



2026:KER:77546

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A. BADHARUDEEN

WEDNESDAY, THE 7TH DAY OF OCTOBER 2026/15TH ASWINA, 1948

CRL.A NO. 2168 OF 2024

CRIME NO.15/2015 OF VACB, MALAPPURAM, Malappuram

AGAINST THE JUDGMENT DATED 12.11.2024 IN CC NO.8

OF 2017 OF ENQUIRY COMMISSIONER AND SPECIAL JUDGE

(VIGILANCE), KOZHIKODE

APPELLANT/ACCUSED:

ANIL KUMAR R
AGED 55 YEARS
S/O LATE RAJAYYAN NADAR, KRISHNA MANDIRAM,
NELLIKKATHATTU (H), MULLUR P.O.,
THIRUVANANTHAPURAM., PIN - 695521

BY ADVS.
SRI.JELSON J.EDAMPADAM
SHRI.SAJU JOHN

RESPONDENT/STATE:

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

SRI. K BIJU, SR.PUBLIC PROSECUTOR

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON
20.08.2026, THE COURT ON 07.10.2026 DELIVERED THE
FOLLOWING:



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JUDGMENT

Dated this the 7th day of October, 2026

Judgment dated 12.11.2024 in C.C.No.8/2017 on the files of the Enquiry Commissioner and Special Judge (Vigilance), Kozhikode, is under challenge in this appeal at the instance of the sole accused. The respondent herein is the State of Kerala, represented by the learned Special Public Prosecutor.

2. Heard the learned counsel appearing for the appellant/accused and the learned Special Public Prosecutor in detail. Perused the verdict under challenge and the relevant records.

3. The prosecution alleges commission of offences punishable under Sections 7 and 13(2) r/w. 13(1)(d) of the Prevention of Corruption Act, 1988 (hereinafter referred to as 'PC Act' for short) by the accused. The prosecution case is

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that the accused, while working as Village Assistant, Marakkara village office, Malappuram and being a public servant, abused his official position and demanded ₹5,000/- as bribe on 23.02.2015 from PW1, Sri.Kolleth Machingalthodi Abu, for remitting land tax with arrears in respect of his family property, and reiterated his demand at 14.30 hours on 24.02.2015. Thereafter, at 14.45 hours on 25.02.2015, he demanded and accepted the same and thereby committed the above offences.

4. The learned Special Judge, on getting the final report filed, took cognizance and completed the pre-trial formalities. Thereafter, charge for the said offences was framed and recorded evidence. PW1 to PW9 were examined and Exts.P1 to P24 as well as MO1 to MO8 were marked on the side of the prosecution. On the side of defence, DW1 and DW2 were examined and Exts.D1 to D12 were marked.



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5. On appreciation of evidence, the learned Special Judge found that the accused/appellant had committed offences punishable under Sections 7 and 13(2) r/w. 13(1)(d) of the PC Act and accordingly, convicted and sentenced him as under:

- "1. The accused is sentenced to undergo rigorous imprisonment for three years and to pay a fine of ₹50,000/- (Rupees Fifty thousand only) under Section 7 of the Prevention of Corruption Act, with default sentence of rigorous imprisonment for six months.*
- 2. He is also sentenced to undergo rigorous imprisonment for four years and to pay a fine of ₹50,000/- (Rupees Fifty thousand only) under Section 13(2) r/w. 13(1)(d) of the Prevention of Corruption Act, with default sentence of rigorous imprisonment for six months.*
- 3. The above substantive sentences shall run concurrently.*
- 4. The accused was in custody from the date of his arrest on 25-02-2015 to 06-03-2015. He is entitled to set off for this period under Section 428 of Cr.P.C.*
- 5. The bail bond of the accused stands cancelled.*
- 6. MO2 to MO8 shall be destroyed, being valueless.*
- 7. MO1 series currency notes shall be returned to PW1.*



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8. *Out of the balance amount, an amount of ₹5,805/- is to be returned to the Village Officer, Marakkara on proper acknowledgment and ₹195/- is to be confiscated to State Exchequer."*

