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CNR : KLHC010138832010

2026:KER:84870

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A. BADHARUDEEN

THURSDAY, THE 5TH DAY OF NOVEMBER 2026 / 14TH KARTHIKA, 1948

CRL.A NO. 1675 OF 2010

AGAINST THE JUDGMENT DATED 10.08.2010 IN CC NO.147 OF 2008 OF ENQUIRY COMMISSIONER & SPECIAL JUDGE, KOTTAYAM

APPELLANT/1st ACCUSED:

V.G.BALANCHANDRAJI (FORMERLY A.E. ARAKKULAM PANCHAYAT),
S/O. GOVINDAN NAIR,, VELLAKKALUMKAL HOUSE,
ANIKKAD WEST.PO., KOTTAYAM.

BY ADVS.
SRI.P.VIJAYA BHANU (SR.)
SMT.P.MAYA
SRI.P.M.RAFIQ

RESPONDENT/COMPLAINANT:

STATE OF KERALA
PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

OTHER PRESENT:

SR PP ROY THOMAS MUVATTUPUZHA

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 13.10.2026, THE COURT ON 05.11.2026 DELIVERED THE FOLLOWING:

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'CR'

JUDGMENT

The judgment in C.C.No.44/2005 on the files of the Enquiry Commissioner and Special Judge, Kottayam dated 10.08.2010 is under challenge in this appeal filed by the 1st accused in the said case.

2. Heard the learned senior counsel for the appellant/1st accused and the learned Special Public Prosecutor appearing for the prosecution. Scrutinized the verdict impugned and the evidence available.

3. The prosecution alleges commission of offences punishable under Sections 7 and 13(1)(a) & (d) r/w 13(2) of the Prevention of Corruption Act (hereinafter referred to as 'the PC Act') and Section 120B of the Indian Penal Code (hereinafter referred to as 'IPC') by accused Nos.1 and 2, after hatching conspiracy between them. It is alleged that in continuation of the said conspiracy, the 1st accused, while working as Asst. Engineer, Arakulam Grama panchayath and, as such, being a public servant, demanded and accepted illegal gratification of Rs.1000/- from one Joy Mathew (PW1) on 20.05.2003 as a motive for measuring the work by name construction of Pothumattom

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pond. The prosecution further alleges that on 13.06.2003, the 2nd accused, while working as Overseer (on daily wages) in that panchayath, demanded illegal gratification of Rs.10,000/- from the above Joy Mathew for passing the bill in respect of the said work for himself and on behalf of the 1st accused. The 1st and 2nd accused at 10.00 a.m. on 16.06.2023 repeated the same demand to PW1 at the Panchayath office. At 10.00 a.m. on 17.06.2003, at the office, the 1st accused demanded illegal gratification and then instructed Joy Mathew to meet him at room No.203 in Valikulam Tourist Home. The accused persons continued the demand for illegal gratification of Rs.4000/- to the 1st accused and Rs.1000/- to the 2nd accused and accordingly at 5.15 p.m. on 17.06.2003 at room No.203 in Valikulam Tourist Home at Moolamattom, the 1st accused demanded and accepted Rs.3000/- and the 2nd accused also demanded and accepted Rs.1000/- as illegal gratification from Joy Mathew for the same motive, and they abused their official position and obtained undue pecuniary advantage by corrupt or illegal means.

4. The learned Special Judge framed charge for the offences and recorded the evidence. PWs.1 to 10 were examined, Exts.P1 to P29, C1, X1 to X6 and MOs. 1 to 13 series were marked

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on the side of the prosecution. On the side of the defence, DW1 and DW2 were examined and Exts.D1 to D5 were marked.

5. On analysis of the evidence tendered, the learned Special Judge found that the 1st accused had committed offences punishable under Sections 7 and 13(1)(d) r/w 13(2) of the PC Act while holding that he did not commit offence under Section 120B of IPC. The 2nd accused was acquitted for all the offences.

