

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.468 of 2025

Arising Out of PS. Case No.-6 Year-2011 Thana- C.B.I CASE District- Patna

Ram Narayan Singh S/O Late Sundar Singh R/O Vill.- Mujan, P.O.- Mujan,
P.S.- Mohaniya, Dist.- Kaimur

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Sumit Kumar Singh, Advocate

For the Respondent/s : Mr.Mukeshwar Dayal, APP

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
C.A.V. JUDGMENT

Date : 22-12-2025

Present appeal is directed against the judgment of conviction and order of sentence dated 29.11.2024 passed by the learned Special Judge, C.B.I.-1, Patna in Special Case No. 37 of 2018, arising out of CBI/ACB/Patna P.S. Case bearing F.I.R. No. RC0232011A0006, whereby and whereunder the appellant has been convicted under Section 7, 13(2) read with Section-13(1)(d) of Prevention of Corruption Act, 1988 (hereinafter referred to as P.C. Act for brevity). Appellant has been sentenced to undergo rigorous imprisonment for a period of six months and a fine of Rs. 2,500/- for the offence under Section-7 of the P.C. Act and, in default of payment of fine, to further undergo simple imprisonment for a period of one month. The appellant has further been sentenced to undergo rigorous imprisonment for a period of one year and a fine of Rs. 2,500/- for the offence under Section-13(2) read with Section-13(1)(d)



of P.C. Act and, in default of payment of fine, to further undergo simple imprisonment for a period of one month. Both the sentences have been directed to run concurrently.

2. As per prosecution-case, on 16.03.2011 office of Superintendent of Police, C.B.I., Patna received a written complaint from the complainant Shri Arun Kumar Shrivastav/P.W.5. In the complaint, it is stated that he was working as a Field Worker in Sahara India at Branch Office, Bhabua, Kaimur. It was alleged that for financial year 2008-2009, an amount of Rs. 5826 had been deducted as tax out of complainant's commission. Complainant's total income for the financial year 2008-2009 was Rs. 50,905/-. On 21.10.2009, the complainant filed Form No. ITR-4 before the Income Tax Officer, Ward-1, Sasaram seeking refund of Rs. 5,826 vide receipt No. 0000007776. It is alleged that complainant/P.W.5 several time visited Income Tax Office for refund when the appellant Ram Narayan Singh, posted as Tax Assistant, demanded an amount of Rs. 600/- at the rate of 10% for processing the refund. It is further alleged that on 17.03.2011 complainant/P.W.5 was asked to come with money to which the complainant was not agreeable as complainant does not believe in pursuing his work after bribing the government official.



3. Aggrieved with the demand, the complainant/P.W.5 gave written statement regarding aforesaid allegation to Superintendent of Police, C.B.I., Patna. Subsequently, allegation made in the complaint was verified by one of the officers and after verification and being satisfied with the truthfulness of allegation, formal F.I.R. was lodged vide F.I.R. No. RC0232011A0006 dated 16.03.2011 under Section-7 of P.C. Act and investigation was initiated and after completion of investigation, charge-sheet has been submitted against the appellant under Section 7, 13(2) read with Section-13(1)(d) of P.C. Act, 1988 on 29.06.2011 and Court has also taken cognizance against the appellant on 05.08.2011 under the said Sections. Charge has been framed under Section 7, 13(2) read with Section-13(1)(d) of P.C. Act, the same was read over in Hindi to which he pleaded not guilty.

4. To substantiate the charges framed against the accused, the prosecution examined 12 witnesses i.e. P.W.1 to P.W. 12 and marked Exhibits 1 to 15, along with their sub-exhibits, besides producing Material Exhibits, Exts.-I to XI. The documentary and material evidence include the sanction for prosecution (Ext.1), complaint (Ext.-7), verification report Ext.-15), formal FIR (Ext.-15), preliminary memorandum (Ext.-10),



site plan (Ext.-3/62), arrest memo (Ext.-12), search list (Ext.-13), seizure memo (Ext.-5), recovery memorandum (Ext.-14), Income Tax Return document (Ext.-4) and the CFSL Report (Ext.-2), all duly proved through the respective witnesses. The prosecution further exhibited various documents bearing the signature of the complainant, independent witnesses, shadow witness, trap witnesses, and the Investigating Officer, evidencing compliance with all procedural safeguards during the pre-trap, trap, and post-trap proceedings, including sealing of tainted articles, preparation of memoranda, recovery of tainted currency, and chemical hand-wash tests. In addition, the prosecution produced 15 material exhibits, namely, the sealed envelope of tainted paper, sealed bottle of demonstration wash, sealed envelopes of phenolphthalein powder and sodium carbonate, envelope containing recovered tainted currency notes of Rs. 600/-, the recovered GC notes of Rs. 500/- and Rs.100/-, sealed bottles of right-hand wash and left-hand wash, photographic prints of the hand-wash proceedings, sealed bottle of pocket wash, and the sealed envelope containing the shirt of the accused.