6. The learned counsel for the appellant/accused put up an argument note and pressed for setting aside the verdict impugned raising multifaceted contentions. It is submitted that in this case, the demand of bribe money was not proved by the prosecution as per the evidence of PW1. According to him, the complaint, allegedly submitted by PW1 to PW6, who is the trap laying officer/Dy.S.P., was not produced before the trial court. It is also pointed out that PW6 deposed that one Abdul Vashid, a police constable attached to Vigilance office, Malappuram, who was deputed to ascertain the actual scenario, told that the accused had demanded bribe. However, the above said Abdul Vashid was not examined on the side of the prosecution and the non-examination of the above Abdul Vashid is fatal to the prosecution, as per the ratio laid down in the decision in **Takhaji Hiraji v. Thakore Kubersing Chamansing and Others,**



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reported in **2001(2) KLT OnLine 1024 (SC)**. It is also pointed out that PW1 had paid ₹3,017 as land tax and ₹275 towards the Kerala Agriculture Workers' Welfare Fund. Thus, he had paid a total sum of ₹3,292 on 25.02.2015, and the appellant had issued receipt for the same. Therefore, the amount handed over to the appellant/accused by PW1 was the amount towards the land tax. It is pointed out by the learned counsel for the appellant/accused further that the Call Detail Records (CDR) and the SIM registration details of mobile No.9562758344, alleged to be owned by PW1, were not produced in this case to show the voice recording of the call allegedly made by the appellant/accused. According to him, despite that, acceptance of ₹5,000/- as bribe also was not proved. Thus, the twin ingredients required to establish the offences under Sections 7 and Section 13(1)(d) r/w. 13(2) of the PC Act were not proved. It is further submitted that it is the settled law that the demand for illegal



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gratification is sine-qua-non to constitute the offence under the PC Act. The factum of mere recovery of currency notes does not by itself is sufficient to draw adverse inference for offence under the PC Act unless it is proved beyond reasonable doubts that the appellant-accused voluntarily accepted the money knowing it to be bribe amount. (Vide **Punjabrao Vs. State of Maharashtra, AIR 2002 Supreme Court 486**). Accordingly, the learned counsel for the appellant/accused pressed for interference in the verdict impugned on the submission that the prosecution has not succeeded in proving the prosecution case.

7. Whereas the learned Special Public Prosecutor strongly supported the prosecution case, relying on the evidence of PW1 (the complainant), PW2, and PW6, as well as other evidence, and contended that the prosecution had succeeded in proving the demand and acceptance of illegal



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gratification by the accused. Therefore, the ingredients of the offences were established, and the impugned verdict did not require any interference.

8. Having considered the rival submissions, points arise for consideration are:

1. Whether the Special Judge is right in holding that the appellant/accused committed the offence punishable under Section 7 of the PC Act?
2. Whether the Special Judge erred in holding that the appellant/accused committed the offence punishable under Section 13(2) r/w 13(1)(d) of the PC Act?
3. Whether the impugned verdict would require any interference by this Court?
4. The order to be passed.

9. Point Nos.1 to 4

Here, Ext.P16(a) is the First Information Statement given by PW1, who is the defacto complainant, in this case.

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PW1 deposed that he had went to Marakkara Village Office on 18.02.2015 in order to remit the land tax pertaining to 2.33 acres of land in Sy.No.298/4 of Marakkara Village, which is jointly owned and possessed by him and his siblings. When he met the accused, who was working as the Village Assistant, the accused had informed him that encumbrance certificate of the property and site inspection were necessary, and in addition to those, there were some other expenses for remitting land tax. Thereafter, on 23.02.2015, he had again met the accused with the encumbrance certificate and PW1 waited there until 15 hours, as the accused insisted for site inspection. It is further deposed that at about 15 hours, PW1, along with PW5 and the accused, visited the property. After the site Inspection, the accused demanded ₹5,000/- as bribe and also directed PW1 to come to the Village Office to remit the land tax. When he had informed the accused that he did not have sufficient

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money with him, the accused replied that, without giving ₹5,000/-, it would not be possible to remit the tax. Since he was not ready to give bribe, on 24.02.2015, he met PW6, the Dy.S.P., vigilance. As directed by PW6, he contacted the accused through his mobile phone on loudspeaker mode. It is testified further that PW6 heard the conversation between him and the accused demanding the bribe money. Thereafter, PW6 deputed CW8, Sri.Abdul Vashid, to ascertain the genuineness of the complaint. They met the accused at about 14.30 hours at the Marakkara Village Office. Then also, the accused demanded money from PW1 and he had replied that he did not have sufficient money with him and he had to collect money from his siblings. Then the accused responded that without giving the demanded money, the accused would not accept the tax amount and directed PW1 to come to the office at about 17 hours with the money demanded. PW1 informed the accused that he could not come at 17 hours after collecting money from all