6. While assailing the verdict, Adv. P. Vijayabhanu, the learned senior counsel, pointed out that, in the instant case, the evidence of the prime witness, who was examined as PW1, is not free from doubts. It is submitted further that Ext.D1 in this case, marked through PW1, is the copy of O.P. No.2998/2004 filed by PW1 before this Court for getting his amount cleared in respect of the work he had done. But, during cross-examination, he had denied the same, wherein his contention was that, at the instance of the Vice President of the Grama panchayath, he had made a trap. It is pointed out further that, as per the evidence of PW10, the Trap Laying Officer/DySP, when the hands of the appellant were subjected to phenolphthalein test, there was no colour change. At the same time, the learned senior counsel

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pointed out that, in this case, the evidence of PW1 is that he had put up Rs.4,000/- at 5.15 pm on 17.06.2003, ie, on the date of trap, in Valikulam Tourist Home at Moolamattom in the M-book, as directed by the 1st appellant and thus the possibility of contact of the appellant with the bribe money could not have been possible. According to the learned senior counsel, when PW10, DySP asked the appellant regarding the bribe money alleged to have been paid and received by him, his immediate response was that the amount was forcefully put therein. Thus, in the instant case, the case put up by the appellant is that the complainant, with the assistance of the Trap Laying team, put up MO1 series notes in the M-book at the place of occurrence to trap him. It is pointed out further that, thus the prosecution has failed to prove the charges against the appellant beyond reasonable doubt and, in such view of the matter, the impugned verdict warrants interference.

7. Opposing these contentions, the learned Special Public Prosecutor would submit that Ext.D1 contradiction, as pointed out by the learned senior counsel, was not legally tendered in evidence, in any manner, known to law. It is further submitted that Ext.D1 was marked when a question was asked

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regarding the averment in the writ petition that he had arranged a trap with the assistance of the Vice President. The answer given by PW1 is that he did not read English. Thus, before either accepting or denying the contents of Ext.D1, the same was marked in evidence. It is submitted that the contents of Ext.D1, originally in English were not specifically put to the witness to prove the same as contradictions, in a case, where PW1 deposed that he did not know how to read and understand English and therefore, there is no contradiction in the evidence of PW1 in the eye of law and thus Ext.D1 in no way would help the appellant/accused. According to the learned Special Public Prosecutor, in this case, the evidence of PW1 need not be disbelieved. According to him, the appellant herein took room No.203, Valikulam Tourist Home, Moolamattom and stayed therein along with the M-book to do the needful to encash the money due to PW1, on receipt of bribe and accordingly, on the date of trap, when PW1 met him, he had directed him to place the money in the M-book. According to him, even though the appellant did not receive the amount directly from PW1, the place of occurrence and the manner in which the trap money was seized from the room of the accused, that too, from the M-book in relation to the work done by PW1, would show that the

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evidence given by PW1 is of sterling quality to be acted upon.

8. It is pointed out further that apart from the evidence of PW1, PW4, the earlier Vice President of the Grama panchayath during 2000 had given candid evidence regarding the demand of bribe by the appellant from PW1 before him, before the trap. Thus, the prosecution had succeeded in establishing that the accused committed offences punishable under Sections 7 and 13(1)(d) r/w 13(2) of the PC Act.

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

(i) Whether the Special Court is right in holding that the appellant/accused committed offence punishable under Section 7 of the PC Act?

(ii) Whether the Special Court erred in finding that the appellant/accused committed the offence under Section 13(1)(d) r/w 13(2) of the PC Act?

(iii) Whether the verdict would require interference?

(iv) The order to be passed?

Point Nos.(i) to (iv)

10. PW1 examined in this case is Sri. Joy Mathew, the complainant. He deposed that he was the Convener of the work of Potthumattom drinking water pond in Ward No.3 of Arakulam

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Panchayath. Exts.P2, P3 & P4 were the agreements executed by him and the Chairman of the beneficiary committee and that the estimate for the work was Rs.50,000/-. He further said that he had completed the work in the year 2003. He went to the Panchayath for passing the bill for the amount. The Assistant Engineer of the Panchayath had to take the measurements and to pass the bill. Accordingly, he had approached the 1st accused, who was the Assistant Engineer of the Panchayath. The 2nd accused, who was working as the Overseer in the same Panchayath, was also present with him. Thereafter, the 1st accused arrived at the spot and took the measurements. The 1st accused informed PW1 that certain formalities had to be completed before the bill could be passed. Thereupon, PW1 obtained an amount of Rs.1,000/- from one Vikraman and handed over the same to the 1st accused. However, the bill was not passed even thereafter. On 29.05.2003, the 1st accused informed PW1 that the work executed by him could be assessed only at Rs.24,000/- and that, in order to have the bill passed for the entire estimated amount, PW1 would have to pay Rs.10,000/- to him. PW1 replied that he had spent Rs. 37,000/- on the work, that he required only that amount and that he was not willing to pay any money to anyone. He gave a