5. Defence has produced one D.W. 1 Rajesh Kumar Pandit and has also produced certain document, which is Ext.-A



and except Ext. A, no document was produced.

6. Defence of appellant as gathered from the line of cross examination of prosecution witnesses as well as from the statement under Section-313 Cr.P.C. is that of total denial of the charges.

7. After hearing the parties, the learned trial court convicted the appellant and sentenced him as indicated in the opening paragraph of the judgment.

8. Following submissions have been made on behalf of learned counsel for the appellant:-

9. Learned counsel for the appellant submits that appellant was never entrusted with duty of processing the refund matters pertaining Ward No. 1. The work of Ward No. 1 had been allocated to Shri Manoj Kumar. It is contended that learned trial court failed to consider this material aspect rendering the judgment of conviction and order of sentence unsustainable.

9.1. It is further urged that testimony of P.W. 5, complainant, suffers from material inconsistencies. In para-8 of his deposition, he has stated that he submitted written complaint at C.B.I. office between 11:00 A.M. to 12:00 noon while in para-9 he has stated that complaint was submitted at 12:00 noon. He remained in C.B.I. office for about one and a half



hours and left the office at 1:30 P.M. However, formal F.I.R. was registered at 4:15 P.M. on 16.03.2011 and bears the signature of P.W. 5 (Ext.-7/1), thereby casting doubt on the prosecution version regarding the time and manner of registration of case.

9.2. Learned counsel places reliance on the evidence of P.W. 7, date entry operator, who has stated in para-4 of his cross-examination that there were two wards in the Income Tax Office, Sasaram and the income tax returns of assesseees whose names began with alphabets 'A to M' were filed and processed at Ward No. 1 while the income tax returns of those whose names began with alphabets 'N to Z' were dealt with at Ward No. 2. In para-5 of his cross-examination, P.W. 7 categorically stated that the appellant was posted in Ward No. 2 and in para-7 he further clarified that the complainant/P.W.5 had filed his return at Ward No. 1 and that T.D.S. returns filed in Ward No. 1 were processed in Ward No. 1 itself.

9.3. It is, therefore, contended that appellant had no official role/authority in respect of Ward No. 1 and learned trial court failed to appreciate this vital evidence and on this ground alone, conviction is without factual foundation and the appellant is entitled to clean acquittal.



10. Learned counsel for the C.B.I. has submitted that the prosecution has proved all the essential ingredients of offence, namely demand of illegal gratification, acceptance thereof and recovery of tainted money and all mandatory requirements under the P.C. Act have been strictly proved. It has been submitted that allegation contained in the written complaint were discreetly verified by the officers of CBI, ACB, Patna which revealed commission of offence under Section-7 of P.C. Act and the regular case bearing No. RB0232011A0006 dated 16.03.2011 was registered for the offence punishable under Section-7 of P.C. Act against the appellant Shri R.N. Singh, Tax Assistant in the office of Income Tax Officer, Ward No. II, Sasaram and investigation was entrusted to Shri Nitesh Kumar, Inspector of Police, CBI, ACB, Patna/P.W.9.

10.1. Pursuant thereto, a CBI trap team comprising five CBI officials and two independent witnesses was constituted. As recorded in the Preliminary Memorandum, the team consisted of Shri Nitesh Kumar, Inspector of Police, CBI, ACB, Patna/P.W. 9; Shri Prakash Kumar Sharan, Inspector of Police, CBI, ACB, Patna; Shri Alay Vats, Inspector of Police, CBI, ACB, Patna/P.W. 8; Shri Ashish Kumar, Inspector of Police, CBI, ACB, Patna/P.W. 10, and Shri Murari Prasad, Sub-



Inspector of Police, CBI, ACB, Patna. The independent witnesses associated with the trap proceedings were Shri Arvind Kumar, AG-1 (General), FCI Vigilance Section, Regional Office, Patna/P.W. 4 and Shri Uday Prasad Sinha, Typist (Hindi), FCI Vigilance Section, Regional Office, Patna/P.W.-6. The complainant was Shri Arun Kumar Srivastav, son of Shri Raj Mohanlal, resident of P.O. Sikandarpur, P.S. Jainpur, District Kaimur/P.W. 5.