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others. The accused told him to come with the demanded amount at 12.30 hours on 25.02.2015. Thereafter, they returned to the Vigilance Office, met PW6, and informed him of all the matters. Thereafter, PW6 directed him to come with ₹5,000/- at 9 hours on 25.02.2015 to the Vigilance Office. As directed by PW6, he had reached the Vigilance Office on 25.02.2015. PW6 recorded Ext.P16(a) First Information Statement. Thereafter, PW1 handed over the MO1 series currency notes, viz., five currency notes of ₹1,000/- to PW6 in the presence of the gazetted officers, and the gazetted officers noted the numbers of the currency notes on a paper. After demonstration of the phenolphthalein test, as directed by PW6, CW32, Vivek, smeared phenolphthalein powder on MO1 series currency notes and put the same in the left pocket of his shirt. Ext.P1 entrustment mahazar was prepared detailing the incidents that took place in the Vigilance Office. PW6 gave him directions to give signal by

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touching his nose, if the accused would accept the bribe money. Thereafter, they proceeded to the Marakkara village office at about 13 hours and they reached near Marakkara village office at about 14.15 hours. PW1 was directed to go to the village office and pay the land tax. PW1 entered the room of the village office where the accused was sitting. The accused demanded money and PW1 placed the encumbrance certificate, document, and bribe amount on the table of the accused. The accused took the money and put it in the right side back pocket of his pants. Thereafter, the accused verified the encumbrance certificate and document and issued Ext.P2 tax receipt for ₹3,017. Thereafter, PW1 went out of the room and gave the signal, as directed by PW6. PW6, along with the trap party, came to the room, where the accused was sitting, and PW1 was called to that room. PW6 asked the accused whether he had accepted money from PW1 and the accused replied that he had

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accepted the money. PW1 told PW6 that the accused had accepted the money and kept it in the right side back pocket of his pants. PW6 directed him to leave the room and to come to the Vigilance Office in the evening.

10. Apart from the evidence of PW1, the prosecution relied on the evidence of PW2, the decoy witness, who was a teacher in Government Higher Secondary School, Malappuram, who also witnessed the trap. PW2 deposed that as directed by the Principal, at about 10.30 hours on 25.02.2015, he along with CW2 appeared before PW6. PW1 was also there along with PW6. After introducing each other, PW6 narrated the complaint of PW1, that the Village Assistant of Marakkara village office demanded bribe from PW1 for remitting the land tax, and showed the FIR to them. They read over and understood the contents of the statement of PW1. Thereafter, PW1 handed over the MO1 series currency notes to PW6 in their presence. They noted the

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numbers of the currency notes in a paper and compared them with the serial numbers of the currency notes. A demonstration of phenolphthalein test was conducted, and MO2 solution used for the demonstration was seized. Thereafter, phenolphthalein powder was smeared on MO1 series currency notes and MO1 series currency notes were entrusted to PW1 by placing them in the left pocket of the shirt worn by PW1 with a direction to hand over the currency notes to the accused only on demand. Ext.P1 Entrustment Mahazar was prepared detailing the incidents that occurred in the Vigilance Office. Thereafter, everyone under the leadership of PW6 proceeded to the Village office, Marakkara and reached near it at about 14.15 hours. PW1 was sent to the village office, with specific direction to give signal, if the accused would accept the bribe money. After giving instructions, he and CW8, Sri.Abdul Vashid, were directed to follow PW1.

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They followed PW1. PW1 entered the room of the accused and they waited on the veranda outside the room near the window to see the incidents that occurred inside the room of the accused. They saw PW1 and the accused talking. Then the accused asked something to PW1 and PW1 took MO1 series currency notes from his pocket and put them on the table of the accused along with some documents. The accused took MO1 series currency notes and inserted the same in the right side back pocket of his pants. PW1 and the accused spoke something and PW1 took money again from his pocket and handed over it to the accused and the accused issued a receipt to PW1. Thereafter, PW1 went outside and gave the signal by touching his nose and CW8 conveyed the signal to PW6.