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complaint orally to the Vice President of the Panchayath by name Shaji Joseph. The said person talked with the Asst. Engineer in the room of the President. After coming out of the room of the President, the 2nd accused told the Vice president that the Asst. Engineer told that apart from Rs.1000/- given earlier, if Rs.5000/- more to be given, on such payment the bill would be written within 2 hours. Since he felt that the bill would not be passed without giving money, he gave an oral complaint at the Vigilance office. His complaint was recorded as Ext.P5. PW1 further deposed that he told the Asst. Engineer that he was not in a position to give Rs.5000/-, that he would give Rs.4000/- within 2 hours and Rs.1000/- later. According to PW1, the 1st accused told him that he should meet the accused in room No.203 in Valikulam Tourist Home and pursuant to that he had made complaint at the vigilance office. He produced Rs.4000/- before the Dy.S.P. and the notes were of the denomination of Rs.500/- and Rs.100/-. He identified M.O.1 series as the notes produced before the Dy.S.P.

11. The version of PW1 further is that he and his friend were sent to the room with direction to give signal by placing his hand on the head if the accused would accept the bribe. PW1

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deposed further that when he had reached room no.203 in the upstairs, Balanchandraji (1st accused) was inside the room and Jayaraj (2nd accused) was outside the room. Then Balanchandraji asked as to whether the money demanded was brought. He replied in the affirmative. In turn, Balanchandraji directed to put the money in the M-book on the table. Soon he had placed the bribe money inside the M-book. Then they came out and given the pre arranged signal. Then Dy.SP and team reached the room.

12. PW2, examined in this case, is V. N. Prakash, the decoy witness. He had spoken about his presence at the Vigilance office. He had deposed about the pre-trap proceedings, phenolphthalein test etc, in tune with the evidence of PW1. He deposed that he was Teacher in Thodupuzha Government Higher Secondary School, that on 17/06/2003 as directed by the Head of the Institution, he reached at Thodupuzha Vigilance office at about 2:30 P.M., that there was another witness by name Khadeeja Umma who was Additional Tahsildar, that the Dy.S.P. read over the complaint given by PW1, that PW1 handed over Rs.4000/- to the Dy.S.P, that the Dy.S.P put initials on the notes and that one Policeman demonstrated the phenolphthalein test.

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He identified M.O.1 series as the said notes. PW2 deposed further that, he had signed in the mahazar. At about 5:15 p.m. signal was obtained, that he, Khadeeja Umma, the Dy.S.P. and other Policemen went inside the room, that both accused at the dock were sitting in a cot in that room, then the Dy.S.P. introduced himself and the witnesses to the accused. The Dy.S.P. asked them whether they accepted bribe, at first, they did not give any reply and stood afraid and when asked again the 1st accused replied that he had directed PW1 to place the money under the M-book (measurement book).

13. PW1 & 2 deposed that another Policeman smeared phenolphthalein powder on the said notes and PW1 was given the notes with direction that if the accused persons asked, the same should be given. PW10 also deposed that the notes were given to PW1 with direction to give it to the accused persons if they demand. He also said that Ext.P7 is the mahazar prepared for the things done at the vigilance office. PW10, the Dy,SP deposed in tune with the version of PW2.

14. PW10 deposed that he was the Dy.S.P., V.A.C.B., Idukki during the period of occurrence. He deposed that on 17/06/2003 PW1 gave Ext.P5 statement and it was reduced into writing.

