serious lacuna and impatience of the CBI in the investigation conducted by it would enure to the benefit of the appellant.

67. At this stage, we would like to examine further the manner of the investigation by the CBI. The complainant Nandakumar apparently informed the CBI on 03.08.2005 of the bribe demanded by the appellant and the CBI decided to lay the trap the very next day on 04.08.2005. The FIR was lodged on

04.08.2005 at 2 pm, on the day of the trap, and the trap was executed on the same day at 4.30 pm. Deputy S.P. of CBI, PW-7 states that Nandakumar orally informed him about the demand of bribe by the appellant. Since the FIR was lodged on 04.08.2005 at 2 pm and the CBI decided to lay the trap on the same day, before laying the trap, the CBI must have verified the authenticity of the complaint, which must have been done before the trap was planned. It is surprising that the CBI started the investigation of a cognizable offence by way of verifying the complaint of bribery even before the formal FIR was lodged. It is also noticed that the CBI arranged the two independent trap witnesses at a very short period of time before the execution of the trap. Aboobacker, PW-4, the independent witness states that on instructions from the Zonal Office, he met the Deputy S.P. of CBI, PW-7 at about 2:30 PM where he was explained about the nature of the claim and within two hours, they proceeded to the office of the appellant at 4:35 PM. Thus, the entire trap was arranged between 2 pm to 4:30 pm of 04.08.2005. While the investigating agency cannot be faulted for organizing the trap in such an extraordinarily speedy manner, yet it can raise certain doubts about it. The Trial Court, however, brushed aside the doubts raised by the appellant. We, accordingly, reproduce the relevant portions of the judgement of the Trial Court as regards the said aspect as follows:

> *"148. During the cross examination, PW7 deposed that the diary in respect of the proceedings on 04.08.2005 was started at 7 am. The counsel for the accused argued that even that crime was registered only at 2.45 pm and the conduct of PW7 in opening the case diary at 7 am is illegal. I have already observed earlier that the crime was registered at Ernakulam, and the trap proceedings were conducted at Palakkad. There was no way out other than to allow PW7 to conduct the trap proceedings since the bribe was to be given on 04.08.2005. So, as regards the proceedings conducted by PW7 on 04.08.2005. he cannot be found fault with for recording the proceedings in the diary.*
>
> *149. According to PW7, PW6 was directed to contact PW2 over the phone on 4.8.2005. Accordingly PW6 called PW2 from his land phone at his residence and informed that the money is ready. <u>As per Ext.P8 entrustment mahazar, the aforesaid conversation was recorded which was played to the trap witnesses at the Crown hotel. This has been mentioned in Ext.P8 entrustment mahazar. The digital recorder was not produced before the court. Relying on the aforesaid aspect, the counsel for the accused argued that the case of the prosecution is not at all believable. During the cross examination, PW7 deposed that the aforesaid conversation was recorded only for the purpose of verification of the complaint</u>. <u>Further, according to him, the telephone call made by PW6 to him at the DSC's Office during the trap proceedings, which was recorded by him was not produced since, it was not audible.</u>*
>
> *150. As regards the first conversation, i.e., between PW2 and PW6, the learned prosecutor argued that it was recorded only for the purpose of verification of the veracity of the complaint. Further, according to him. as PW2 and PW6 were examined which form the substantive evidence; the non production of the recording may not be taken as a ground to disbelieve the case of the prosecution. It is true that the aforesaid*

> *recording could have been produced before the court which could have been used to corroborate the evidence of PW7, PW6 and PW2 and PW4. Anyhow, as contended by the learned prosecutor, the substantive evidence is the deposition of PW2, PW4, PW6 and PW7, which is in favour of the prosecution. Further, their evidence is corroborated by one another. As regards the second conversation, from the evidence of PW7, it can be seen that the conversation was not audible. So, the aforesaid contention of the counsel for the accused is not sustainable."*
>
> *(emphasis added)*

68. Keeping into consideration the observations made by the Trial Court in para 150 of its judgment as reproduced above, we are of the view that there are certainly elements of doubt in the manner the trap was executed, which the Trial Court ignored. The lapses noted by the Trial Court, in our opinion, raises reasonable doubt on the prosecution case.