11. Soon after the receipt of the signal, PW6 and other members of the trap party entered the room where the accused was sitting. PW6 introduced himself and the others

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to the accused. Thereafter, PW6 called PW1 and asked him to whom he had handed over the bribe amount and PW1 pointed to the accused and said that he had handed over money to him and that the accused had put the money into the back pocket of the pants he wore. When PW6 asked his name, the accused replied that his name was Anil Kumar and that he was the Village Assistant. When PW6 asked the accused whether he had received bribe from PW1, the accused replied affirmatively. PW6 asked PW1 to go out of the room. Thereafter, demonstration of the phenolphthalein test was conducted. After the demonstration, MO3 solution was seized. Thereafter, PW6 conducted the phenolphthalein test on the right hand of the accused, which showed positive result and the colour of MO4 solution changed to pink. Thereafter, PW6 conducted the phenolphthalein test on the fingers of the left hand of the accused and there was no colour change for MO5 solution, or the fingers of the

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accused. Thereafter the hands of the accused were washed and body search was conducted. There was some money in the pocket of his shirt. The back pocket of his pants seen to be swollen. The accused was directed to take the articles from the back pocket of his pants and MO1 series currency notes were there among the articles taken out of his pocket. MO1 series currency notes were taken, compared and confirmed with Ext.P1 Mahazar. Phenolphthalein test conducted on MO1 series notes showed positive result and the colour of MO6 solution and MO1 series notes changed to pink. CW2 counted the currency notes obtained from the pocket of the shirt of the accused as per the direction of PW6, and PW6 seized those currency notes. Thereafter, after giving a dhoti to the accused, he was directed to take off his pants and back pocket of the pants was subjected to phenolphthalein test, the pocket portion of MO8 pants and MO7 solution turned to pink. Ext.P8 recovery mahazar was prepared in detail from there. Thereafter, the

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accused was arrested at 15.00 hours, after preparing Ext.P3 arrest memo following the procedure for arrest.

12. Supporting the evidence of PW1 and PW2, PW6, the Dy.S.P. who laid the trap also was examined. PW6, the Deputy superintendent of police and Station House Officer of Vigilance and Anti-Corruption Bureau, Malappuram unit at the relevant time, deposed about registration of Ext.P16 FIR on 25.02.2015, based on Ext.P16(a) First Information Statement given by PW1, recorded at the Vigilance Office. He stated that on that day, PW1 came to his office and gave first information statement alleging that, on 18.02.2015, PW1 had approached the accused for remitting land tax in respect of his family property for partition. At that time, the accused told him that encumbrance certificate and site inspection were necessary for accepting land tax and he also told him that PW1 had to spend some additional amount. On 23.02.2015, PW1 again approached the accused with the encumbrance certificate and

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the accused asked him to wait there. Thereafter, at about 15.00 hours. PW1 along with the accused and PW5 visited the property and the accused directed him to come to the village office for remitting the land tax. At that time, the accused demanded ₹5,000/- from PW1 as bribe for accepting land tax and PW1 left there, saying that he would come on the next day. Since he was not interested in paying the bribe, on 24.02.2015, PW1 came to the Vigilance Office and talked about the incident to him. To verify the matter, he told PW1 to call the accused by using the mobile phone of PW1 and also making phone on loud speaker mode. He heard the conversation between the accused and PW1. Furthermore, he sent CW8 Abdul Vashid along with PW1 for enquiry and report. They returned back at 17 hours and informed him that the accused demanded bribe from PW1. Therefore, he directed PW1 to come on the next day with Rs.5,000/-, the amount demanded by the accused as bribe. On 25.02.2015, PW1 came to the Vigilance Office. He

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also gave evidence supporting the version of PW2, the decoy witness, regarding the pre as well as the post trap events led to arrest of the appellant.