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Based on Ext.P5, he had registered V.C.13/2003 and prepared Ext.P5(a) F.I.R. He further deposed that M.O.1 series are the notes produced by PW1 in the presence of the decoy witnesses. Here, PW1, PW2 & PW10 described the other procedures followed. PW2 & PW10 deposed that phenolphthalein test was conducted by dipping their fingers and that of the accused persons and there was no colour change. The said solutions were taken in bottles and they got identified MO.2, MO.3, MO.4 , MO.5, & MO.6. PW2 further testified that as directed by the Dy.SP., he took the notes from under the measurement book. There, Rs.3000/- was found as one set and Rs.1000/- was found as another set and on verification, it was understood that they were the same notes which were entrusted with PW1 at the Dy.S.P. office. PW10 also deposed the same version. They further said that when the corner portion of the notes were dipped in sodium carbonate solution, there was pink colour change and the said solution was taken in bottles, that it was sealed and they signed on the labels and they identified MO.7 and MO.8 as the bottles containing the said solution. Thereafter PW2's fingers were dipped in sodium carbonate solution and it turned pink and identified MO9 as the bottle containing the said solution. They testified further that

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Khadeeja Umma took the M-book, the outer cover was washed in sodium carbonate solution and there was pink colour change to the solution and the outer cover and MO.1 is the bottle containing the said solution. Khadeeja Umma's fingers were also dipped in sodium carbonate solution and there was pink colour change. MO.11 identified as the bottle containing the said solution. According to PW10, Ext.P8 post-trap mahazar was prepared in this regard. PW2 deposed that he signed in that mahazar. PW10 further said that on body inspection of the 1st accused Rs.115/- and of the 2nd accused Rs.2300/- were found and the same were marked as MO.12 series and MO.13 series. Another Rs.100/- note was found from under the bed where the accused were sitting. He also seized other measurement books, file No.29/2000-01, note book, etc.. by preparing Ext.P9 mahazar.

15. In addition to the evidence of PW1, PW2 and PW10, the evidence of PW4, the then Vice President of Arakulam Panchayath also has much relevance. According to him, he was the Vice President of the Panchayath from 2000 onwards and the member from ward No.III. He testified that he talked with the 1st accused, i.e, Asst. Engineer regarding the non-receipt of money after the completion of the work by PW1. It was after approaching the Asst. Engineer several times that he took the measurement. The

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Asst. Engineer did not give the papers in the Panchayath in order to make the payment and at that time also PW1 approached him. He had talked with the Asst. Engineer on 16.06.2003. Then the Engineer told him that cheque would be issued at 5 '0' clock on that day. On 17.06.2003 in the morning, he met PW1 at the Panchayath office and understood from PW1 that cheque was not issued. On getting information, he went to Valikulam Tourist Home in order to meet the Asst. Engineer and Overseer and they told that PW1 did not do the things as required and so the delay was caused. The Asst. Engineer told that if half of the amount asked from the Convener, ie, Rs.5000/- would be given, cheque would be issued within 2 hours. He came to the Panchayath office and informed PW1 about the same. He told PW1 that a complaint could be filed before the Panchayath committee that bribe was asked and decision could be taken in the next committee. Then PW1 left the Panchayath office angrily stating that PW1 did the work believing him and he would do the necessary thing. Only at about 5:30 P.M. he knew that the Asst. Engineer and the Overseer were arrested in the bribery case.

16. PW5 deposed that he was Clerk in Arakulam Grama panchayath office from 1998 onwards and he had worked in the

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section dealing with Peoples Planning Scheme. He had produced Ext.P11 measurement book and Ext.P12 file before the Investigating Officer. He deposed that pages 1 to 8 in Ext.P11 contain the handwriting of the 1st accused and the last page in Ext.P12 contains the handwriting of the 2nd accused. He had testified that since he had worked along with the accused persons he knew their handwriting.

17. When the evidence given by PW1/complainant along with the evidence given by PW4 and PW10 supported by the evidence of the decoy witness, demand and acceptance of bribe by the appellant/1st accused at 10 a.m. on 17.06.2003 could be found, in continuation of the earlier demand. Now the question to be addressed is; whether the evidence of PW1 is to be discarded in toto in view of Ext.D1, copy of the original petition filed by PW1, before this Court, seeking to get release of the amount entitled by him. In this connection, it is relevant to note that, Ext.D1 marked in evidence through PW1 is the copy of O.P.No.2998/2004 filed by PW1 before this Court. But, when PW1 was confronted with Ext.D1 for the purpose of contradicting his versions in the instant case, the answer given was that he was unable to read and understand English and, therefore, he could not say the correctness of the contents of Ext.D1. At this juncture, the trial court marked the same as Ext.D1. However, the counsel who cross-examined