10.2. Learned counsel for the C.B.I. has submitted that the complainant, who is P.W. 5, has clearly stated that Income Tax Office, Sasaram is the place of occurrence. The evidence of I.O./P.W.9 is quite evident regarding the P.O. where the core aspect of occurrence has taken place. On the said place, the occurrence of demand, acceptance and recoveries were made in presence of other trap team members as well as shadow witnesses. P.W. 9, who is heading the C.B.I. Team, has clearly supported and corroborated the story of prosecution.

10.3. As contended by learned counsel for the C.B.I., on 17.11.2011, between 11:00 hours and 12:15 hours, all the aforesaid persons assembled inside a vehicle stationed near Prakash Petrol Pump, Old GT Road, Sasaram. Two police constables, namely, Shri Vinod Kumar Singh (PC) and Shri



Onkar Nath Singh (PC), were also part of the CBI team for assistance, though they were not signatories to the memorandum. The purpose of the assembly was explained to all present, the complainant was introduced to the team members and independent witnesses, and the written complaint dated 16.03.2011 was read over, shown, and explained to all concerned.

10.4. A practical demonstration was thereafter conducted to demonstrate the reaction of phenolphthalein powder with sodium carbonate solution in plain water. In the course of the demonstration, Shri Arun Kumar Shrivastava/P.W.5 was requested to touch a plain paper treated with phenolphthalein powder. A solution of sodium carbonate was then prepared in clean water in a clean glass tumbler, and the said witness was asked to dip his fingers therein, whereupon the milky solution turned pink in colour. The resultant pink solution was preserved in a neat and clean glass bottle marked DW, sealed under the signatures of all concerned, including the independent witnesses. The tainted piece of paper was preserved in an envelope marked "Tainted Piece of Paper" and sealed under the signatures of all concerned. A representative sample of sodium carbonate was preserved in a separate envelope marked



"Sample Sodium Carbonate" and sealed similarly.

10.5. Thereafter, the complainant/P.W.5 produced a total sum of ₹600/-, comprising one GC note of ₹500/- and one GC note of ₹100/-, as per the recorded details. The said GC notes were treated with phenolphthalein powder and kept in the upper shirt pocket of the complainant/P.W.5, who was categorically instructed to touch the tainted currency notes only upon specific demand by the suspect. The likely venue of the transaction was explained to all present, and all team members were directed to remain close to the complainant, to carefully observe the transaction, if any, and to overhear the conversation.

10.6. It is further contended that Shri Uday Prasad Sinha, independent witness/P.W.6 was specifically instructed to act as the shadow witness, to remain with the complainant as if he were a fellow field worker, and to make a refund claim of the current financial year. The remaining phenolphthalein powder, marked "Residue Phenolphthalein Powder", was sealed under the signatures of all concerned. The sealed bottle containing the pink solution, the tainted piece of paper, the sample sodium carbonate, and the residue phenolphthalein powder were placed in the trap kit.

10.7. The complainant/P.W.5 and the shadow



witness/P.W.6 were instructed to give a pre-arranged signal immediately after the transaction, if it took place, by scratching their heads with both hands. All other team members were directed to take their respective positions, maintain absolute secrecy, keep close watch on the complainant/P.W.5 and the shadow witness/P.W.6 for the signal, and act further as per the instructions of Shri Nitesh Kumar, Inspector/P.W.9. All present were once again apprised of the likely venue of the transaction, namely, the Office of the Income Tax Officer, Old GT Road, Sasaram, District Rohtas.

10.8. Thereafter, all participants washed their hands with soap and water. The entire pre-trap proceedings were meticulously incorporated in a memorandum prepared on a computer laptop, which was read over to all present and signed by them in token of its correctness. After taking printouts, upon reaching the CBI Office, Patna, the trap team, along with the complainant and the witnesses, proceeded towards the place of occurrence on foot. P.W. 5/Arun Kumar Shrivastava, who is the complainant, has supported and corroborated the allegation made in the complaint. In the same way, P.W. 4 Arvind Kumar (independent witness), P.W. 6 Uday Prasad Singh (member of preliminary memo), P.W. 9 Nitesh Kumar (trap team leader/I.O.



of this case) and other prosecution-witnesses have supported and corroborated the aspect of demand, acceptance and recovery. It is contended that the oral and documentary evidence adduced during trial, including the materials exhibited, fully corroborate the prosecution version and establish the charge beyond reasonable doubt. P.W. 9, who is heading the C.B.I. Team, clearly states that the P.O. is the Income Tax Office, Sasaram and as per instruction all the prosecution-witnesses reached at the said office and complainant has clearly stated that the money was being demanded and the amount was accepted and recoveries were made, as alleged. Other prosecution-witnesses have supported the core points of prosecution-story. In this way, the judgment of conviction and order of sentence passed by the learned trial court is justified and legal and no interference is needed.