69. There is yet another very important aspect to be considered. The allegation of the complainant Nandakumar is that he sought help of the appellant for transfer to the office of DSC to which the appellant agreed. In this regard, it is to be noted that the complainant Nandakumar was posted in the office of Sr. DPO on 13.07.2005 and he sought the transfer to the office of the DSC, which came very soon within two days on 15.07.2005. Incidentally, and undisputedly, the transfer was not within the authority of the appellant. It was within the authority of the Sr. DPO. The Sr. DPO who was examined as DW-2 stated that the order of the transfer of the complainant was signed by Mrs. Chandrika Jayshankar (PW-5) who was the assistant personnel officer working under DW-2 and he also deposed that nobody approached him requesting the said transfer.

Mrs. Chandrika Jayshankar who was examined as PW-5 also deposed that the transfer and posting of Nandakumar from the personnel Branch to the DSC's office was decided by the Sr. DPO and the posting order was issued by her and nobody approached her for the issuance of the transfer order.

Thus, the evidence of both the witnesses DW-2 and PW-5 clearly shows that nobody approached them concerning the transfer of PW-6 thus indicating that the appellant did not have any role directly or indirectly in influencing the transfer in favour of Nandakumar which took place on 15.07.2005 apart from the fact that he had no authority either. The question now arises is whether the appellant who had no authority or role to play in the transfer can be said to have demanded the bribe from the complainant? According to the prosecution, the appellant was demanding bribe through someone, for an act over which he had no authority nor any role to play. This poses a fundamental question. Whether any person can be charged under the PC Act when he had neither the authority nor any role to play in doing any favour to the bribe giver? Is it the case of the prosecution also that the appellant was demanding bribe by making false statements and assurances? This is an area the prosecution is silent about.

It is in this context, the evidence of the bribe giver and the intermediary have to be closely examined in the absence of clear proof that the appellant had demanded received the bribe.

70. It bears emphasis that intermediary, PW-2 is not an independent witness. He was originally arraigned as a co-accused and was granted pardon under Section 306 CrPC, and as this Court has already noted in the light of ***Sarwan Singh*** (supra), that an approver has an evident incentive to support the version that best serves the terms of his own pardon. The rule of prudence embodied in Illustration (b) to Section 114 of the Evidence Act requires that his testimony be corroborated in material particulars connecting the accused and not merely the transaction with the offence. Here, PW-6's testimony corroborates the demand and PW-4's evidence together with the phenolphthalein result corroborates the fact of collection of bribe money by PW-2 but neither corroborates the specific, and critical, assertion that delivery to the appellant's residence was the intended and habitual mode of consummating the transaction of bribe. On this singular aspect, the record contains only the approver's word devoid of any corroborating material.

71. To hold the appellant guilty of obtainment or acceptance for the purposes of Section 7 of the Act, this Court would have to draw the further inference that the appellant would, in fact, have received the money at his residence had the trap not intervened, and that this was his established modus operandi for consummating such transactions. That inference is not compelled by the record, it is, at best, one possible suggestion of what might have happened next, competing on equal footing with the equally available hypothesis that PW-2 claiming to be close to the appellant having himself pocketed the sums in these transactions and retained the money for himself, or intended to deal with it in some other manner not sanctioned or even unknown to the appellant. Nothing in the record excludes that hypothesis. As held in ***Neeraj Dutta*** (supra)**,** an inference of guilt from circumstances is permissible only where the circumstances are "*incompatible with the innocence of the accused or any other reasonable hypotheses*", a standard this record does not meet on the specific question of acceptance/obtainment by the appellant.

72. The permission to draw an inferential deduction where certain foundational facts are proved is not an invitation to bridge, relying on circumstantial evidence, whatever residual gap separates the "money collected by an intermediary at the accused's apparent direction" from "the accused himself obtained or accepted that money." As observed in ***Neeraj Dutta*** (supra), "obtain" requires initiative and effort on the part of the recipient, and here, on the specific question of final receipt, the appellant took no further step of any kind apart from the alleged demand made. On the contrary, he left the scene, and the transaction was intercepted at the door of an alleged intermediary before its final leg could occur, if it was ever to occur as described.