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PW1 made no attempt to explain the contents of Ext.D1, which were in English, in a language known to PW1 to make him to understood with option for him to either deny or accept the same to get the same as contra versions therein to prove the statements therein as contradictions to the statement given in this case before the police and the evidence given by PW1 before the Court. According to PW1, he had filed Ext.D1 as instructed by the President of the Panchayath to expedite the release of his money. In fact, Ext.D1 though merely marked in evidence, was not used to contradict PW1, in a manner known to law. It is in this context, the evidence of PW4, who meddled with the matter, assumes significance. His version is that he had tracked the 1st accused/appellant regarding non-receipt of money by PW1 after completion of the work. Even though the appellant agreed to issue the cheque by 5 O' clock on 16.06.2003, he did not issue the cheque. Then PW5 reached Valikulam Tourist Home in order to meet the Assistant Engineer and Overseer and at this juncture, they told him that PW1 did not do the things as required and so the delay was caused. His further version is that, the Assistant Engineer told him that if half of the amount asked from the Convenor (PW1) ie, Rs.5,000/- would be given, cheque would be issued within 2 hours. Later, he informed the same to PW1 and told PW1 to lodge a complaint before the Panchayath committee to take a decision regarding the demand of

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bribe. Then PW1 left the Panchayath office angrily stating that he did the work believing PW4 and that he would do the necessary thing in this regard.

18. It is true that, on conduct of the phenolphthalein test on the hands of the appellant, no positive result was yielded. This happened because of the reason that the money was put by PW1 inside the M-book as demanded and directed by the appellant, as deposed by him. Thereafter, before taking the sum by the appellant, he was nabbed by the trap team. Therefore, this aspect would not give any aid to the appellant to get out of the prosecution.

19. 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*

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> *State Government or Parliament or the Legislature of any State or with any local authority, corporation or Government Company referred to in clause (C) of section 2, or with any public servant, whether named or otherwise, shall be punishable with imprisonment which shall be not less than three years but which may extend to seven years and shall also be liable to fine.'*
>
> ***Section 13:- Criminal misconduct by a public servant. –*** *(1) A public servant is said to commit the offence of criminal misconduct,-*
> *a) xxxxx*
> *(b) xxxxx*
> *(c) xxxxxx*
> *(d) If he,- (i) by corrupt or illegal means, obtains for himself or for any other person any valuable thing or pecuniary advantage; or (ii) by abusing his position as a public servant, obtains for himself or for any other person any valuable thing or pecuniary advantage; or (iii) while holding office as a public servant, obtains for any person any valuable thing or pecuniary advantage without any public interest. xxxxx*
> *(2) Any public servant who commits criminal misconduct shall be punishable with imprisonment for a term which shall be not less than four years but which may extend to ten years and shall also be liable to fine.*

20. In this connection, it is relevant to refer a 5 Bench decision of the Apex Court in **Neeraj Dutta** v. **State [AIR 2023 SC 330]**, where the Apex Court considered when the demand and acceptance under Section 7 of the PC 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 No.68, it has been held as under :

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

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

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

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

(d) In order to prove the fact in issue, namely, the demand and acceptance of illegal gratification by the public servant, the following aspects have to be borne in mind:

> *(i) if there is an offer to pay by the bribe giver without there being any demand from the public servant and the latter simply accepts the offer and receives the illegal gratification, it is a case of acceptance as per Section 7 of the Act. In such a case, there need not be a prior demand by the public servant.*
>
> *(ii) On the other hand, if the public servant makes a demand and the bribe giver accepts the demand and tenders the demanded gratification which in turn is received by the public servant, it is a case of obtainment. In the case of obtainment, the prior demand for illegal gratification emanates from the public servant. This is an offence under Section 13 (1)(d)(i) and (ii) of the Act*
>
> *iii) In both cases of (i) and (ii) above, the offer by the bribe giver and the demand by the public servant respectively have to be proved by the prosecution as a fact in issue. In other words, mere acceptance or receipt of an illegal gratification without anything more would not*