11. The question which arises for consideration is:

“Whether offence under Section 7, 13(2) read with Section-13(1)(d) of Prevention of Corruption Act, 1988 is made out in the light of given facts and circumstances of the case or not.”

12. I have perused the impugned judgment, order of trial court and trial court records. I have given my thoughtful consideration to the rival contentions made on behalf of the parties, as noted above.



13. It is necessary to evaluate, analyze and screen out the evidences of witnesses adduced before the trial court in the light of the allegations levelled against the accused/appellant.

14. **P.W.1 S.T. Ahmad, Commissioner of Income Tax (Sanctioning Authority)**

On the facet of demand, acceptance, and recovery, P.W.1 does not claim direct knowledge. His role is confined to the statutory sanction. He has deposed that after considering the CBI report, pre-trap and recovery memoranda, FIR, and statements of witnesses, he accorded valid sanction under Section 19 of the Prevention of Corruption Act against the appellant, who was then posted as Tax Assistant, Ward No. 1, Sasaram. His evidence establishes that the prosecution was lawfully instituted by the competent authority, and no illegality or infirmity in the grant of sanction was elicited in cross-examination.

15. **P.W.2 Baijyanto Mukhopadhyay-Assistant Director, CFSL, Kolkata (Scientific Expert)**

On the facets of acceptance and recovery, P.W.2 provides scientific corroboration. He proved that the sealed hand-wash bottles and solutions received by him tested positive



for phenolphthalein, as reflected in the CFSL report dated 09.05.2011 (Ext.-2). Though not an eyewitness to demand, his evidence conclusively establishes that the accused had handled the tainted currency, thereby corroborating acceptance and recovery. His testimony remained unchallenged.

16. P.W.3-Sanjay Narayan Tiwari (Income Tax Officer)

On the facet of demand, P.W.3 proved the official context and capacity of the appellant by deposing that the appellant was entrusted with receiving, dispatch, and bill-related work of Ward Nos. 1 and 2, including matters connected with the complainant's refund.

On the facets of acceptance and recovery, he deposed that Inspector Nitesh Kumar/P.W.9 informed him that the appellant had been caught red-handed while accepting bribe. He further proved the relevant I.T. Return and refund documents (Exts.-4 & 4/1 respectively) and seizure memo (Ext.-5). His testimony establishes that the appellant was in a position to demand and facilitate the refund, and no contradiction was elicited in cross-examination.

17. Crux of P.W.4 Arvind Kumar's Evidence on the Facets of Demand, Acceptance and Recovery



On the facet of demand, P.W.4 has deposed that after the complainant/P.W.5 and the shadow witness/P.W.6 entered the Income Tax Office in terms of the pre-trap arrangement, the complainant emerged and gave the pre-arranged signal, which unequivocally indicated that the accused had demanded illegal gratification of ₹600/-for processing the income-tax refund. The immediacy of the signal, coupled with the subsequent challenge by the trap officer to the accused alleging demand of bribe, to which the accused offered no explanation, lends clear corroboration to the factum of demand.

On the facet of acceptance, PW4 has categorically stated that the shadow witness (P.W.- 6) informed the trap team that the accused, Ram Narayan Singh, had accepted the bribe amount from the complainant and, upon noticing the presence of the trap party and others, had taken the tainted currency from his pocket and thrown it away. Such conduct of the accused, immediately following the transaction, unmistakably demonstrates conscious receipt and acceptance of the illegal gratification.

On the facet of recovery, P.W.-4 has deposed that he himself recovered the tainted currency notes of Rs. 600/- comprising one Rs.500 note and one Rs.100 note, and verified



the serial numbers thereof with those recorded in the pre-trap memorandum, which were found to be identical. The subsequent hand-wash of the accused, both night and left, turning pink upon being dipped in sodium carbonate solution, provided scientific corroboration of handling of the tainted money and conclusively established the recovery of bribe amount pursuant to acceptance.

Thus, the evidence of P.W.4, on all three facets-demand, acceptance and recovery-stands consistent, cogent and wholly reliable.

18. P.W.5-Arun Kumar Srivastav (Complainant)

On the facet of demand, PW5 has given a clear, categorical, and consistent account that the appellant demanded ₹600/- for clearing his income-tax refund, which was pending. His testimony on demand is in consonance with his written complaint.