73. Moreover, in ***R.P.S. Yadav*** (supra) the accused was alleged to have directed the complainant to hand the bribe money to a co-accused, acting as intermediary. This Court found the evidence consistent only up to the handing-over of money to the intermediary. Beyond that, the key witness gave contradictory versions as to whether the recovery was from the intermediary's own pocket or the accused's, and no hand-wash test was conducted on the accused himself to show the money had actually reached him. Holding that neither witness furnished acceptable evidence that 'the demand, acceptance and recovery was chronologically proved as against the appellant', this Court set aside the conviction. The case thus shows that a demand and an initial handover to an intermediary are not enough; the chain must be carried through, by cogent evidence, to the point where the money is shown to have actually reached or been intended for the accused failing which the conviction cannot stand.

74. Lastly, it follows that although the foundational facts of demand and of payment to an intermediary are considered proved, and although circumstantial evidence is, in principle, available to this Court to establish acceptance, no inference beyond the merely speculative can be drawn here that the appellant himself accepted, obtained, or would have obtained the gratification. The presumption under Section 20 of the Act does not arise in the first place, since it presupposes proof of acceptance or obtainment by the accused, which, for the reasons above, remains unproved. The prosecution has, at its best, established that money changed hands between a complainant and an intermediary who invoked the appellant's name. But that itself can be said to be a proof of appellant's acceptance of bribe.

Therefore, for the reasons discussed above, it cannot be said that the prosecution has proved the case against the appellant beyond reasonable doubt and accordingly, conviction of the appellant in C.C. No. 2/2014, arising in Crl. A No. 4733 of 2024, cannot be sustained.

(B) Crl. A No. 4732 of 2024 [C.C. No. 3/2015]

75. It is to be noted that there are three transactions arising out of C.C. No. 3/2015, wherein the transactions by bribe givers (i) T.V. Rajan (PW-9), (ii) C.K. Aravindan (PW-10), and (iii) Gopi Kumar (PW-11) are concerned. As noted above, we are not concerned with the transactions in relation to T.V. Rajan (PW-9) and C.K. Aravindan (PW-10) as the appellant was not convicted in the aforesaid transactions, but the High Court affirmed the conviction with regards to the third transaction i.e., allegations made by Gopi Kumar (PW-11). However, the reference to the other transactions have been made since all the three transaction comprises of allegations against the appellant and has common intermediary i.e., Abdul Gafoor (PW-7).

Transaction II: Bribe giver T. V. Rajan (PW-9), wherein the appellant was acquitted by the Trial Court.

76. The Trial Court itself declined to accept the prosecution's case in respect of PW-9, T.V. Rajan and this finding was not disturbed as the same was not under challenge before the High Court, since only the appellant, and not the prosecution, carried the matter in appeal. We note, in any event, that the record bears out the Trial Court's caution that PW-7 Abdul Gafoor, the other intermediary in his examination-in-chief, did not depose to demanding or collecting any sum from T.V. Rajan at all. In fact in PW-7's deposition, he mentions one Stanly as the person from whom a comparable sum was collected, and Stanly was never examined as a prosecution witness. PW-9's own account of paying Rs. 5,000/- and later Rs. 2,500/- to PW7 thus stands wholly uncorroborated by the very intermediary through whom the payment is said to have been made to the appellant.

<u>Transaction III</u>: Bribe giver C.K. Aravindan (PW-10), wherein the appellant was not convicted by the High Court.

77. PW-10 C.K. Aravindan deposed that PW-7 Abdul Gafoor conveyed a demand of Rs. 10,000/- said to emanate from the appellant, and that he paid Rs. 5,000/- to PW-7 "for giving to the appellant," following which he was relieved and posted to Calicut. PW-7, for his part, confirmed only that PW-10 gave him Rs. 5,000/- for the appellant. PW-10 did not, and could not, offer any independent basis for the assertion that he, PW-7, had demanded and would remit that sum as instructed by the appellant. The High Court itself recorded this precise infirmity in terms that bear repeating that there is "no independent evidence to prove that PW-7 demanded and accepted Rs. 5,000/- from PW-10 as instructed by the appellant."