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make it an offence under Section 7 or Section 13 (1)(d), (i) and (ii) respectively of the Act. Therefore, under Section 7 of the Act, in order to bring home the offence, there must be an offer which emanates from the bribe giver which is accepted by the public servant which would make it an offence. Similarly, a prior demand by the public servant when accepted by the bribe giver and in turn there is a payment made which is received by the public servant, would be an offence of obtainment under Section 13 (1)(d) and (i) and (ii) of the Act

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

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

(g) In so far as Section 7 of the Act is concerned, on the proof of the facts in issue, Section 20 mandates the court to raise a presumption that the illegal gratification was for the purpose of a motive or reward as mentioned in the said Section. The said presumption has to be raised by the court as a legal presumption or a presumption in law. Of course, the said presumption is also subject to rebuttal. Section 20 does not apply to Section 13(1) (d) and (ii) of the Act.

(h) We clarify that the presumption in law under Section 20 of the Act is distinct from presumption of fact referred to

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above in point (e) as the former is a mandatory presumption while the latter is discretionary in nature."

21. Thus, the legal position as regards to the essentials under Sections 7 and 13(1)(d)(i) and (ii) of the PC Act is extracted above. Regarding the mode of proof of demand of bribe, if there is an offer to pay by the bribe giver without there being any demand from the public servant and the latter simply accepts the offer and receives the illegal gratification, it is a case of acceptance as per Section 7 of the Act. In such a case, there need not be a prior demand by the public servant. The presumption of fact with regard to the demand and acceptance or obtainment of an illegal gratification may be made by a court of law by way of an inference only when the foundational facts have been proved by relevant oral and documentary evidence and not in the absence thereof. On the basis of the material on record, the Court has the discretion to raise a presumption of fact while considering whether the fact of demand has been proved by the prosecution or not. Of course, a presumption of fact is subject to rebuttal by the accused and in the absence of rebuttal presumption stands. The mode of proof of demand and acceptance is either orally or by documentary evidence or the prosecution can prove the case by circumstantial evidence. The

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trial does not abate nor does it result in an order of acquittal of the accused public servant. Insofar as Section 7 of the PC 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.

22. Thus, in the instant case, the evidence evaluated would show that the prosecution has succeeded in proving that the appellant demanded and accepted Rs.4,000/- on 17.06.2003 by way of bribe in continuation of his earlier demand for Rs.10,000/-, then reduced to Rs.5,000/- and again reduced to Rs.4,000/-. Thus, the learned Special Judge is right in finding that the appellant had committed offences punishable under Sections 7 and 13(1)(d) r/w 13(2) of the PC Act. Therefore, the conviction is liable to be sustained.

23. It is pointed out by the learned senior counsel for the appellant that in the event of confirmation of sentence, the sentence may be reduced. The minimum sentence at the relevant time of the commission is only one year for the offence punishable under Section 13(1)(d) r/w 13(2) of the PC

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Act. Considering this request, the sentence can be reduced to the minimum permissible.

In the result, this appeal is allowed in part.

The conviction imposed by the learned Special Judge for the offences punishable under Sections 7 and 13(1)(d) r/w 13(2) of the PC Act is confirmed. The sentence is modified as under:

(i) The appellant/1st accused is sentenced to undergo rigorous imprisonment for a period of 1 year (one year) and to pay a fine of Rs.10,000/- (Rupees Ten Thousand Only) for the offence punishable under Section 7 of the PC Act and in default of payment of the fine, to undergo rigorous imprisonment for a period of 2 (two) months.

(ii) The appellant/1st accused is sentenced to undergo rigorous imprisonment for a period of 1 year (one year) and to pay a fine of Rs.10,000/- (Rupees Ten Thousand Only) for the offence punishable under Section13(1)(d) r/w 13(2) of the PC Act and in default of payment of the fine, to undergo rigorous imprisonment for a period of 2 (two) months.

(iii) The substantive sentence shall run concurrently and the default sentence shall run separately.

(iv) Set off, if any, is also allowed.

25. The order suspending sentence and granting bail to the accused stands cancelled and the bail bond executed by the

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accused also stands cancelled. The accused is directed to surrender before the Special Court, forthwith to undergo the modified 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, without fail, for information and compliance.

Sd/-

A. BADHARUDEEN
JUDGE

Sbna/