On the facet of acceptance, P.W. 5 has deposed that upon such demand, he placed the bribe money on the table which the appellant accepted with his right hand and kept beneath the file. The acceptance was witnessed by the shadow witness Uday Prasad Sinha/P.W.6.

On the facet of recovery, P.W.5 deposed that upon



arrival of the trap team, the appellant threw the money on the ground, which was recovered, tallied with the pre-trap memo and seized. His evidence remained intact during cross-examination and stood fully corroborated by P.Ws. 4, 6, 8 and 9.

19. P.W.6-Uday Prasad Sinha (Shadow Witness)

On the facet of demand, P.W.-6 has supported the complainant by deposing that he heard the appellant demanding illegal gratification for processing the refund.

On the facet of acceptance, P.W. 6 has categorically stated that he saw the appellant receiving the bribe amount from the complainant.

On the facet of recovery, P.W. 6 has stated that after noticing the presence of the trap team, the appellant threw the tainted money, which was subsequently recovered. His evidence remained consistent with that of the complainant/P.W.5 and other prosecution witnesses, and there was no reason to disbelieve his testimony.

20. P.W.7-Ashok Kumar Ojha (Data Entry Operator)

On the facet of demand, P.W.7 provides circumstantial corroboration by deposing about the presence and conduct of the appellant in the Income Tax Office during the



relevant time and his queries regarding the refund.

On the facets of acceptance and recovery, P.W.7 deposed that during the raid, the hands of the appellant were dipped in a glass, and the colour of the solution changed, and that the CBI officials had informed him that the matter pertained to bribe. He also identified the appellant in court. His testimony lends independent corroboration to the trap proceedings

21. P.W.8-Alay Vats (CBI) Officer, Trap Team Member)

On the facet of demand, P.W.8 corroborated the trap proceedings by stating that the complainant and shadow witness informed the team that demand had been made.

On the facet of acceptance, P.W.8 deposed that the appellant accepted the bribe and subsequently threw the money on the ground upon noticing the team.

On the facet of recovery, P.W.8 supported the recovery of the tainted currency, the hand-wash procedures of both hands turning pink, and sealing of the exhibits marked "R.H.W." and "L.H.W." His evidence remained consistent and unshaken.

22. P.W.9-Nitesh Kumar (Investigating Officer/Trap Leader)



On the facet of demand, P.W.9 proved the prior verification of the complaint, the instructions issued during pre-trap proceedings, and the immediate signalling by the complainant and shadow witness after demand and acceptance.

On the facet of acceptance, P.W.9 gave a detailed account of the transaction as narrated by the shadow witness and the complainant immediately after the signal.

On the facet of recovery, P.W.9 proved the recovery of the tainted money, hand-wash turning pink, sealing of exhibits, preparation of memoranda, and arrest of the appellant. His testimony provides the backbone of the prosecution case and remained unshaken in cross-examination.

23. P.W.10- Ashish Kumar (/Trap Member)

On the facet of demand, P.W.10 has corroborated the statement with regard to the prior verification of the complaint, the instructions issued during pre-trap proceedings, and the immediate signalling by the complainant and shadow witness after demand and acceptance.

On the facet of acceptance, P.W.10 gave a detailed account of the transaction as narrated by the shadow witness and the complainant immediately after the signal.

On the facet of recovery, P.W.10 proved the



recovery of the tainted money, hand-wash turning pink, sealing of exhibits, preparation of memoranda, and arrest of the appellant.

24. P.W.11-Prabhanjan Chakraborty (Verifying Officer)

On the facet of demand, P.W. 11 proved the pre-registration verification and deposed that confidential enquiry revealed that the appellant was in the habit of demanding bribes. Though not an eyewitness to the trap, his testimony lends pre-trap corroboration to the complainant's allegations.

25. P.W.12-Amit Kumar Saurabh (Second Investigating Officer)

On the facets of acceptance and recovery, P.W. 12 corroborated the post-trap investigation, procurement of CFSL report and sanction order, and filling of the charge-sheet. He also supported the evidence of PW4 regarding investigation of present case.

26. Evidence of D.W.1 (Rajesh Kumar Pandit)

D.W1. Rajesh Kumar Pandit, examined on behalf of the defence, has not supported the prosecution case. He deposed that he had seen an individual attempting to forcibly insert the trap/bribe money into the pocket of the appellant



while the appellant's hands were being held by two other persons. He further stated that on 17.03.2011, neither was any seizure list prepared nor were the hand-wash samples of the appellant taken at the Income Tax Office, Sasaram.