13. PW5, the Village Officer, Marakkara village office turned hostile to the prosecution.

14. Here, the case put up by the defence is mainly on the strength of Ext.P2 tax receipt showing receipt of ₹3,017/- on 25.02.2015 (date of trap). Accordingly, it is contend that the amount accepted by the accused was the amount towards the tax and the payment towards the Karshaka Kshema Nidhi. DW1 examined in this case was the village officer of Kurumbathoor Village as on 21.10.2024 and he had produced Ext.D6 office copy of receipt book No.83315 to show that, as per Ext.D6 receipt book vide receipt numbers 8331472 to 8331474, the children of Kunhimoideenkutty, viz., Kunhipokker and others, remitted the land tax and the arrears thereof for a period of five years

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on 21.01.2015, for which Ext.D6(a) series receipts were issued. According to him, Ext.D7 is the reply document issued by the then Village Officer under the Right to Information Act, by the Village Officer during 2019, and as per Ext.D7, it was stated that the amount towards Farmers' Welfare Fund was not remitted by Kunhipokker and others. DW2 examined in this case was the Village Officer of Marakkara village as of 21.10.2024 and he had produced the nalvazhy register for the year 2014 – 2015 and the same got marked as Ext.D8. Similarly, the tax receipts from 13.02.2015 to 23.02.2015 in receipt book No.83649 were tendered in evidence as Ext.D9 through him. Ext.D10, the receipt book pertaining to book No.57202 for the period from 24.02.2015 to 05.08.2015 also was tendered in evidence through him. He also deposed that he was directed to produce the receipt book for the period from 20.02.2015 to 25.02.2015 and he had noticed that during the period from

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15.08.2014 to 18.08.2015, the Farmers' Welfare Fund amount was collected in book No.52007 and the said book got marked as Ext.D11. According to him, from 18.02.2015 to 24.12.2015, no amount was collected towards the contribution to the Farmers' Welfare Fund. Similarly, Ext.D12, the nalvazhi for the period from 21.12.2013 to 16.02.2019 also was tendered in evidence through DW2. During cross-examination, DW2 deposed that he had no familiarity with the accused and therefore, he could not identify his handwriting. He also deposed that he could not say who had written Ext.D8 to Ext.D12 documents and he also did not verify the back files pertaining to those documents.

15. Now, it is necessary to address the ingredients required to attract the offences under Section 7 and Section 13(1)(d) r/w Section 13(2) of the PC Act. 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.



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Section 13:- Criminal misconduct by a public servant. – (1) A public servant is said to commit the offence of criminal misconduct,-

a) xxxxx

(b) xxxxx

(c) xxxxxx

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

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

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



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Dutta Vs State, where the Apex Court considered when the demand and acceptance under Section 7 of the P.C Act 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 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.

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(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.

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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

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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.”

17. Thus the legal position as regards to the essentials under Sections 7 and 13(1)(d)(i) and (ii) of the P.C Act is extracted above. Regarding the mode of proof of

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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



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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.

18. 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



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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



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considered the ingredients for the offences punishable under Section 7 and 13(1)(d) r/w 13(2) of the PC Act,1988 and held that demand and acceptance of bribe are necessary to constitute the said offences. Similarly as pointed out by the learned counsel for the petitioner in **Aman Bhatia's** case (supra) the Apex court reiterated the same principles. Thus the legal position as regards to the essentials to be established to fasten criminal culpability on an accused are demand and acceptance of illegal gratification by the accused. To put it otherwise, proof of demand is sine qua non for the offences to be established under Sections 7 and 13(1)(d) r/w 13(2) of the PC Act, 1988 and de hors the proof of demand the offences under the two Sections could not be established. Therefore mere acceptance of any amount allegedly by way of bribe or as undue pecuniary advantage or illegal gratification or the recovery of the same would not be sufficient to prove the offences under the two Sections in the absence of evidence to prove the demand.”

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19. Here, the specific case of the prosecution, as deposed by PW1, the complainant, supported by other evidence, is that, for accepting land tax in respect of the family property of PW1, the accused demanded bribe to the tune of ₹5,000/- on 23.02.2015 and 24.02.2015 and, pursuant to thereof, at 14.45 hours on 25.02.2015, he again demanded and accepted the same and thereafter, he was arrested redhanded. The trump card upon which the learned counsel for the appellant canvassed acquittal is Ext.P2, supported by the evidence of DW1 and DW2, raising contention that, on the date of trap, ₹5,000/- was entrusted by PW1 to the appellant to remit the land tax and also contribution towards the Kerala Agriculture Workers' Welfare Fund. Thus, the appellant issued Ext.P2 receipts for ₹3,292/. Therefore, no bribe was either demanded or accepted by the appellant. In this connection, it is relevant to note that when PW1 was cross-examined, even though PW1 admitted