78. This is not a case, as with Transaction I, where the foundational fact of a demand traceable to the appellant is stated to be independently established and the difficulty arises at the further stage of acceptance. Here, the very first foundational fact that the demand conveyed by PW-7 was one made by or attributable to the appellant, rather than one PW-7 devised or embellished on his own account, is itself unproved by anything beyond PW-7's own assertion. In cases of intermediary evidence generally, the existence of a nexus between an intermediary and the accused must itself be proved by reliable evidence and cannot be presumed merely because the intermediary happened to be subordinate or was allegedly close to the accused. Nor does Section 20 of the Act assist the prosecution, since it operates only once the foundational facts of demand and acceptance attributable to the accused are established, which is precisely what is missing here. The conviction thus could not be sustained in respect of this transaction.

<u>Transaction IV</u>: Bribe giver, N.P. Gopi Kumar (PW-11), wherein the appellant was convicted by the Trial Court and affirmed by High Court.

79. This transaction stands on a different footing than the other three. Unlike the transaction related to trap proceedings, where the appellant was never proved to have received anything and the chain of proof had to rest on an unproved assumption about his future conduct, and unlike the transaction related to PW-10, where the very attribution of the demand to the appellant rested on PW-7's uncorroborated word, the present transaction involves the allegation of appellant's presence at the time of acceptance.

80. PW-11 deposed that he was summoned to the appellant's quarters not through any intermediary's initiative alone, but at the appellant's own instance, communicated through his Inspector by telephone. On arrival, the appellant himself addressed PW-11 directly, asking him in Hindi, in words PW-11 himself translated as asking whether he had "forgotten him" after his transfer was secured. It is significant that the appellant's own words, as deposed to, make no mention whatsoever of money. The remark is, on its face, capable of more than one meaning, and it was PW-11's own understanding, not anything the appellant is shown to have said, that supplied the connection to the bribe. It was PW-7, present at the same time and place, who then told PW-11 that the appellant was asking for the balance of Rs. 5,000/-, and PW-11 handed over Rs. 3,000/- to PW-7 after some discussion outside the residence of the appellant. It is, at the least, unusual that the actual transaction between the bribe giver and the intermediary took place outside the residence of the appellant when in the end PW-

7 went inside the residence along with PW-11 and handed over Rs. 3,000 to the appellant in PW-11's presence. Interestingly, though PW-11 was allegedly called by the appellant himself for giving the remaining Rs. 5,000 for doing the favour of transferring the PW-11 to the desired place, yet when only Rs. 3,000 was given to the appellant, the appellant apparently did not show any reservation. He appeared to have accepted without any demur which appears to be strange to say the least. Although this narration is not uncorroborated, PW-11, the bribe giver and PW-7, the conduit, both depose to the same event, at the same place, with the appellant himself as an active, participant rather than an absent principal whose involvement must be inferred. This conclusion cannot, however, be sustained as on a closer scrutiny as the evidentiary foundation for this transaction suffers from infirmities.

81. It is, at the outset, worth noticing how markedly this account departs from the appellant's own alleged practice in every other transaction relied upon by the prosecution, including Transaction I. In each of those instances, the appellant is said to have kept himself absent at the actual moment of payment, communicating demands and directions through an intermediary only and never being shown as personally present when money changed hands. The present transaction is the solitary exception, where he is said to have summoned the bribe giver to his own residence and to have accepted himself the money from the intermediary. Such a departure from an otherwise consistent pattern is not to be rejected at the outset, but it is a circumstance that calls for caution, and one that could more readily have been accepted had it been supported by some independent witness. In the absence of any such independent evidentiary support, and in light of the unrefuted alibi of the appellant discussed below, this solitary and uncharacteristic departure raises rather than dispels reasonable doubt on the prosecution case.