27. It is pertinent to note that the case of prosecution was that appellant demanded illegal gratification of Rs. 600/- from the complainant/P.W. 5 for extending an official favour in processing the income tax refund. There was nothing on record to show that appellant had been falsely implicated and on the aspect of demand and acceptance of gratification, essential ingredients of offence under Section-7 of the Act get attracted. After obtaining necessary sanction (Ext.-1) from Commissioner of Income Tax-II, Patna, P.W. 1, who was the competent authority as also disciplinary authority at the relevant point of time, prosecution was launched against the appellant for charges framed against him. Hence, there was no infirmity or illegality in initiating prosecution against the appellant.

28. P.W. 5, the complainant, on the facet of demand, categorically and specifically supported the prosecution-case that appellant demanded Rs.600/- for clearing the income tax refund which was pending. His testimony on demand is in consonance with the written complaint.



28.1. On the facet of acceptance, P.W. 5 deposed that upon such demand he placed bribe money on table which appellant accepted with right hand and kept beneath the file and acceptance was witnessed by shadow witness Uday Prasad Sinha (P.W. 6).

28.2. On the facet of recovery, P.W. 5 deposed that upon arrival the appellant threw the money on the ground which was recovered, tallied with pre-trap memo. In this way, his evidence remained intact during cross-examination and fully corroborated with Arvind Kumar, P.W. 4, who also stated that in terms of pre-trap arrangement, complainant/P.W. 5 emerged and gave pre-arranged signal which unequivocally indicated that appellant demanded illegal gratification of Rs. 600/- for processing of income tax refund and the immediacy of the signal, coupled with the subsequent challenge by the trap officer Shri Nitesh Kumar/P.W. 9 to the accused alleging demand of bribe, to which the accused offered no explanation, lends clear corroboration to the factum of demand.

28.3. On the facet of acceptance, PW4 has categorically stated that the shadow witness (P.W.- 6) informed the trap team that the accused, Ram Narayan Singh, had accepted the bribe amount from the complainant/P.W. 5 and,



upon noticing the presence of the trap party and others, had taken out the tainted currency from his pocket and thrown it away. Such conduct of the accused, immediately following the transaction, unmistakably demonstrates conscious receipt and acceptance of the illegal gratification.

28.4. On the facet of recovery, P.W.-4 has deposed that he himself recovered the tainted currency notes of Rs. 600/- comprising one 500 note and one 100 note, and verified the serial numbers thereof with those recorded in the pre-trap memorandum (Ext.-10), which were found to be identical. The subsequent hand-wash of the accused, both right and left, turning pink upon being dipped in sodium carbonate solution, provided scientific corroboration of handling of the tainted money and conclusively established the recovery of bribe amount pursuant to acceptance.

28.5. In this way, the evidence of P.W. 4 on all the three facets stand consistent, cogent and wholly reliable.

29. In the same way, on the facet of demand, P.W.-6 has supported the evidence of complainant/P.W. 5 by deposing that he heard the appellant demanding illegal gratification for processing the refund.

29.1. On the facet of acceptance, P.W. 6 has



categorically stated that he saw the appellant receiving the bribe amount from the complainant.

29.2. On the facet of recovery, P.W. 6 has stated that after noticing the presence of the trap team, the appellant threw the tainted money, which was subsequently recovered. His evidence remained consistent with that of the complainant/P.W. 5 and other prosecution witnesses, and there was no reason to disbelieve his testimony.

30. On the facet of demand, P.W.9 proved the prior verification of the complaint, the instructions issued during pre-trap proceedings, and the immediate signalling by the complainant/P.W. 5 and shadow witness after demand and acceptance.

30.1. On the facet of acceptance, P.W.9 gave a detailed account of the transaction as narrated by the shadow witness and the complainant/P.W. 5 immediately after the signal.

30.2. On the facet of recovery, P.W.9 proved the recovery of the tainted money, hand-wash turning pink, sealing of exhibits, preparation of memoranda, and arrest of the appellant. His testimony provides the backbone of the prosecution case and remained unshaken in cross-examination.

31. On the facet of demand, P.W.8 corroborated the



trap proceedings by stating that the complainant/P.W. 5 and shadow witness informed the team that demand had been made.

31.1. On the facet of acceptance, P.W. 8 deposed that the appellant accepted the bribe and subsequently threw the money on the ground upon noticing the team.

31.2. On the facet of recovery, P.W. 8 supported the recovery of the tainted currency, the hand-wash procedures of both hands turning pink, and sealing of the exhibits marked "R.H.W." and "L.H.W." His evidence remained consistent and unshaken.