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issuance of Ext.P2 receipt for accepting ₹3,017/-, as the land tax, he had emphatically denied payment of ₹275/- towards the Kerala Agriculture Workers' Welfare Fund and issuance of receipt for the same. Here, the consistent case of PW1, during the chief examination as well as cross-examination, is that the accused demanded ₹5,000/- as bribe from him for remitting the land tax with arrears in respect of his family property, and his evidence in this regard not at all shaken during cross-examination. It is true that, as per Ext.P2, on the date of trap, the appellant issued receipt for ₹3,017/- towards arrears of tax for 2014 – 2015 along with interest. During cross-examination, it was asked PW1 that whether he had entrusted only ₹5,000/- on the date of trap, the specific evidence of PW1 is that as part of demand made by the accused earlier and on the date of trap, he had given ₹5000/- as bribe, in addition to ₹3,017/- towards the arrears of land tax and on payment of ₹3,017/- in addition to ₹5,000/-,

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Ext.P2 land tax receipt was issued. Thus, the evidence given by PW1 is in conformity with the prosecution case. Most importantly, this version of PW1 is well corroborated by the evidence of PW2 as he also given evidence that the accused took MO1 series currency notes given by PW1 and inserted the same in the right side back pocket of his pants and PW2 further deposed that the accused spoke something to PW1, then PW1 took money again from his pocket and handed over it to the accused and, in turn, the accused issued a receipt to PW1. Thus the evidence of PW1 and PW2 would show that the appellant accepted ₹5,000/- as bribe, in addition to ₹3,017/- given towards payment of tax, for which the appellant issued Ext.P2 receipt. It is relevant to note that, if the contention raised by the appellant that ₹5,000/- was entrusted by PW1 on the date of trap towards the payment of land tax arrears and contribution towards the Kerala Agriculture Workers' Welfare Fund, since the amount is less than ₹4,000/- (i.e. ₹3,017/- only), there was no necessity for the accused to accept ₹5,000/- and put the same in his pocket. Then on acceptance of ₹5,000/-, the

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natural response of the accused in such circumstances would be to give back at least ₹1,000/- immediately on receipt of ₹5,000/-, noting the fact that only ₹3,017/- towards the land tax, ie., an amount less than ₹4,000/- and above ₹3,000/- to be obtained. Instead of doing so, the accused placed the money in his pocket from where the same was recovered by the Dy.S.P. and the trap team and the same showed pink colour change when subjected to phenolphthalein test.

20. Here, the accused/appellant herein, in fact, admits receipt of ₹5,000/- on the date of trap and according to him, the amount was towards the land tax arrears and the contribution towards Kerala Agriculture Workers' Welfare Fund. It is relevant to note further that, as regards to the demand of ₹5,000/- by the appellant/accused from PW1, PW6, the Dy.SP, also gave evidence that, at the vigilance office, he had telephoned to the accused from the mobile phone of PW1, and heard the conversation between PW1

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and the accused. According to him, during the said conversation also, the accused demanded ₹5,000/- as bribe. Thus the evidence would show that Ext.P2 receipt for ₹3017/- was issued by the accused on receiving the said sum in addition to ₹5,000/- demanded as bribe, the same would not be sufficient to hold that ₹5,000/- accepted by the accused on the date of trap was the amount towards the land tax arrears and the contribution towards the Kerala Agriculture Workers' Welfare Fund. If so, the prosecution has established the twin ingredients, viz., demand and acceptance, necessary to prove commission of offences punishable under Sections 7 and 13(1)(d) r/w.13(2) of the PC Act by the accused/appellant. In view of the above, none of the contentions raised by the learned counsel for the appellant/accused to unsettle the conviction to be accepted and the same are repelled. Therefore, the conviction imposed by the learned Special Judge is liable to be confirmed.

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21. Coming to the sentence, the sentence imposed by the learned Special Judge is the statutory minimum after the amendment of PC Act. Thus, no interference in the sentence is possible. Thus, the sentence is also liable to be confirmed.

22. In the result, this appeal fails and is dismissed accordingly.

23. 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 compliance.

**Sd/-
A. BADHARUDEEN
JUDGE**