82. Firstly, there is no other evidence independent of PW-7 and PW-11 themselves. The Inspector who is said to have telephoned PW-11 at the instance of the appellant and directed PW-11 to meet the appellant at his residence was never examined. There is no call record of any such summons and no muster roll, movement register, nor duty record has been produced to place the appellant at his residence at the relevant time. What remains is the oral testimony of an approver (PW-7, a pardoned co-accused) and the word of the alleged bribe giver (PW-11), each corroborating the other on the very transaction in which both were active participants of the transaction. That is not independent corroboration in the sense required by the rule of prudence applicable to accomplice evidence, corroboration by an observer not connected with or part of the transaction which endows it with the character of independence.

83. Secondly, and significantly, the appellant's own monthly diary (Ext.D2) records that he left Palakkad by train on the evening of 29.07.2005 and did not return until the night of 31.07.2005. The only date attributed to this transaction anywhere on the record is 30.07.2005, appearing in PW-7's Section 164 Cr.P.C. statement falls squarely within this window. Neither PW-7 nor PW-11 stated any date for the meeting in their substantive testimony before the Trial Court. The prosecution has offered no explanation reconciling this diary entry with its own case.

84. Thirdly, unlike the transaction discussed above, this was never a trap. No currency was recovered, tested, or produced at any stage, either at the time or subsequently. No part of the

Rs. 3,000/- said to have changed hands in the appellant's presence, or anything traceable to it, was ever recovered from the appellant, in his residence, or his office.

85. Therefore, in the light of ***Neeraj Dutta*** (supra) case, the foundational facts necessary before any presumption of fact can be drawn that, the appellant himself demanded or accepted the amount, have not been established by evidence of the quality that the provision contemplates. What is left, once PW-7's approver status is accounted for and the diary entry is weighed against the sole date on record, is the uncorroborated word of two interested witnesses as to an event unsupported by recovery, documentary record, or any independent witness, and contradicted, on the only date available, by the appellant's own contemporaneous diary.

CONCLUSION

86. We, therefore, hold that in view of the lingering reasonable doubts, as discussed above, the charge against the appellant could not be said to have been proved with certain element of definitiveness as contemplated under the principle of proof beyond reasonable doubt. Accordingly, the conviction of the appellant in respect of the transaction concerning PW-11 N.P. Gopi Kumar cannot be sustained under Section 7 of the Act, and the appellant is entitled to be acquitted in this transaction as well.

87. Before parting with the case, we may observe that the appellant, in his additional statement under Section 313 Cr.P.C., has attributed the prosecution to a conspiracy. One M. Ramesh, Inspector RPF, who allegedly had close ties with investigating officer, Nand Kumar Nair (PW-7), as well as was in a good relationship with the complainant P.P. Nandakumar (PW-6), in order to secure his posting at DSC/Palghat, Palakkad in place of the appellant, conspired against the appellant, and was in fact posted later at the aforesaid position after shifting of the appellant from post of DSC/Palghat due to this case. However, given the conclusions that we have reached on the evidence available, it is unnecessary to examine this contention, and we refrain from doing so. For the same reasons, we do not consider it necessary to dwell upon the contention of the appellant that the sanction granted to prosecute the appellant was vitiated.

88. In the result, Crl. Appeal No. 4733 of 2024 (arising from C.C. No. 2/2014) is allowed, and the appellant is acquitted of all charges therein.

Crl. Appeal No. 4732 of 2024 (arising from C.C. No. 3/2015) is also allowed, and the appellant is acquitted of all charges therein.

89. The bail bonds furnished by the appellant pursuant to the order of this Court dated 22.11.2024 in both appeals shall stand discharged and any fine amount deposited by the appellant shall be refunded to the appellant.

Pending application(s), if any, shall stand disposed of, in accordance with this judgment.

………………………….J.
(DIPANKAR DATTA)

…………………………………………….J.
(NONGMEIKAPAM KOTISWAR SINGH)

NEW DELHI;
SEPTEMBER 16, 2026