32. Other witnesses, i.e. P.W. 2 Baijyanto Mukhopadhyay, P.W.3 Sanjay Narayan Tiwari, P.W. 7 Ashok Kumar Ojha, P.W. 11 Prabhanjan Chakraborty and P.W. 12 Amit Kumar Saurabh have also supported and corroborated the story of prosecution.

33. From the perusal of evidence of all the prosecution-witnesses, it is crystal clear that the place of occurrence is the Income Tax Office, Sasaram, where the complainant has alleged that demand was being made and on the point of demand, the occurrence is corroborated by P.W. 6 and P.W. 8 and the recovery was also admitted by other witnesses and all the prosecution-witnesses have supported and



corroborated the core points of prosecution-story.

34. Therefore, presumption under Section- 20 of the P.C. Act must be raised in favour of prosecution. Placing reliance upon the judgment in the case of *Krishna Ram vs. State of Rajasthan*, reported in *(2009) 11 SCC 708*, it is submitted that once it is proved that money was recovered from the possession of the accused, the burden of rebutting the presumption contemplated under Section-20 of the Act shifts upon the accused, but, in the present case the appellant (accused) has failed to do the same in cross-examination of prosecution-witnesses or by producing cogent materials in his defence.

35. In the present case, the appellant has taken a plea that appellant was never given the task of Ward-1 and I.T. Returns of the complainant/P.W. 5 were filed at Ward-1 and the appellant has nothing to do with the said work, but on the said point, no reliable and convincing evidence was adduced from the side of appellant rather the Income Tax Officer, P.W. 3, has proved the official context and capacity of the appellant by deposing that the appellant was entrusted with receiving, dispatch, and bill-related work of Ward Nos. 1 and 2, including matters connected with the complainant's refund.



36. Thus, the prosecution proved its case beyond reasonable doubt and the appellant, being a public servant, posted as Tax Assistant, in the office of Income Tax Officer, Ward No. 1, Sasaram, demanded Rs. 600/- from the complainant/P.W. 5, as illegal gratification for processing his I.T. Returns and on 17.03.2011 the appellant while accepting the bribe was trapped by the trap team comprising of five CBI officials and two independent witnesses and thereby committed the offence under Sections- 7, 13(1)(d) read with 13(2) of P.C. Act and considering all these aspects the trial court has convicted the appellant for offence as stated above and punished for the same.

37. In the instant case, appellant was charged under Sections- 7, 13(1)(d) read with 13(2) of P.C. Act for demand, acceptance and recovery of bribe amount of Rs. 600/-from P.W.5/complainant, for processing the refund of I.T. Returns. Section-7 of P.C. Act deals with public servants accepting or attempting to accept illegal gratification other than their legal remuneration. Its essential ingredients are: (i) that the person accepting the gratification should be a public servant; and (ii) that he should accept the gratification for himself, and the gratification should be 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 function, favour or disfavour to any person. Insofar as Section 13(1)(d) of the Act, it was amended by the Prevention of Corruption (Amendment) Act, 2018, with effect from 26th July, 2018. However, in view of Section 6 of the General Clauses Act, Section 13(1)(d) prior to the amendment, is applicable to the facts of the present case, as the occurrence is of the year 2011. Thus, its essential ingredients are (i) that he should have been a public servant; (ii) that he should have used corrupt or illegal means or otherwise abused his position as such public servant, and (iii) that he should have obtained a valuable thing or pecuniary advantage for himself or for any other person.

38. It is necessary to refer the judgment of *Neeraj Datta Vs. State (NCT of Delhi)*, reported in *(2023) 4 SCC 731*, in which Hon'ble Supreme Court has held that for recording a conviction under Section 7 and Sections 13(1)(d)(i) and (ii) of the Act, the prosecution has to prove the demand and acceptance of illegal gratification either by direct evidence which can be in the nature of oral evidence or documentary evidence or circumstantial evidence. In other words, to convict a person under the aforesaid provision demand and acceptance of illegal



gratification is a *sine qua non*.

39. Pertinently, it is also to be noted that the Constitutional Bench in ***Neeraj Dutta v. State (Govt of NCT of Delhi)*** has answered the issue ‘whether in the absence of evidence of the complainant/direct or primary evidence of demand of illegal gratification, it is permissible to draw an inferential deduction of culpability/guilt of a public servant under Sections 7 and 13(1)(d) read with Section 13(2) based on other evidence adduced by the prosecution’ in affirmative, with the following conclusions:

“88. *What emerges from the aforesaid discussion is summarised as under:*

88.1. (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.*

88.2. (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.*

88.3. (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.*

88.4. (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 Sections 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 Sections 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 Sections 13(1)(d)(i) and (ii) of the Act.

88.5. (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.

88.6. (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.

88.7. (g) 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. Of course, the said presumption is also subject to rebuttal. Section 20 does not apply to Sections 13(1)(d) (i) and (ii) of the Act.

88.8. (h) We clarify that the presumption in law under Section 20 of the Act is distinct from presumption of fact referred to above in sub-para 88.5(e), above, as the former is a mandatory presumption while the latter is discretionary in nature.”

40. The appellant herein is a government servant.

As per Section 19 of the Act, to proceed against any public servant of Central Government or State Government, necessary sanction should be obtained for a Court to take cognizance of an offence punishable under Sections 7, 10, 11, 13 and 15 of the Act. In this case, the prosecution obtained necessary sanction (Ext.-1) from P.W. 1, who is the disciplinary authority as well as



the competent authority. The concerned authority/P.W. 1, after perusal of C.B.I. Report, Pre-trap Memo. Recovery Memo., statement of witnesses, F.I.R. etc. accorded sanction to initiate prosecution against the appellant.

41. Therefore, I do not find any procedural irregularity in grant of sanction. It was also deposed by the sanctioning authority (P.W. 1) that after going through all these documents which were made available to him by C.B.I. and after satisfying himself that there was a *prima facie* case to initiate the prosecution against the appellant and after having arrived at such satisfaction, he accorded sanction (Ext.-1). Thus, it is clear that the prosecution initiated the proceedings against the appellant, after obtaining the sanction order from the competent authority.

42. It is settled law that the two basic facts, i.e. demand and acceptance of gratification have been proved, the presumption under Section 20 can be invoked to the effect that the gratification was demanded and accepted as a motive or reward as contemplated under Section 7 of the Act. However, such presumption is rebuttable. Even on the basis of the preponderance of probability, the accused can rebut the same. In the present case, prosecution proved its case beyond reasonable



doubt, in respect of the demand and acceptance of the bribe amount from the complainant/P.W. 5 and recovery of tainted currency notes from the possession of the appellant. The said operation is supported by the evidence of all the prosecution-witnesses and material exhibits i.e. Ext.-I/Sealed envelope of tainted paper, Ext.-II/Sealed bottle of DW, Ext.-III/Sealed envelope of Phenolphthalein powder, Ext.-IV/ Sealed envelope of sample of Sodium Carbonate, Ext.-V/ Envelope of recovered GC Notes of Rs.600/-, Ext.-VI/ GC Note of Rs.500/- & Rs.100/-, Ext.-VII/ Sealed bottle of RHW, Ext.-VIII/ Sealed bottle of LHW, Ext.-IX/ Two photo print outs, Ext.-X/ Sealed bottle of PW and Ext.-XI/Sealed envelope of shirt. In such circumstances, the appellant has to rebut the presumption by disproving the case of prosecution either in cross-examination of witnesses of prosecution side or by adducing material evidence that the receipt of Rs. 600/- was not a bribe amount, but a legal fee. However, the appellant failed to do so. On the contrary, I find that the prosecution has proved the case beyond reasonable doubt.

43. Further, there is nothing on record to show that appellant has been falsely implicated in the present case on account of previous enmity. The ground of defence, as



contended, was not supported by any cogent documentary evidence or through oral evidence.

44. On all counts, from the aforesaid analysis, I find that contention of learned counsel for the C.B.I. is quite convincing that the prosecution has proved the case beyond reasonable doubt as the prosecution has proved all core points of prosecution story. Hence, the judgment of conviction and order of sentence passed by the concerned Court is justified and legal.

45. In the light of discussions made above, I find no reason to differ with the findings given by the learned trial court. Accordingly, the impugned judgment of conviction and order of sentence passed by the learned trial court is hereby affirmed.

46. In the result, this appeal stands dismissed.

47. The appellant is on bail. His bail-bonds are cancelled. He is directed to surrender before the concerned court forthwith to serve out the remainder of sentence.

48. The interlocutory application, if any, shall also stand disposed of.

49. Let a copy of this judgment be transmitted to the Superintendent of the concerned jail for compliance and for record.



50. The records of this case be also returned to the
concerned trial court forthwith.

(Alok Kumar Pandey, J)

K.C.Jha/-

AFR/NAFR	A.F.R.
CAV DATE	10.11.2025
Uploading Date	22.12.2025
Transmission Date	22.12.2025

